



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Town of Beaufort Planning Board Regular Meeting 6:00 PM Monday, October 16, 2023 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) PB Draft Minutes 091823

Public Comment

Items for Discussion and Consideration

- [1.](#) 160-D Presentation by the Town Attorney.

Commission / Board Comments

Staff Comments

Adjourn



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Town of Beaufort Planning Board Regular Meeting
6:00 PM Monday, September 18, 2023 - Train Depot, 614 Broad Street, Beaufort, NC 28516
Minutes

Call to Order

Chair Merrill called the September 18, 2023 Planning Board meeting to order at 6:00 p.m.

Roll Call

Members Present: Chair Merrill, Vice Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

Members Absent: Member Vreugdenhil, Member Willis

A quorum was declared with five members present.

Staff Present: Kyle Garner, Town Planner Michelle Eitner, Town Attorney Arey Grady, and Laurel Anderson

Minutes Approval

- 1. PB Draft Minutes for 8.21.23

Member Stanziale made the motion to approve the minutes and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

Abstain: Member Bowler

Agenda Approval

Vice-Chair Meelheim made the motion to approve the agenda as presented and Member Bowler made the second. Chair Merrill took a vote that was unanimously approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

Public Comment

Chair Merrill opened public comments and asked if anyone would like to speak regarding any other topic besides the upcoming Public Hearing. There were no public comments.

Public Hearing

- 1. Case #23-08, 101 Ann Street Zoning Map Rezoning B-W to TCA

Ms. Eitner gave an overview of the rezoning request for 101 Ann Street including property and public notice information, and current and requested zoning requirements. She stated that if approved, the requested rezoning would require an amendment to the CAMA Land Use Plan’s Future Land Use Map because the TCA zoning district is not consistent with the Medium Density Residential classification and upon adoption, the Future Land Use Map would be amended to show this property as High Density Residential.

Jay Horton of Filter Design Studio represented the applicant and stated that the existing hotel would be torn down. He explained that the owners would lose the rights to the adjacent docks but keep the ones directly behind the hotel and the parking lot usage agreement would immediately expire and revert back to the Town of Beaufort as soon as the property was rezoned.

Chair Merrill asked for a motion to open the Public Hearing. Member Stanziale made the motion to open the Public Hearing and Member LoPiccolo made the second. Chair Merrill took a vote that was unanimously approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

Vic Moore, 112 Gallants Lane, explained that the original plan for the hotel property was to build townhomes and that was the reason for the current Business Waterfront (B-W) zoning. He stated that he was sorry to see the hotel go and had no concerns with the new homes going in.

Eric Lindstrom, 125 Ann Street, stated the Ann Street neighbors were excited that the Town had voted to keep the end of Ann Street public with access to the water, and that there was informal fundraising for amenities on that site.

Will Zigler, 117 Ann Street, asked that the Town consider creativity in rezoning, possibly rezoning the whole area as residential, and to be aware of the flooding situation in the area and ensure that the flooding isn’t made worse.

Robert Harper, 1020 Broad Street, stated the Town should vary from the guidelines as little as possible and if the property were rezoned R-8 the CAMA Land Use Map would not need to be updated, and the precedent would be set for TCA zoning in that area. He urged denying TCA zoning and to suggest to the builder that they should request R-8 zoning.

Mr. Horton asked for clarification on the zoning request as the property would not meet the R-8 setbacks and TCA zoning would meet their purpose, noting that the request modeled the homes to the north of that property, and he had been working on three units to go on the lot.

Chair Merrill asked for a motion to close the Public Hearing. Member Stanziale made the motion to close the Public Hearing and Member Bowler made the second. Chair Merrill took a vote that was approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

The Board discussed possibly continuing the item until the developer discussed the item with town staff, Gallants Lane zoning, the cul-de-sac at the end of Ann Street reverting back to the Town and public and private access points, spot zoning, and possibly creating a precedent or expectations with zoning decisions.

Member LoPiccolo stated that the parcel was a special situation and it was in the best interest of the town to rezone and have the parcel redeveloped. When the property ceases being a hotel the area at the end of Front Street will revert back to the town and can become park area. We do not want a dilapidated hotel sitting waiting for the owners to figure out

what they'll do with it, and it's a great opportunity to turn this into a park area. The hotel currently has around 38 units and that will downsize to three units.

Chair Merrill agreed and said that we did not want a similar situation like the old Beaufort Elementary School with the building being abandoned.

Member LoPiccolo made the motion to recommend approval of Case #23-08 from B-W to TCA as presented.

Member Stanziale expressed his concern about not knowing the number of units that may possibly be built on the site. Member Bowler stated she wanted to be fair to all property owners and developers, and even without setting precedent she didn't want to create an expectation the board would consider TCA or other zoning requests.

Member Stanziale asked if owners were allowed to show conceptual drawings with this type of zoning and Ms. Eitner stated that the board would be agreeing to the entire zoning district and all permitted rights and uses. Member Stanziale clarified his question and asked if the developer had the ability to show conceptual plans as they would in a Planned Unit Development (PUD). Ms. Eitner further explained that a PUD would be different as it would be zoned for its own use and legally it is not advised to make a zoning decision based on conceptual plans as a developer would not be locked in to that design.

Vice-Chair Meelheim asked if the plans would be reviewed by the Historical Preservation Commission and Mr. Grady stated that they would.

Chair Merrill stated that he felt the rezoning request was reasonable considering the existing use and it was not against the public interest.

Chair Merrill made the second and took a vote that was approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale

Voting nay: Member Bowler

Member LoPiccolo made the motion to amend the Future Land Use Map based on the request's reasonableness and that it was not against the public's interest, and Vice-Chair Meelheim made the second.

Chair Merrill took a vote that was approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale

Voting nay: Member Bowler

Presentations

- 1. 160-D Presentation by the Town Attorney

Town Attorney Grady gave a presentation for the board's review on the ordinance changes to Chapter 160D Local Planning and Development Regulation updates as required by state law.

Commission / Board Comments

The Members thanked the staff and town attorney for the complete agenda items, staff report, and the 160D presentation.

Staff Comments

Mr. Garner stated that the updated CAMA Land Use Plan was on target to be approved and signed by the CAMA director before the end of 2023.

Cedar Street paving is scheduled to be completed within 60 days, and Mr. Garner noted that the pervious paving already in place had been tested and had rated at 300-400 units which was much higher than the expected 100 units.

He requested the Planning Board research contract zoning and recommended training on the different types of zoning and reminded the Board that he and Ms. Eitner were always available to answer questions.

He noted that the Subdivision Ordinance would also be reviewed as well as the Land Development Ordinance for Chapter 160D updates.

Adjourn

Member Stanziale made the motion to adjourn and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was unanimously approved.

Voting yea: Chair Merrill, Vice-Chair Meelheim, Member Bowler, Member LoPiccolo, Member Stanziale

Chair Merrill then declared the meeting adjourned.

Ralph Merrill, Chair

Laurel Anderson, Board Secretary



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**Beaufort Planning Board Regular Meeting
6:00 PM Monday, October 16, 2023 – 614 Broad Street- Train Depot**

AGENDA CATEGORY: Items for Discussion
SUBJECT: 160-D Presentation by the Town Attorney.

BRIEF SUMMARY:

At the September meeting the Town Attorney gave an overview of 160-D changes in the State planning statutes and how these changes will be incorporated into the Land Development & Subdivision Ordinances. After the Attorney’s presentation the Planning Board received the **redlined** draft version of the changes.

At the conclusion of the September meeting the Board requested to carry this item over as an item for discussion with the Town Attorney prior to setting a Public Hearing.

REQUESTED ACTION:

Discussion on proposed 160D Text

EXPECTED LENGTH OF PRESENTATION:

30 Minutes

SUBMITTED BY:

Kyle Garner, AICP
Planning & Inspections Director

BUDGET AMENDMENT REQUIRED:

N/A

TOWN OF BEAUFORT,
NORTH CAROLINA

Land Development Ordinance

For the Town of Beaufort

Adopted by the Beaufort Board of Commissioners
July 1, 2023

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SECTION 1 General Provisions

A) Title, Purpose, and Intent of the Ordinance.

1) Title.

This Ordinance shall be known and may be cited as the “*Land Development Ordinance for the Town of Beaufort*,” or “*LDO*” and hereinafter referred to as “the *Development Plan or Ordinance*,” “the *LDO*,” “the *Ordinance*,” or “this *Ordinance*.”

2) Purpose.

The purpose of this Ordinance is to promote the health, safety, and general welfare of the citizens of the Town of Beaufort (hereinafter referred to as the “Town”). This Ordinance was created with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town’s planning and development regulation jurisdiction.

3) Intent.

It is the general intent of this Ordinance to:

- a) Regulate the use of all structures and lands within the planning and development regulation jurisdiction of the Town (hereinafter “the planning and development regulation jurisdiction”) which, as defined in N.C. Gen. Stat. §160D-201(a), including all areas within the Town’s corporate limits and within the Town’s extraterritorial area.
- b) Regulate lot coverage, population density and distribution, and the location and size of all structures within the Town corporate limits and the ETJ limits of the Town.
- c) Regulate development so as to accomplish the following:
 - i) Require safety from fire, flooding, panic, and other dangers;
 - ii) Provide adequate light, air, sanitation, and drainage;
 - iii) Further the appropriate use of land and conservation of natural resources;
 - iv) Obtain the wise use, conservation, development, and protection of the Town’s water, soil, woodland, and wildlife resources and attain a balance between land uses and the ability of the natural resource base to support and sustain such uses;
 - v) Prevent overcrowding and avoid undue population concentration and urban sprawl;
 - vi) Maintain the character of existing neighborhoods;
 - vii) Stabilize and protect the natural beauty and property values;
 - viii) Lessen congestion in and promote the safety and efficiency of the streets and highways;
 - ix) Facilitate the adequate provision of public facilities and utilities;
 - x) Preserve the natural growth and promote the natural beauty of the community; and,
 - xi) Protect and preserve the historic resources of the community.

B) Authority; Approval Required Before Development.

- 1) This Ordinance is adopted pursuant to the authority contained in North Carolina General Statutes N.C. Gen. Stat. Chapter 160D. In the event of any conflict between this Ordinance and Chapter 160D, the provisions of Chapter 160D shall control.

Land Development Ordinance for the Town of Beaufort

- 2) No person shall commence or proceed with development without first securing approval from the Town as herein provided.

As defined in N.C. Gen. Stat. §160D-102 (12), “development” means any of the following:

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

- 3) Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and the section of the statutes is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section which most nearly corresponds to the superseded section.

C) *Planning and Development Regulation Jurisdiction.*

1) Jurisdiction Area.

This Ordinance shall be effective throughout the Town’s planning and development regulation jurisdiction. The Town’s planning and development regulation jurisdiction comprises the area within the corporate boundaries of the Town as well as the area described as adopted and/or amended by the Board of Commissioners (hereinafter referred to as “BOC”) as the Town’s ETJ, whose parcels are recorded in the Carteret County Register of Deeds. Such planning and development regulation jurisdiction may be modified from time to time in accordance with Article 2 of Chapter 160D of the North Carolina General Statutes.

2) Provisions for the Official Zoning Map.

The Town has been divided into zones or districts as shown on the Official Zoning Map, dated June 1997, as amended, all as previously adopted by the BOC, which, together with all explanatory matter thereon, continues in full force and effect. The Official Zoning Map shall be identified by the signature of the Mayor of the Town, attested by the Town Clerk, and bearing the seal of the Town. No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Regardless of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town’s planning jurisdiction, and is expressly incorporated herein by reference. The Zoning Map shall be maintained for public inspection in the office of the Zoning Administrator. Copies of the Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Town Clerk in accordance with N.C. Gen. Stat. §160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

3) Replacement of the Official Zoning Map.

In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the BOC may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, but no such correction shall have the effect of amending the original zoning map. The new Official Zoning Map shall be identified by the signature of the Mayor of the Town, attested by the Town Clerk, and bearing the seal of the Town. Unless the prior Official Zoning Map has been lost, or has

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been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption of amendment.

D) *Effective Date.*

The provisions of this LDO, as amended, become effective **July 1, 2023** upon adoption by the BOC.

E) *Building Permits to Remain in Force.*

Approved building permits valid at the time of adoption of this Ordinance shall be subject to the provisions of Section 30, Permit Choice and Vested Rights of this Ordinance.

F) *Zoning Certificate.*

1) No person shall commence or proceed with development without first securing approval from the Town as herein provided.

No building or structure or any part thereof shall be erected or structurally altered until a zoning certificate is issued by the Zoning Administrator in accordance with Section 31 herein. Each application for a zoning certificate shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected or altered, its location on the lot and other such information as may be necessary to provide for the enforcement of this Ordinance. A careful record of such applications and plats, together with a record of the action taken thereon, shall be kept in the office of the Zoning Administrator.

2) No permit for excavation or erection of any building or part of a building, or for structural repairs to or alteration of a building, or the relocation of a building from the lot on which it is situated, shall be issued until after a statement of its intended use has been filed by the applicant with the Zoning Administrator.

3) All developmental approvals under this Ordinance shall be in writing and shall attach to and run with the land. A development approval shall contain provision requiring the development to comply with all applicable state and local laws. The Town may issue development approvals in print or electronic form. Any development approvals issued exclusively in electronic form shall be protected from further editing once issued.

4) Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

G) *Development Proposals.*

In conjunction with this Ordinance all development proposals shall meet any and all applicable local, state, and federal requirements which include but are not limited to the North Carolina State Building Code, the North Carolina Fire Code, and the Americans With Disabilities Act (ADA) of 1990 as amended. In addition, development proposals shall conform to all adopted Town plans, ordinances, guidelines, policies, and manuals. When this Ordinance specifies that a matter may or shall be approved or disapproved, such approvals and disapprovals shall be communicated by the officer or board making the determination who shall in turn give written notice to the owner of the

property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

H) Application of Zoning District Regulations.

The regulations set by this Ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

- 1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered or otherwise developed, as defined in Section 1 (B)(2) herein, except in conformity with all of the regulations herein specified for the district in which it is located and until a permit is secured from the Town’s Planning and Inspections Department.
- 2) No building or other structure shall hereafter be erected or altered:
 - a) To exceed the maximum height or bulk as defined in their individual zoning district;
 - b) To accommodate or house a greater number of families than allowed;
 - c) To occupy a greater percentage of lot area than allowed; and,
 - d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or in any manner are contrary to the provisions of this Ordinance.
- 3) No part of a yard or other open space required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard or open space similarly required for any other building.
- 4) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

I) Relationship to Existing Ordinances.

To the extent the provisions of this Ordinance are the same in substance as the previously adopted provisions they replace in the Town’s zoning ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation which did not constitute a lawful, nonconforming situation under the previously adopted ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of such ordinance.

J) Relationship to Land Use Plan.

The BOC intends this Ordinance to implement the planning policies adopted by the BOC for the Town and its planning and development regulation jurisdiction, as reflected in the *Town of Beaufort Comprehensive and CAMA Land Use Plan* and other planning documents. While the BOC reaffirms its commitment to this Ordinance and any amendment to it shall be in conformity with adopted planning policies, the BOC hereby expresses its intent whereby neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document. Amendment of the Comprehensive and CAMA Land Use Plan shall follow the procedures for zoning amendments set forth in Section 3 herein and any additional requirements imposed by state law.-

K) No Use of Land or Buildings Except in Conformity with Ordinance Provisions.

- 1) Subject to Section 11 of this Ordinance, no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.
- 2) For purposes of this Ordinance, the “use” or “occupancy” of a building or land relates to anything and everything done to, done on, or done in the building or land.

L) No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions.

Subject to Section 11 of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.

M) Fees.

- 1) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for zoning/building permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances, site plan review standards, and other administrative relief. The amount of fees charged shall be as set forth in the Town’s official fee schedule or as established by resolution of the BOC and filed in the Office of the Town Clerk.
- 2) Fees established in accordance with Section 1(M) above shall be paid upon submission of a signed application or notice of appeal.

N) Severability.

It is hereby declared to be the intention of the BOC that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

O) Computation of Time.

- 1) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or a legal holiday, such day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- 2) Unless otherwise specifically provided, whenever a person has the right or requirement to do some act within a prescribed period after the service of a notice or other paper upon him/her and the notice or paper is served by mail, three days shall be added to the prescribed period.

P) Development Agreement Ordinance.

The Town may enter into development agreements as set forth in Article 10 of Chapter 160D of the North Carolina General Statutes.

Q) Public Utility Exemption.

Any lot proposing or containing a public utility feature owned or operated by a public agency or authority, including but not limited to potable water, sanitary sewer, storm water, or electricity, but excluding towers or supports for communication antennae, devices, and services (such as mobile phone, telecommunication, microwave, etc.) unless such devices and services are incidental to the

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public utility feature, shall be exempted from the dimensional and access requirements in the zoning district where it is located.

R) *Only One Main Building, One Main Use on Lot.*

In all zoning districts, unless otherwise permitted, every main building hereafter erected or altered shall be located on a separate lot as defined in this Ordinance, and in no case shall there be more than one main building and one permitted accessory building on the lot nor more than one main use except as otherwise designated (e.g., commercial, industrial, or residential) per building and lot; provided this requirement shall not apply to manufactured home parks where permitted accessory uses exist, nor to unified developments of planned building groups approved by the BOC, nor to a bona fide farm use. This Ordinance in no way regulates the orientation of a building.

S) *Minimum Yards.*

The minimum yards or other open spaces required by this Ordinance, including those provisions regulating intensity of use for each and every building hereafter erected or structurally altered, shall not be encroached upon or considered as meeting the yard or open space requirements or the intensity of use provision for any other building.

T) *Lot Subdivision.*

No lot shall hereafter be so reduced in area as to cause any open space requirement of this Ordinance to be less in any dimension than is herein required by the minimum yard requirements of the zoning district in which the lot is situated.

U) *Improvement Bonds.*

No final certificate of occupancy or certificate of compliance for a commercial, residential, or manufactured home park planned building group will be issued until all required site improvements have been completed. In lieu of completion of the required site improvements, the developer of the planned group may enter into a contract with the Town providing for the installation of required improvements pursuant to provisions of N.C. Gen. Stat. §160D-804.1 and Section 34 (G)(4)(4.02.02) herein. Upon provision of a surety bond or a waiver thereof, a temporary certificate of occupancy or a temporary certificate of compliance may be issued.

V) *Conflict with Other Laws or Covenants.*

- 1) Whenever the regulations made under the authority of this Ordinance require a greater width or size of yards or courts, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than those required in other local ordinances or by statutes which are in force in the Town and its ETJ, the provisions of the regulations made under authority of this Ordinance shall govern. Whenever the provisions of any other statute or local ordinance or regulation impose stricter standards than those required by the regulations made under authority of this Ordinance, the provisions of such statute or local ordinance or regulation shall govern.
- 2) Nothing in this Ordinance shall modify or repeal any deed restriction on land within the area of jurisdiction of this Ordinance, but no such deed restriction shall constitute a basis for failing to comply with this Ordinance.

W) *Bona Fide Farm Exemptions.*

The provisions of this Ordinance shall not affect property used for bona fide farm purposes; provided, however, that this Ordinance shall apply to the use of farm property for nonfarm

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purposes. The provisions of N.C. Gen. Stat. §160D-903 shall control whether the use of property is for “bona fide farm purposes,” and the provisions of such section are incorporated herein by reference as if set forth herein verbatim.

X) *Density Credits or Severable Development Rights.*

Density credits or severable development rights for dedicated rights-of-way shall be provided to a developer pursuant to N.C. Gen. Stat. §136-66.10 or §136-66.11. The Town reserves the right to determine whether density credits or severable development rights shall be provided in any particular case.

SECTION 2 General Provisions for Residential Zones

A) State Guidelines for Areas of Environmental Concern.

All lots shall comply with the *Coastal Area Management Act of 1974* and all regulations promulgated thereunder.

B) Thoroughfare Rights-of-Way.

Unless otherwise specified, buildings shall be set back at least fifty feet (50') from the right-of-way of major thoroughfares as depicted in the *Carteret County Comprehensive Transportation Plan*. An existing building which intrudes into the required setback may expand, but additional construction shall not be placed in any required setback and all other provisions of this Ordinance shall be observed.

C) Encroachments Permitted into Required Yard Setbacks.

1) Corner lots.

Except for reasonable supports, completely open carports, porches, decks, canopies, and stairways may encroach by seventy-five percent (75%) into any yard other than the right-of-way yard setback.

2) Carports.

In defining carports, three sides of the carport must be left open; decorative walls, planters, shrubbery, or other obstructions are permitted as part of the carport or adjacent to the carport as long as it does not exceed three feet (3') in height and a minimum of fifty percent (50%) of the area is unobstructed.

3) Covered patios, covered decks, covered stoops, and covered porches shall not project into required side yards. Steps and open covered porches shall not project more than six feet (6') from the main building line.

D) Encroachments in Street Rights-of-Way in National Register Historic District.

The Town was founded more than 300 years ago. As a result of surveying and other errors, parts of some homes in the National Register Historic District encroach in the street rights-of-way. Some of these homes constructed prior to 1950 contribute to the special nature of the district reflecting the heritage and architectural history of the community. To require the removal of the encroaching parts of these homes would compromise the historical and architectural integrity of the district. As a result, within the National Register Historic District, a license is granted by the Town to the owners of homes with parts encroaching into street rights-of-way, when such encroachments were constructed prior to 1950, to continue the encroachment on the following conditions:

- 1) The encroachment may be maintained, repaired and replaced *in situ* but may not be enlarged in any dimension, except if a building is being raised to comply with FEMA flood elevations, the encroachment may be raised accordingly.
- 2) The Zoning Administrator and Building Inspector are authorized to permit maintenance, repair and replacement of the encroaching feature.
- 3) No interest in a street right-of-way is being granted in this section and the license is revocable at the will of the Town.
- 4) If an encroachment is removed and not replaced within one year, the license granted herein is revoked and will not be restored without action of the BOC.

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E) **Recreational Vehicles.**

Recreational vehicles may be stored on any lot in any residential zoning district provided they are not stored in the required setback for front yards. While being stored in this area, recreational vehicles may not be used for sleeping, utility, office, material storage, etc.

F) **Accessory Buildings.**

Accessory buildings shall be subject to the following regulations:

- 1) An accessory building which is more than sixteen feet (16') in height or which is structurally attached to the principal building shall comply with all the zoning restrictions applicable to the principal building.
- 2) An accessory building no more than sixteen feet (16') in height may occupy not more than twenty-five percent (25%) of the area of a required rear yard if no part of such accessory building is less than five feet (5') from the rear and side lot lines.
- 3) An accessory building no more than sixteen feet (16') in height may be erected on any interior lot in either required side yard and on a corner lot in the required side yard not abutting the street if no part of such accessory building is less than five feet (5') from a side lot line.
- 4) An accessory building in the required rear yard of a corner lot shall not project beyond or nearer to the street than the front setback line, as extended, of the lot adjacent to thereto and whose front yard abuts thereon.

G) **Swimming Pools, Hot Tubs or Spas.**

Private swimming pools, hot tubs, or spas are permitted as accessory uses in any residential district. No private swimming pool, hot tub, or spa in a residential district shall operate as a business.

H) **Docks and Piers in Certain Areas of R-8, R-8A, and RS-5 Zoning Districts.**

Within the Regulated Area:

- 1) Only one residential boat dock per riparian lot is permitted. No other structure below the high-water mark is permitted.
- 2) Residential boat docks may contain boat slips subject to the following limitations:
 - a) No more than four boat slips per riparian lot with a single-family dwelling located on such lot.
 - b) No more than two boat slips per riparian lot on which there is no dwelling.
 - c) No more than two boat slips per dwelling unit on riparian lots used for multi-family dwellings, whether the multi-family dwellings are conforming or not.
- 3) Residential boat docks may not include any living quarters.
- 4) Residential Residential boat docks may include roofs over permitted platform areas not to exceed four hundred square feet. The area under the roof shall not be enclosed or obstructed with features such as netting, panels, coverings, awnings, screens, shutters or other similar improvements, nor shall any roof permitted hereunder allow for second story use. The height of the roof shall not exceed more than a height of sixteen feet above the decking of the dock. Any roof permitted or hereunder shall comply with all applicable legal requirements, including but not limited to the requirements of the North Carolina Coastal Area Management Act and regulations promulgated thereunder and the requirements of the North Carolina State Building

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~~Code boat docks may not include any structures with roofs or overhead features designed to shield from rain, sun, or weather.~~

- 5) Residential boat docks shall be approved and constructed in accordance with the provisions of CAMA and all regulations promulgated thereunder, and all other applicable state, federal, or local land use laws or regulations.
- 6) Residential boat docks shall be used only for personal non-commercial purposes.
- 7) Nothing in this section shall prohibit a property owner within these specific zoning districts from leasing boat slips located upon a residential boat dock; however, no person, including an owner or tenant, may conduct commerce therefrom and no commercial boats may be moored to a residential boat dock (excluding boats with commercial net licenses used only by the property owner thereof).
- 8) This Section does not permit the creation of additional nonconforming riparian lots. The existing nonconforming lots are not made conforming by the adoption of this Section.

I) ***Approval of Plats.***

No proposed subdivision plat shall hereafter be approved unless the lots shown on such plat comply with the lot width and area requirements of the applicable district.

SECTION 3 General Provisions for Amendment Procedure

A) *Petitioning the Town.*

A petition for an amendment to the text of this Ordinance may be initiated by the BOC, the Town’s Planning Board, any department or agency of the Town, the owner of any property within the Town’s jurisdiction, or by any resident within the Town’s jurisdiction. A petition for an amendment to the Beaufort Zoning Map may be initiated by the BOC, the Town’s Planning Board, any department or agency of the Town, or the owner of the subject property. Such petitions shall be filed with the Town in the form prescribed by the Director of Planning and Inspections and shall include any supporting documents as necessary. A person who has no ownership interest in the subject property shall have no jurisdiction to petition for a zoning map change for such property but shall have the right to request either the Planning Board or the BOC initiate such a change.

B) *Fee.*

A fee, as set forth in the Town’s official fee schedule or as established by resolution of the BOC and filed in the Office of the Town Clerk, shall be paid to the Town by any applicant requesting a text amendment to this Ordinance, and by any property owner requesting an amendment to the Beaufort Zoning Map pertaining to his/her property, to cover the cost of advertising and other administrative expenses incurred by the Town. There shall be no fee charged for an amendment change initiated by the BOC, the Town’s Planning Board, or by any department or agency of the Town. The payment of the fee shall not entitle the applicant to a public hearing on the application or a vote by either the Town’s Planning Board or BOC and the applicant assumes the risk such public hearing and or votes will not be held.

C) *Application Procedure.*

Any application for an amendment to this Ordinance shall be filed with the Town’s Planning and Inspections Department. The Town’s Planning and Inspections Department will promptly deliver the application to the members of the Planning Board. Applications from the BOC or departments or agencies of the Town shall be in writing, signed by an official of the Town, and shall generally outline the request.

Each application submitted by a property owner or other individual shall be signed by the applicant and shall contain at least the following information:

- 1) The applicant’s full name, address, and telephone number;
- 2) A description of the property to be rezoned (if applicable);
- 3) Applicant's interest in the property subject to rezoning (if applicable);
- 4) The type of rezoning or amendment requested;
- 5) A typed list of all the owners of the property, and all adjacent property owners, as determined by the real property tax maps of the Carteret County Tax Office, within one hundred feet (100’) of the boundary lines of all properties requesting to be rezoned;
- 6) If the proposed change would require a change in the zoning map, an accurate diagram of the property proposed for rezoning showing:
 - a) All adjoining property lines with dimensions;
 - b) A North arrow and a scale;
 - c) All adjoining streets with rights of way and paving widths;

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- d) The location of all structures on the subject property;
 - e) The use of the property; and
 - f) The zoning classification of all abutting properties.
- 7) A statement as to whether or not the proposed zoning amendment is consistent with the *Town of Beaufort Comprehensive and CAMA Land Use Plan*; and,
 - 8) A statement as to how the proposed zoning amendment will promote the public health, safety, or general welfare of the community.

D) *Proposed Amendments to be Submitted to Planning Board for Recommendation.*

- 1) Zoning Amendments. - All proposed amendments to this Ordinance or Zoning Map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the BOC may act on the amendment without the Planning Board report. The BOC is not bound by the recommendations, if any, of the Planning Board.
- 2) Plan Consistency. - When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the Town of Beaufort Comprehensive and CAMA Land Use Plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the BOC that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Town of Beaufort Comprehensive and CAMA Land Use Plan shall not preclude consideration or approval of the proposed amendment by the BOC. If a Zoning Map amendment qualifies as a "large-scale rezoning" under Section (3) (G) (2), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
- 3) Separate Board Required. - Notwithstanding the authority to assign duties of the Planning Board to the BOC as provided by Chapter 160D, the review and comment required by this section shall not be assigned to the BOC and must be performed by a separate board.

E) *Amending the Ordinance.*

- 1) Hearing with Published Notice. - Before adopting, amending, or repealing any provision of this Ordinance, the BOC shall hold a legislative hearing. A notice of the 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 scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- 2) No amendment to this Ordinance or the Zoning Map of the Town that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the Town. For purposes of this prohibition, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - a) by decreasing the development density of the land to be less dense than was allowed under its previous usage, or
 - b) by reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

F) **BOC Statement**

- 1) When adopting or rejecting any zoning text or map amendment, the BOC shall approve a brief statement describing whether its action is consistent or inconsistent with the Town of Beaufort Comprehensive and CAMA Land Use Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the BOC that at the time of action on the amendment the BOC was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a Zoning Map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a Zoning Map amendment qualifies as a "large-scale rezoning" under Section 3 (G)(2), the BOC statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- 2) Additional Reasonableness Statement for Rezonings. - When adopting or rejecting any petition for a Zoning Map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the BOC. This statement of reasonableness may consider, among other factors,
 - a) the size, physical conditions, and other attributes of the area proposed to be rezoned,
 - b) the benefits and detriments to the landowners, the neighbors, and the surrounding community,
 - c) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - d) why the action taken is in the public interest; and
 - e) any changed conditions warranting the amendment. If a Zoning Map amendment qualifies as a "large-scale rezoning" under Section 3 (G)(2), the BOC statement on reasonableness may address the overall rezoning.
- 3) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this Section may be approved as a single statement.

G) **Notice of Legislative Hearing on Proposed Zoning Map Amendments.**

In addition to the published notice requirements of Section 3 (E)(1) herein, the following shall apply to Zoning Map amendments:

- 1) Mailed Notice. - The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed Zoning Map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 days but not more than 25 days prior to the date of the hearing.
- 2) Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under Section 3(G)(1) shall not be required if the Zoning Map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed

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notice provided for in Section 3 (G)(1) or, as an alternative, elect to publish notice of the hearing as required by N.C. Gen. Stat. §160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of Section 3(G)(1).

- 3) **Posted Notice.** - When a Zoning Map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed Zoning Map amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

H) Citizen Comments.

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the BOC. If the proposed change is the subject of a quasi-judicial proceeding under N.C. Gen. Stat. §160D-705 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the BOC shall not disqualify any member of the BOC from voting.

I) Petition Withdrawal.

Any petition for an amendment to this Ordinance may be withdrawn prior to the legislative hearing by the person initiating such request, upon written notice to the Town Manager.

J) Reconsideration.

If the applicant withdraws their application following the recommendation of the Planning Board, the Town shall not accept any other application for the same change of zoning affecting the same property or any portion thereof, until the expiration of six months from the date of such withdrawal. Also, when the BOC denies any application for the change of any zoning district, the Town shall not accept any other application for the same change of zoning affecting the same property or any portion thereof, until the expiration of six months from the date of such previous denial.

K) Application Limitations.

A rezoning, site plan review, or text amendment application other than those initiated by the BOC, Town staff, or other Town board, which has been denied by the BOC may not be resubmitted within twelve (12) months of the BOC’s decision unless the application is determined to be substantially changed under the following procedure:

- 1) An application shall be submitted for review by the Planning Board. The application will be treated as a new application with appropriate fees and plans submitted (a dimensional increase or decrease of an area sought to be rezoned shall not constitute a substantially changed request).
- 2) If the Planning Board determines the application is substantially changed, the Planning Board shall review the new application and make a recommendation to the BOC in accordance with

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the requirements of this Section. The application shall then be forwarded to the BOC for their determination on whether the application is substantially changed.

- a) If the BOC concurs with the Planning Board, they shall then follow the notice and approval procedures outlined in this Section.
 - b) If the BOC disagrees with the Planning Board, the application shall be considered withdrawn until the twelve-month period is over.
- 3) If the Planning Board determines the application is not substantially changed, the application shall be forwarded to the BOC for their consideration.
- a) If the BOC concurs with the Planning Board's decision, the application shall be considered to be invalid and all fees paid in connection with the application forfeited.
 - b) If the BOC determines the application is substantially changed, the application shall be reviewed by the BOC which will follow the notice and approval procedure outlined in this section.

L) *Enforcement of Ordinances.*

The provisions of this Ordinance may be enforced according to the provisions of Section 28 herein.

SECTION 4 Definitions

For the purpose of interpreting this Ordinance, certain words and terms are defined in this section. Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meanings herein set forth when used in this Ordinance. If a word or phrase used in this Ordinance is not defined by this section or elsewhere in this Ordinance, to the extent such word or phrase is defined in Chapter 160D, that definition shall control. For general interpretation, the following shall apply in all uses and cases in this Ordinance:

- A) The present tense includes the future tense and the future tense includes the present tense.
- B) The singular number includes the plural number and the plural number includes the singular number.
- C) The word “*may*” is permissive and the word “*shall*” is mandatory.
- D) The word “*person*” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- E) The words “*used*” or “*occupied*” include the words “*intended to be used or occupied,*” “*designed to be used or occupied,*” or “*arranged to be used or occupied.*”
- F) Words imparting the masculine gender include the feminine and neuter.
- G) The word “*lot*” includes the words “*plot,*” “*parcel,*” “*site,*” and “*premises.*”
- H) The word “*building*” includes the word “*structure.*”
- I) The words “*map,*” “*zoning map,*” and “*Town of Beaufort Zoning Map*” shall mean the “*Official Zoning Map for the Town of Beaufort, North Carolina.*”
- J) The word “*Town*” shall mean the “*Town of Beaufort, a municipal corporation of the State of North Carolina.*”
- K) The words “*Ordinance*” and “*regulation*” shall mean the official “*Land Development Ordinance for the Town of Beaufort.*”
- L) The words “*Planning Board*” shall mean the “*Town of Beaufort Planning Board.*”
- M) The words “*board*” or “*board of commissioners*” or the acronym “*BOC*” shall mean the “*Board of Commissioners of the Town of Beaufort, North Carolina.*”
- N) The words “*Board of Adjustment*” or the acronym “*BOA*” shall mean the “*Town of Beaufort Board of Adjustment.*”
- O) The words “*historic commission*” and the acronyms “*HPC*” and “*BHPC*” shall mean the “*Town of Beaufort Historic Preservation Commission.*”
- P) The words “*planner,*” “*administrative officer,*” “*director of planning,*” “*Zoning Administrator,*” and the “*zoning enforcement officer*” or “*zoning enforcement official*” shall mean “*The Town of Beaufort Director of Planning and Inspections*” or his/her designee.
- Q) Whenever the words “*dwelling,*” “*dwelling units,*” “*rooming units,*” and “*premises*” are used within this Ordinance, they shall be construed as though they are followed by the words “*or any part thereof.*”
- R) The words “*written*” or “*in writing*” are deemed to include electronic documentation.
- S) The words “*Chapter 160D*” shall mean Chapter 160D of the North Carolina General Statutes.

- T) Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

A

Abutting. Having property or district lines which have a common boundary. For the purposes of notice under Section 3 of this Ordinance properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

Access. A way of approaching or entering a property. In zoning and subdivision regulations, any lot of record is usually required to have direct *Access* to a public street or highway or to a private street meeting public standards. This is done not only to permit entry of residents and other uses, but to permit emergency-type vehicles to reach structures. In the context of land-use controls, *Access* also includes ingress - the right to enter, and egress - the right to leave.

Accessory Use. A use customarily incidental and subordinate to the principal use of the land or building located on the same lot with such principal use of the land or building.

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

Accessory Unit/Structure. The *Accessory Units/Structure* is defined as a habitable living unit added to, created within, or detached from a single-family dwelling unit which provides the basic requirements for living, sleeping, eating, cooking, and sanitation.

Accessory Dwelling Units/Structures. *Accessory Dwelling Units/Structures* are commonly understood to be a separate additional living unit or structure, including kitchen, sleeping, and bathroom facilities, attached to or detached from the primary residential unit, on a single-family lot. They shall be subordinate in size, location, and appearance to the primary residential unit and may or may not have separate means of ingress or egress.

Addition (to an Existing Building or Structure). An extension or increase in the floor area or height of a building or structure.

Adjacent Lot. Any lot which has a common boundary with the subject lot.

Administrative Decisions. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or Town regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative Hearing. A proceeding to gather facts needed to make an administrative decision.

Administrative Officer/Code Enforcement Official. The officials charged with the enforcement of this Ordinance or his/her designee.

Adult Care Home. As defined by N.C. Gen. Stat. §131D-2.1 (3), an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residences, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. *Adult Care Homes* are also commonly referred to as “family care homes.” See *FAMILY CARE HOME*.

Adult Day Care Program. As defined by N.C. Gen. Stat. §131D-6(b), the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled to allow such adults to enjoy as much independence as possible except that an Adult Care Programs may provide overnight services on a 24-hour-basis in accordance with N.C. Gen. Stat. §131D-61.

Adult Establishment. The definition of *Adult Establishment* as set forth in N.C. Gen. Stat. §14.202.10, and any successor statute, is incorporated herein by reference.

Agricultural Land. *Agricultural Land*, forestland, or horticultural land as defined in N.C. Gen. Stat. §105-277.2, located within the jurisdiction of the Town.

Agritourism. For purposes of this Ordinance, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Air Rights. The rights to the space above a property for development.

Airport Environmental Overlay District. The intent of the *Airport Environmental Overlay District* is to reduce incompatible land use within the runway protection zones and to provide mechanisms for the notification of property owners around the airport of potential noise and vibration impacts from the Michael J. Smith Field.

Airport Runway Exclusion Overlay District. The purpose of the *Airport Runway Exclusion Overlay District* is to reduce incompatible land use within the runway protection area.

Airport Zones. A particular set of controls intended to protect the integrity of an airport, its airspace, and its environs. While the majority of the control is on structural heights, with permitted maximums increasing with distance further from runways, airport zoning also limits electronic interference with navigational equipment and some types of uses, primarily places of assembly, to reduce accident risks. Airport zoning controls usually are superimposed as overlay districts on other zoning requirements.

Alley. A roadway easement which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

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Alter or Alteration. Any change or modification in construction or occupancy.

Alternative Design. A buffer design, though not specifically identified within the standards, which by mutual agreement, is equal to or exceeds the intent of the screening/buffering requirements.

Amortization. A term used in zoning to mean the process by which nonconforming uses and structures must be discontinued or made to conform to requirements of the ordinance at the end of a specified period of time.

Animal Hospital. See *VETERINARY CLINIC*.

Annexation. Any extension of a Town’s corporate limits as authorized by Article 4A of Chapter 160A of the North Carolina General Statutes, the charter of the Town, or any local act applicable to the Town, as such statutory authority exists or is hereafter amended.

Antenna (Commercial-Transmissions). Any *Antenna*, excluding any supporting structure, designed to send or receive signals from any microwave transmitter or receiver, telephone communications and/or telecommunications transmitter, broadcast radio, or television signals.

Antenna (Conventional Television or Radio). Any receiving antenna other than a satellite television antenna.

Antenna (Satellite Television). Any apparatus capable of receiving signals from geostationary orbital satellites.

Apartment. A room or suite of one or more rooms in a multiple dwelling intended for use as a residency by a single-family.

Applicant. Principal property owner(s) or designee of record submitting a bona fide site specific development plan or development application.

Appeal. A request for a review of the administrator’s interpretation of any provision of this Ordinance or of a board’s decision on any application governed by this Ordinance.

Aquaculture. The propagation and rearing of aquatic species in controlled or selected environments, including but not limited to, ocean ranching (N.C. Gen. Stat. §106-758).

Aquaculture Facility. Any land, structure, or other appurtenance used for aquaculture including but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture (N.C. Gen. Stat. § 106-758).

Assisted Living Facility. Any group housing and services program for two or more unrelated adults, by whatever name it is called, which makes available, at a minimum as defined in N.C. Gen. Stat. §131D-2.1 (5), one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. There

are three types of assisted living residences: adult care homes, adult care homes who serve only elderly persons, and multiunit assisted housing with services.

Attached. Connected or fastened together.

B

Bar. See TAVERN/BAR/PUB.

Base Flood. The flood having a one percent (1%) chance of being equaled to or exceeded in any given year.

Base Flood Elevation. A determination as published in the Flood Insurance Study of the water surface elevations of the base flood.

Basement. Any area of the building or structure having its floor sub-grade (below ground level) on all sides.

Beaufort Historic Preservation Commission. See HISTORIC COMMISSION.

Bed and Breakfast. As defined in N.C. Gen. Stat. §130A-247(1a) and (2), a business of not more than twelve guest rooms that offers bed and breakfast accommodations to not more than twenty-three persons per night for a period of time, and:

- A) Does not serve food or drink to the general public for pay;
- B) Serves the breakfast meal, lunch meal, the dinner meal or a combination of all or some of these three meals, only to overnight guests of the business;
- C) Includes the price of breakfast in the room rate; and,
- D) Is a permanent residence for the owner and/or the manager of the inn.

Bell Tower. A tower containing one or more bells, or is designed to hold one or more bells even if it has none.

Bicycle. Every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices. The term *Bicycle* also includes three-and four-wheeled human powered vehicles, but not tricycles for children.

Bicycle Facilities. A general term denoting improvements and provisions made by public agencies to accommodate or encourage bicycling, including parking and storage facilities, and shared roadways not specifically designated for bicycle use.

Bicycle/Bike Lane. A portion of a roadway which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

Bicycle/Bike Path. A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way. Bike paths may also be used by pedestrians, skaters, wheelchairs, joggers, and others with a device which is designed for and intended to be used as a means of transportation for a person with a mobility

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impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building including on sidewalks, and is limited by design to fifteen miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in N.C. Gen. Stat. §20-4.01(7b).

Bicycle/Bike Route. A system of bikeways designated by the Town with appropriate directional and information route markers with or without specific bicycle route numbers. Bike routes should establish a continuous routing but may be a combination of any and all types of bikeways.

Bikeway. A generic term for any road, street, path, or way which in some manner is specifically designated for bicycle travel regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

Block. A piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street. *Blocks* can be of any shape and of any size.

Board of Adjustment. A local quasi-judicial body, created by ordinance, whose responsibility is to hear appeals and to consider appeals and requests for variances permissible under terms of this Ordinance.

Board of Commissioners. The governing board of the Town of Beaufort, North Carolina.

Boat. A vessel or watercraft of any type or size which is used, or can be used, to travel from place to place by water whether self-propelled or not. A for hire boat includes a charter boat, head boat, dive boat, site-seeing boat, or other boat hired to allow individuals to engage in recreational fishing. A "houseboat" is a vessel not designed primarily for residential dwelling, but designed as a pleasure craft, for independent navigation. It is not considered a floating home in accordance with the definition set forth above. A *Boat* or floating object, except a floating dock, secured to land or a dock by means other than temporary mooring lines or a boat lift, may be deemed by the Zoning Administrator as a structure.

Boat Slip. An area of a boat dock designed for the mooring of a boat. Characteristics of a *Boat Slip* may include pilings, finger piers, or other devices used to moor a boat. A *Boat Slip* may be referred to in this Ordinance as a "wet slip."

Bona Fide Farm. Any tract of land whose purpose includes the production and activities relating to or incidental to those activities as set forth in N.C. Gen. Stat. §160D-903.

Breakaway Wall. A wall which 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 supporting foundation system.

Breezeway. A roofed passage which connects two buildings (such as a house and a garage).

Brewery. A business located in a jurisdiction where the sale of malt beverages is allowed for the manufacturing and selling to someone of the age of twenty-one or older and whom obtains the correct state permit to manufacture and sell malt beverages. The authorization applies to a *Brewery* which

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sells to consumers at the *Brewery*, to wholesalers, to retailers, and to exporters, fewer than 310,000 gallons of malt beverages produced by the brewery per year.

Buffer Yard. A unit of required yard which is a combination of land and physical barriers such as fencing and plant materials which separate various land uses.

Buildable Area. The space remaining on a zoning lot after the minimum open-space requirements (coverage, yards, and setbacks) have been met.

Building. A structure or part thereof. See *STRUCTURE*.

Building Coverage. The amount of land covered or permitted to be covered by a building, usually measured in terms of percentage of a lot.

Building, Detached. A building having no party or common wall with another building except an accessory building.

Building Height. The vertical distance measured from the naturally occurring grade adjacent to a structure to a level plane formed by the highest point (peak) of the structure. In cases where the natural grade varies at corners of a structure, the *Building Height* shall be determined by using the average natural grade at the corners of the structure. The highest point of the structure is generally the ridge of the roof for pitched roof structures and the top surface of a flat roof for flat roof structures but shall also include the highest surface of parapet walls and other structural features.

Building Inspector/Inspector. The individual appointed by the BOC to administer and enforce all sections of the North Carolina State Building Codes pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings.

Building, Principal. A building which is constructed for the principal use of the lot where the building is located. See *MAIN BUILDING*.

Building Setback Line, Front. A line establishing the minimum allowable distance between the nearest portion of any building and the street right-of-way line when measured perpendicularly thereto; or, on a flag lot, a line establishing the minimum allowable distance between the nearest portion of any building and the interior lot line most parallel to and nearest the street from which access is obtained.

Building Setback Line, Rear. A line establishing the minimum allowable distance between the nearest portion of any building and the rear boundary line of a lot when measured perpendicularly thereto.

Building Setback Line, Side. A line establishing the minimum allowable distance between the nearest portion of any building and the side boundary line of a lot when measured perpendicularly thereto.

Bulk Storage of Petroleum Liquids and Other Flammable Materials. The storage above ground, in open or closed tanks or barrels, or any variety of pressurized containers in excess of one thousand, two hundred gallons.

Built Opaque Fence or Wall. A vertical structure at least six feet (6') in height constructed of cedar, masonry, redwood, or pressure treated lumber (resistant to rot) which is completely impenetrable by light. Fence installation should be consistent with acceptable building practices.

Business. A *Business* is an organization designed to provide goods, services, or both to consumers and may include a trade, occupation, profession, or franchise taxed under this Ordinance. A *Business* is seasonal in nature when it is conducted for six months out of the year or less.

Business Office. See *OFFICE: BUSINESS*.

C

CAMA Land-Use Planning. A land-use plan which serves as a community’s blueprint for growth. These plans are the fundamental element of coastal management in North Carolina. The Coastal Area Management Act (CAMA) requires each of the twenty coastal counties to have a local land-use plan in accordance with guidelines established by the Coastal Resources Commission.

Canopy Cover. The crown branch area of a tree measured in square feet after ten years from installation as specified in this Ordinance.

Carport. A roof projecting from the side of a building which can be used to shelter a car and must have at least three open sides.

Cellular Communication Tower. See *TELECOMMUNICATION TOWER*.

Cemetery/Graveyard. An area set aside as a burial ground.

Certificate of Appropriateness. An official permit received by a property owner or their designee indicating a proposed change or action has been reviewed and approved by the BHPC, or when authorized, by the Director of Planning and Inspections, for congruency with the special characteristics of the historic district or historic landmark and for consistency with the historic district guidelines.

Certificate of Compliance. An official certification indicating a structure or premise conforms to provisions of this Ordinance and/or the North Carolina State Building Codes and may be used or occupied.

Certificate of Occupancy. A Certificate of Compliance.

Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive product.

Child Care Facility. See *DAY CARE CENTER*.

Circulation Area. The portion of the Vehicle Accommodation Area (hereinafter referred to as “VAA”) used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking or aisles) comprise the circulation area.

Clinic. A facility in which persons not bedridden are diagnosed or treated including doctor’s offices.

Cluster Development. Generally, refers to a development pattern, for residential, commercial, industrial, institutional, or combinations of such uses, in which the uses are grouped or “clustered” through a density transfer, rather than spread equally throughout a parcel as in conventional lot-by-lot development. The Ordinance may authorize such development by permitting smaller lot sizes if a

specified portion of the land is kept in permanent open space either through public dedication or through creation of a homeowners association.

Coastal High Hazard Area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map.

Code Ordinance. This refers to this Ordinance as modified by amendment, revision and adoption of new chapters or sections.

Commercial Vehicles. Vehicles which the driver is required to have a United States Commercial Driver’s License in order to operate.

Community Docking Facility, Major. A private nonprofit boating facility including a dock, pier, and/or launching ramp on property which has water frontage, the use of which is intended to serve eleven or more residential lots or units, to include any private nonprofit boating facility, dock, pier, and/or launching ramp. The right to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve.

Community Docking Facility, Minor. A private nonprofit boating facility including a dock and/or pier on property which has water frontage, the use of which is intended to serve ten or less residential lots or units. The right to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve.

Companion District. Each district in this Ordinance includes a companion conditional zoning district (e.g. RS-5 has RS-5/CZ). See Section 27 of this Ordinance.

Comprehensive Bicycle Plan for the Town of Beaufort. The official bicycle plan for the Town which is cited within this Ordinance. It has been adopted by the BOC and may be amended from time to time. A copy of the plan is on the Town’s website and at Town Hall.

Conditional Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominium Development. A project consisting of three or more condominium units in one or more multi-unit buildings designed, developed, and constructed for unit ownership, in accordance with North Carolina General Statutes Chapters 47A and 47C.

Condominium, Residential. An enclosed residential space under single ownership consisting of one or more rooms occupying all or part of a floor or floors in a building in a multi-unit structure with common areas and facilities. Said space may include areas such as garage space, storage space, and balcony, terrace, and/or patio space. A *Condominium* shall have direct access to a public right-of-way or full access to a common space connected to a right-of-way. Each condominium unit shall be separated by a fire wall as specified in the N.C. State Building Codes.

Condominium, Nonresidential. An enclosed nonresidential space designed for offices and the operation of any industry or business, or for any other type of nonresidential independent use under single ownership consisting of one or more rooms occupying all or part of a floor or floors in a building in a multi-unit structure with common areas and facilities.

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Construction Vehicles and Equipment. This shall include bulldozers, backhoes, tractors, hydraulic lifts, septic tank pumping trucks, earth moving machinery, construction machinery, and all other such related equipment.

Contractor, Building or Sub-Contractor. One who is engaged in one or more aspects of building construction and/or land development through legal agreement.

Convenient Food Store. A retail store designated and stocked to sell primarily food, beverages, gasoline, and household items.

Core Land Use Plan, Town of Beaufort Comprehensive and CAMA Land Use Plan. The plan used by the Town to determine the appropriate land use for property. It has been adopted by the BOC and may be amended from time to time. A copy of the plan can be found in Town Hall.

The Comprehensive and CAMA Land Use Plan sets forth the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. The Comprehensive and CAMA Land Use Plan has been adopted by the BOC.

The Comprehensive and CAMA Land Use Plan is designed to guide and accomplish a coordinated, adjusted, and harmonious development of the Town that will best promote health, safety, morals, and general welfare, as well as efficiency and economy in the development process. The Comprehensive and CAMA Land Use Plan may address factors including those set forth in N.C. Gen. Stat. §160D-501(b).

The Comprehensive and CAMA Land Use Plan shall be considered by the Planning Board and the BOC when considering proposed amendments to this Ordinance. Any future amendment of the Comprehensive and CAMA Land Use Plan shall follow the procedures for consideration and approval of a text amendment, as set forth in Section 3 herein.

Corner Lot. See *LOT*.

County. This shall mean “Carteret County,” whether for the tax office or other areas or services provided by the county or the county government.

Covenant. A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded.

Coverage. An area determined in square footage.

Crematoriums. See *MORTUARIES/FUNERAL HOMES/CREMATORIUMS*.

Crown (trees). The *Crown* of a plant refers to the totality of the plant's aboveground parts, including stems, leaves, and reproductive structures. A plant canopy consists of one or more plant crowns growing in a given area. The *Crown* of a woody plant (tree, shrub) is the branches, leaves, and reproductive structures extending from the trunk or main stems.

Cupola. A structure or dome covering a circular or polygonal area on a roof.

D

Damage (as relevant to trees). Any action to destroy, remove, relocate, or otherwise inflict harm or injury to a tree. *Damage* shall include any act causing injury to the root system or other parts of a tree including excessive watering, burning, applying toxic substances, operating equipment or machinery within the drip line, paving or excavating within the drip line, changing the natural grade or trenching within the drip line, or any act of similar nature.

Dance Halls, Discotheques, Night Clubs. Any place established primarily for the provision of entertainment of dancing to live or recorded music and wherein alcoholic beverages may or may not be sold or consumed.

Day Care Center, Child Care Facilities, Family Childcare Home, Nurseries, Pre-School. A program or arrangement where at any one time children receive childcare as defined by N.C. Gen. Stat. §110-86(2).

Decibel. A unit for expressing relative difference in power or loudness.

Deciduous Trees. Deciduous is typically used in reference to trees or shrubs who lose their leaves seasonally, and to the shedding of other plant structures such as petals after flowering or fruit when ripe.

Dedication. A gift by the owner, or a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, *Dedication* must be made by written instrument and completed with an acceptance.

Demolition. The complete destruction or removal of a structure or object or removal of more than fifty percent (50%) of the perimeter walls.

Density. The average number of families, persons, or housing units allowed per unit of land. *Density* is usually expressed “per acre.” The control of density is one of the basic purposes of zoning.

Design Capacity. The maximum occupancy as determined by the Town’s Fire Department and Building Inspector.

Design Guidelines for the Beaufort Historic District & Landmarks or Historic District Guidelines. A document adopted as the guideline for the BHPC. This document is available at Town Hall and on the Town’s website and may be amended from time to time.

Deteriorated. A dwelling unfit for human habitation which can be repaired, altered, or improved to comply with all of the minimum standards established by this Ordinance at a cost not in excess of fifty percent (50%) of its value.

Development. As defined in N.C. Gen. Stat. §160D-102(12), “development” means any of the following:

- A) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- B) The excavation, grading, filling, clearing, or alteration of land.

- C) The subdivision of land as defined in N.C. Gen. Stat. §160D-802.
- D) The initiation or substantial change in the use of land or the intensity of use of land.

Developmental Approval. An administrative or quasi-judicial approval made pursuant to Chapter 160D or this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development Impact Area. The portion(s) of the lot being considered for improvements at the time development plans are submitted for review to the Town’s Planning and Inspections Department.

Development Impact Fees. A fee imposed on homeowners, builders and/or developers to pay for the costs to the community of providing services to a new single property and/or to a new development project.

Development Regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to Chapter 160D, or a local act or charter that regulates land use or development.

Diameter Breast Height. The *Diameter Breast Height* (DBH) is a standard method of expressing the diameter of the trunk or bole of a standing tree. It is the diameter of the trunk of a tree at four feet six inches (4’6”) above ground level (on the uphill side of the tree if the ground is not level). This has traditionally been the "sweet spot" on a tree where measurements are taken and a multitude of calculations are made to determine things like growth, volume, yield, and forest potential.

Dilapidated. A dwelling unfit for human habitation which cannot be repaired, altered, or improved to comply with all of the minimum standards established by this Ordinance at a cost not in excess of fifty percent (50%) of its value.

Dimensional Nonconformity. See *NONCONFORMITY, DIMENSIONAL*.

Director of Planning and Inspections. The head of the Beaufort Planning and Inspections Department, or his/her designee. The *Director of Planning and Inspections* may be referred to herein as the *Planning Director*, the *Director*, the *Town Planner*, or the *Zoning Administrator*.

Discharge. The amount of water which passes a point in a given period of time.

Display. An eye-catching arrangement by which something is exhibited. This includes signs of all varieties, window exhibits, and placement of articles for retail in view of the public. This definition does not include automobiles, boats and boat trailers, and manufactured homes.

Dock, Residential Boat. A fixed structure (including floating platforms attached to pilings) in or extending into riparian waters providing for the docking or mooring of boats such as provided herein,

or for swimming, fishing, or viewing nature. This structure is primarily intended for the private personal use of the owner(s) or occupants(s) of the residential dwelling(s) located on a riparian lot. Appurtenant pilings are included as a part of a *Residential Boat Dock*. "Pier" is another term for a *Residential Boat Dock*.

Dormitory. A residence hall providing rooms for individuals or groups.

Double Frontage or Through Lot. See *LOT*.

Down-Zoning. A zoning ordinance that affects an area of land in one of the following ways:

- A) By decreasing the development density of the land to be less dense than was allowed under its previous usage, or
- B) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Driveway. Every entrance and/or use for vehicular traffic to and from a property fronting a public or private right-of-way.

Driveway Width. The narrowest width of a driveway measured parallel with the edge of the traveled way.

Dry Slip. The storage space for a single boat on the upland of a marina. In a boat storage lot, each two hundred fifty square feet (250 ft.²) shall be deemed one *Dry Slip*. Where boats are stored on vertical racks, each slot for the storage of a boat is deemed one *Dry Slip*.

Duplex. See *RESIDENCE, DUPLEX*.

Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Dwelling, Multi-Family. Any building or portion thereof which is designed, built, rented, leased, let, or hired out to be occupied by more than two families, containing three or more dwelling units. This includes all dwelling units which are enclosed within the building or attached to it by common floors or walls (even the wall of an attached garage or porch). Such units include, but are not limited to, apartments, lofts, and the like.

Dwelling, Single-Family. A single independent housekeeping unit with sanitation, living, dining, sleeping, and kitchen facilities designed for or used as a permanent residence for one or more persons whether or not attached to other such residences.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

E

Easement. A right given by the owner of land to another party for specific limited use of such owner’s land.

Egress. The means of going out, exiting.

Elevated Building. A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Elevation. The height to which something is elevated above sea level.

Emergency Work. Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Eminent Domain. The legal right of government to acquire or “take” private property for public use or public purpose upon paying just compensation to the owner.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development onto a neighboring property.

Erect. Build, construct, rebuild, or reconstruct as the same are commonly defined.

Essential Site Improvements. Any construction or reconstruction of site development features required by any local, state, or federal regulations, ordinances or laws, such as underground drainage, off-street parking, driveways, retention areas, or similar improvements required for the intended use of the site.

Evidentiary Hearing. Hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by this Ordinance.

Exceptional Specimen Tree/Exceptional Tree/Specimen Trees. Any tree which is determined by the BOC or their designee(s) to be of unique and intrinsic value to the general public because of any of the following:

- A) Exceptional size.
- B) Age.
- C) Unique Location.
- D) Historic association.
- E) Ecological value.

It further includes any tree designated a Carteret County Champion (tree) by the County Tree Awareness Group.

Existing Manufactured Home Park. 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 pre-firm.

Ex-Parte Communication. Some form of contact between one party to a proceeding, e.g., an applicant for a permit or an appellant, and a public official with some responsibility for making the decision, occurring outside the formal decision-making process.

Expenditure. A sum of money paid out in return for some benefit or to fulfill some obligation. Whenever the term is used hereafter, it also includes binding, contractual commitments to make future expenditures as well as any other substantial changes in position.

Extraterritorial Jurisdiction Zoning. Authority granted to a locality to exercise zoning powers for a specified distance outside its boundaries as described in North Carolina General Statutes Chapter 160D, Article 2 It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent uses.

Extermination. The control and termination of insects, rodents, or other pests by eliminating their harborage places and by removing or making inaccessible materials which may serve as their food and by poisoning, spraying, fumigating, or trapping or by any other recognized and legal pest elimination method.

F

Fabrication. Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber, or rubber. *Fabrication* relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.

Family. Any number of persons related by blood, adoption, or marriage, or not to exceed four persons not so related, living together in a dwelling unit as a single housekeeping entity.

Family Care Home. As defined by N.C. Gen. Stat. §160D-907, a home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. “Person with disabilities” for purposes of the definition of family care home shall mean 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 N.C. Gen. Stat. §122C-3(11)(b). Family care homes should be deemed a residential use of property for zoning purposes and shall be permissible in all residential districts within the Town.

Family Childcare Home. See DAY CARE CENTER.

Farmer’s Market/Produce Stand. Individual vendors, mostly farmers, who set up booths, tables, or stands, outdoors or indoors, to sell produce, meat products, fruits, and sometimes prepared foods and beverages.

Financial Institution. A banking corporation, trust company, savings and loan association, or other loan association, credit union, or other entity principally engaged in the business of lending funds, investing funds, or receiving or soliciting money on deposit.

Findings (of Fact). A determination or conclusion based on the evidence presented and prepared by a hearings body in support of its decision. When it presents its decision, the body is often required to

demonstrate in writing the facts presented in evidence to support its decision in conformance with the law.

FIRM. Flood Insurance Rate Map. An official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flag Lot. See *LOT*.

Flex Space. Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Firms providing these services do so by mainly offering centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to this site. Accessory activities may include retail sales, offices, parking, and storage.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance. Insurance coverage provided under the National Flood Insurance Program.

Floor Area. The total area of all enclosed habitable space in a building or structure including basements, mezzanines, upper floors, but exclusive of stairways and elevator shafts. *Floor Area* does include separate service facilities outside the main building such as boiler rooms and maintenance shops.

Floor Area Ratio. The *Floor Area Ratio* is the quotient obtained by dividing the gross floor area of all of the structures on the lot by the area of the lot.

Freeboard. The additional amount of height added to the base flood elevation to account for uncertainties such as waves, debris, miscalculations, or the lack of data, in the determination of flood elevations. The Town has adopted this to mean the base flood elevation plus one foot.

Front. A building *Front* shall either be the side of the structure which runs parallel with the street right-of-way or the side of the structure on which the primary entrance is located. No structure may have more than one *Front*.

Front Yard. See *YARD, FRONT*.

Frontage. All property abutting on one side of a street.

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

Funeral Homes. See *MORTUARIES/FUNERAL HOMES/CREMATORIUMS*.

G

Garage, Private Detached. A structure or space used as an accessory to or a part of a main structure permitted in any residential district, and providing for the storage of one or more motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

Garage, Public. A structure or space used as an accessory to the main part of a building and/or an establishment in which a business is operated for the repair of motor vehicles. Such establishments may serve anyone in the public sector and shall obtain a Town privilege license in order to conduct business within the Town limits.

Garage, Storage. Any building or premises, other than a private garage or public garage, used exclusively for parking or storage of motor vehicles.

Gas/Service Station. A building or lot where gasoline, oil, greases, and accessories are supplied, stored, and dispensed to motor vehicles. A gas station can also be where batteries, tires, gasoline, and other similar services are rendered. Fuel storage shall only be for on-site retail sales.

Grade, Existing. The surface of the ground or pavement at a stated location as it exists before disturbance in preparation for a project regulated by this Ordinance.

Grade, Finished. The elevation of the surface of the ground, prior to any development, adjoining the building at the completion of a project regulated by this Ordinance. Where the finished grade is below the level of the existing grade, the existing grade shall be used for this purpose.

Grade, Naturally Occurring. See *NATURALLY OCCURRING GRADE*.

Grade, Street. The top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

Graveyard. See *CEMETERY/GRAVEYARD*.

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 Home. See *ADULT CARE HOME*.

Growing Season. The period from April to October of each calendar year.

H

Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

Handicapped. Any person who has physical disability which requires the use of a wheelchair, braces, walkers or crutches, and/or any person who is severely restricted in mobility, and/or any person who

is visually impaired, as defined by N.C. Gen. Stat. §111-11, certified by a licensed ophthalmologist, optometrist or the state division of services for the blind.

Handicapped Parking Privileges. Any person who falls within the definition of handicapped shall be allowed to park in spaces designated for handicapped parking and in parking zones restricted as to length of time parking provided this Ordinance shall have no application to those zones or during times in which the parking, stopping or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege granted the handicapped herein, the vehicle shall display a distinguishing license plate or placard which shall be issued for vehicles registered to the handicapped person and such license plate or placard shall meet the requirements of N.C. Gen. Stat. §20-37.6. When a special license plate for the handicapped is attached to the motor vehicle, or when a placard as authorized by N.C. Gen. Stat. §20-37.6 is displayed on the dashboard of the vehicle, all parking rights and privileges extended to vehicles displaying license plates or placards shall apply.

Handicapped Parking Privileges Enforcement. It shall be unlawful for any person:

- A) To park or leave standing any vehicle in a space designated for handicapped or visually impaired persons when the vehicle does not display the distinguishing license plate or placard as provided in this section;
- B) For any person not qualifying for the rights and privileges extended to handicapped or visually impaired persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate or placard issued pursuant to N.C. Gen. Stat. §20-37.6; and,
- C) To park or leave standing any vehicle so as to obstruct a curb ramp or curb cut for handicapped persons, as provided for by the North Carolina State Building Codes or as designated in N.C. Gen. Stat. §136-44.14.

Hazardous Waste Management Facility. A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in N.C. Gen. Stat. §130A-9.

Height Regulations. Zoning regulations which limit the maximum height of buildings within any particular zoning district.

Highway. A general term denoting a public way for the purpose of vehicular traffic, including the entire area within the right-of-way.

Historic Commission or the Beaufort Historic Preservation Commission. A board appointed by the BOC with a knowledge and interest in historical preservation. The board reviews and regulates certain changes in the locally designated Historic District and locally designated landmarks including buildings and their settings, new construction, demolitions, major landscaping, tree removal, and signs in accordance with the provisions of N.C. Gen. Stat. §160D-942. The board references their guidelines, *Design Guidelines for the Beaufort Historic District & Landmarks*, in order to make findings on applications within the Historic District See *CERTIFICATE OF APPROPRIATENESS* and *MINOR WORKS*.

Historic Structure. Any structure which is:

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

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- B) 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; or
- C) Individually listed on a state inventory of historic places; or
- D) Individually listed as a local landmark; or
- E) There is also a presumption any structure in the Beaufort Historic District which is more than 50 years old is a *Historic Structure*. However, the BHPC shall have the authority to determine any such structure is not a *Historic Structure* if it would not meet the criteria for listing on the National Register of Historic Places, or the state inventory of historic places, or satisfy the criteria for designation as a local historic landmark.

Homeless Shelter or Mission. A facility providing temporary housing for one or more individuals who are otherwise homeless.

Home Care Unit. A facility meeting all the requirements of the State of North Carolina for boarding and care of not more than five persons who are not critically ill and do not need professional medical attention, to include homes for the aged.

Home Occupation. An accessory use of a dwelling unit for gainful employment by the practice of a profession or occupation, the creation or assembly of goods, and the sales and repair of goods created or assembled on the premises. A *Home Occupation* must be incidental to the primary use of the building as a residence.

Horses. Any riding animal other than livestock as defined in the Town Code including horses and ponies.

Hospital. A building or complex of buildings wherein medical services are provided on an out-patient basis and overnight room and board basis and wherein the sick and injured are given medical and/or surgical care.

Hotel, Motel. As defined in N.C. Gen. Stat. §18B-1000 (4), an establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.

House.

- A) A dwelling, building or other structure in excess of twelve feet (12') in width.
- B) The term *House* shall not include manufactured homes of any size, boats, and similar structures capable of being moved on a semitrailer having a maximum length of fifty feet (50') and which can reasonably be expected to safely proceed on and over the public streets of the Town at a speed of twenty miles per hour or more.

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

I

Increased Noise Potential Zone. This zone extends outward of one thousand, two hundred feet (1,200') from the centerline of each runway at the Michael J. Smith Field.

Infestation. The presence within or around a dwelling of any insects, rodents, or other pests.

Ingress. A going in or entering.

Impact Analysis. The process of evaluating a proposal's expected impact on its surroundings or community.

Impervious Surface. Those surfaces which do not absorb water, such as buildings, parking areas (including gravel), driveways (including gravel), roads, sidewalks, and any area of concrete or asphalt unless specifically engineered to be pervious.

Impervious Surface Ratio. A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on the lot by the development impact area as defined (excluding wetlands and areas within flood plains).

Impervious Surface Intensity. A measure of the intensity of a proposed development based on its impervious surface ratio (ISR).

Improved Space. The properly graded, graveled, or paved portion of a site dedicated for parking.

Improvements. The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn, or mass planting (except to prevent soil erosion) to a lot or parcel of property.

Inn. See *BED AND BREAKFAST*.

Inspector. See *BUILDING INSPECTOR*.

Intensity. The degree to which land is used.

Intensive Use. A use which will have a greater impact on the surrounding areas than the previous use including activities which generate more traffic or service deliveries, require more employees, or utilize more square footage than the previous use existing on the site.

Interior Lot. See *LOT*.

J

Junk. Dilapidated furniture, appliances, machinery, equipment, building materials, vehicles, or unusable items which are either wholly or partially rusted, wrecked, junked, dismantled, disassembled, or inoperable.

Junk Motor Vehicle. As defined in N.C. Gen. Stat. §160A-303.2.

Junkyard. The use of any portion of any lot for the open or visible storage, keeping, or abandonment of junk, including scrap metals or other materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

K

Kennel. A facility where animals/pets are housed temporarily for a fee. Other services such as grooming and training may be offered; however, this term does not include a facility which houses lost, homeless, or abandoned animals on a permanent basis.

L

Landscape Plan. A schematic plan, drawn to scale, which shows the design of landscaping requirements for specific properties in the planning jurisdiction. Guidelines for such plans are included in Sections 14 and 15 of this Ordinance.

Landscaping. Includes the planting and maintaining of any combination of trees, shrubs, vines, ground cover, flowers, lawns, displays of rocks, stone, wood, and/or concrete features, including but not limited to fountains, reflecting pools, artwork, screens and benches. Requirements for such plantings can be found in Sections 14 and 15 of this Ordinance.

Legislative Decision. The adoption, amendment, or repeal of this Ordinance or any regulation under Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of Chapter 160D.

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.

Loading and Unloading Area. A berth primarily used for providing an area for standing and loading and/or unloading operations for certain types of vehicles.

Lot. A distinct parcel of land with defined boundaries. For the purpose of this Ordinance, the word *Lot* shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected.

- A) **Lot, Corner.** A lot abutting upon two or more streets at their intersection(s). The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal in which case, the owner shall be required to specify which street is the front when requesting a building permit.
- B) **Lot, Double Frontage.** An interior lot with frontage on more than one street. A lot fronting on a street on one side and a private ingress-egress easement on the other side shall be considered a double frontage lot even if the lot does not have ingress-egress from the private easement.
- C) **Lot, Flag or Corridor.** An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an access corridor of the lot which does not meet the minimum lot width and street frontage standards as specified in the zoning district in which the lot is located. As used in this Ordinance, the term “access corridor” in connection with a *Flag Lot* shall mean the portion of a *Flag Lot* between the street onto which the lot has access and

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the point where the lot dimension parallel to the street first equals or exceeds the minimum lot width specified by the zoning district regulations.

- D) **Lot, Front Footage.** The lot width measured on the street right-of way line.
- E) **Lot, Interior.** A lot bound by a street on only one side; any lot other than a corner lot.
- F) **Lot, Substandard.** A lot which met all minimum legal requirements for a lot when created but which, as a result of changes in law, no longer meets all such requirements.
- G) **Lot Coverage.** *Lot Coverage* is the ground area of a lot which is encompassed by the exterior foundation limits, including any supports of a building or other covered or enclosed structure; impervious surfaces comprising of but not limited to parking areas, driveways, exterior storage areas, and storm water detention structures shall be included under this definition.
- H) **Lot Depth.** The depth of a lot is the distance measured in the main direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite main rear line of lot.

Lot Line or Property Line. A recorded boundary of a lot. Types of lot lines are as follows:

- A) **Corner Lot Line.** A street lot line which is not a front lot line.
- B) **Front Lot Line.** The shortest line of a lot abutting a street line. The lot lines of a double-frontage lot which abuts street lines shall be front lot lines. When the lot lines of a corner lot, which is abutting street lot lines, are equal or at substantially equal lengths, the *Front Lot Line* shall be determined by the Zoning Administrator. In determining the *Front Lot Line*, the Zoning Administrator shall take into consideration the character of the improvements in the neighborhood of the lot, the impact to abutting property owners from the establishment of either of the boundaries as a *Front Lot Line*, the character of the building proposed to be constructed, and the distance which the building is set back from the lines of the two streets which the lot abuts.
- C) **Interior Lot Line.** A lot line not abutting a street.
- D) **Rear Lot Line.** A lot line which is parallel or approximately parallel to the front lot line. Where no lot line is within forty-five degrees (45°) of being parallel to the front lot line, a line ten feet (10') in length within the lot, parallel to and at the maximum possible distance from the front lot line, shall be deemed the *Rear Lot Line* for the purpose of measuring rear yard depth.
- E) **Side Lot Line.** A lot line which is not a front or rear lot line.
- F) **Street Lot Line.** A lot line abutting a street.

Lot Width. The distance between side lot lines measured at the building setback line.

Lowest Floor. The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's *Lowest Floor* provided such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the new or amended ordinance.

M

Main Building. The principal building or other structure on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. *Main Building* and *Principal Building* are synonymous terms.

Manual for Design and Construction of Streets, Water, and Wastewater Systems for the Town of Beaufort. A document used to implement the standards adopted by the BOC for streets, water systems, and wastewater systems. This document is cited throughout this Ordinance and may be amended from time to time. A copy of this document may be found at Town Hall or at the Town’s Public Works Department.

Manufactured Home. § As defined in N.C. Gen. Stat. §143-145(7), a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park. A parcel of land on which two or more manufactured homes are located.

Marina. *Marinas* are defined as any publicly or privately owned dock, basin, or wet boat storage facility constructed to accommodate more than ten boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul-out facilities, and repair service.

Map, Base. A map showing the important natural and man-made features of an area.

Market Value of Real Property. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of the building (actual cash value) or adjusted assessed values.

Materialman’s Lien. A type of lien which gives a security interest in property to someone who supplies materials used during work performed on a property.

Mean Elevation. The average height to which something is elevated above sea level.

Medical Office. See OFFICE: MEDICAL.

Messaging Board. See SIGNS.

Metes and Bounds. A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent feature.

Microbrewery. A brewery which produces less than 15,000 barrels of beer per year with seventy-five percent (75%) or more of its beer sold off-site.

Microdistillery. A distillery that (i) sells to consumers at the distillery, to exporters, to local boards and to private or public agencies or establishments of other states and nations fewer than 10,000 proof gallons of in-house brand spirituous liquors distilled and manufactured by it at the permit holder’s distillery per year and (ii) that is either the holder of a distillery permit pursuant to N.C. Gen. Stat. §18B-1105, or is a business located outside the State that is licensed or permitted to Senate PCS 290 page 2, manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State.

Minimum Building Line. A line located at a minimum horizontal distance from the right-of-way line of a street or road parallel thereto, between which and the right-of-way line, no building or parts of buildings may be erected, altered, or maintained except as otherwise provided herein. The building line is to be located at a point where the lot meets the minimum width required by the zoning regulations.

Mini-Storage. A building consisting of individual, small, self-contained units which are leased or owned to hold storage of business and/or household materials or goods.

Minor Works. Proposed building and/or site changes which have no discernible impact on the special character of the building, site, and Historic District as deemed by the BHPC guidelines. These *Minor Works* items require submittal of a completed COA application but do not require review by the BHPC. Instead, a review is completed by the Town’s Planning and Inspections Department for consistency with the BHPC guidelines.

Mixed Use (as a Use). A single structure with the above floors used for residential or office use and the ground floor for retail/commercial or service uses.

Mixed Use (Zoning). Zoning which permits a combination of usually separated uses within a single development.

Mobile Home. See MANUFACTURED HOME.

Moratorium. A temporary halting or to sever restrictions on specified development activities.

Mortuaries/Funeral Homes/Crematoriums. The provision of services including preparing human remains for burial and arranging and managing funerals. This use does not include cemeteries or graveyards.

Multi-Family Dwelling. See DWELLING, MULTI-FAMILY.

Multi-Use Pathways. See BICYCLE/BIKE PATH.

N

Naturally Occurring Grade. The surface of earth formed by natural forces rather than artificial filling or other acts of man; however, if a property was filled or elevated more than one year prior to the adoption of this Ordinance, its existing surface shall be deemed the *Naturally Occurring Grade* as of the date of the adoption of this Ordinance.

New Construction. Structures for which a building permit or construction permit is issued, or upon which construction actually begins including but not limited to:

- A) Any single-family subdivision, including houses constructed in such subdivision prior to the recording of a final subdivision plat;
- B) Multi-family or nonresidential structure; or
- C) A parking lot, a motor vehicle lot, or a manufactured home sales lot.

Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological effect on humans.

Noise Abatement Building Requirements. See AIRPORT ENVIRONMENTAL OVERLAY DISTRICT.

Nonconforming Building or Development. Any existing building or development which fails to comply with the current provisions of the new or amended Ordinance.

Nonconforming Lot. A lot existing at the effective date of this Ordinance or any amendment to it and not created for the purpose of evading the restrictions of this Ordinance, which cannot meet the minimum area or lot width requirements of the zoning district where the lot is located.

Nonconforming Situations. A situation which occurs when, on the effective date of this Ordinance or any amendment to it, an existing lot or structure, or use of an existing lot or existing structure, (i) conformed to the land use ordinances of the Town in effect prior to the effective date hereof or the amendment but does not conform to one or more of the regulations contained herein or the amendment applicable to the district where the lot or structure is located, or (ii) or on the effective date of this Ordinance or an amendment to it, was allowed to continue as a *Nonconforming Situation* because of its lawful existence before adoption of a prior land use ordinance. *Nonconforming Situations* are commonly referred to as "grandfathered." Among possibilities, *Nonconforming Situations* may arise because a lot does not meet the minimum size requirements of its zoning district, or because structures do not satisfy the maximum height requirement or the minimum floor space limitation, or because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the Ordinance, or because land or structures are used for purposes made unlawful by this Ordinance.

Nonconforming Structure. A building or structure situated on a lot in such a manner it fails to meet the setback, height, lot coverage, dimensional, or some other requirement of the new or amended ordinance.

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Nonconforming Use. A use of a structure (either conforming or nonconforming) or land which was legally established and maintained before the adoption of this Ordinance which does not conform to current code provisions governing allowable land uses for the zoning district in which the use is located. This includes uses which do not conform to the land use regulations for the district in which they are located and were established prior to the adoption of this Ordinance, under a use of property variance.

Nonconformities. Lots, structures, uses of land and structures, and characteristics of use, which are prohibited under the terms of this Ordinance but were lawful at the date of the Ordinance’s enactment. The owners of such lots, structures, and/or uses of land or structures are permitted to continue these or they are given time to become conforming.

Nonconformity, Dimensional. A nonconforming situation which occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building(s) and other buildings or lot lines do not conform to the regulations applicable to the zoning district where the property is located.

Nursing Home. A convalescent facility having beds meeting the requirements of the State of North Carolina for the boarding and care of persons who cannot care for themselves.

O

Oath. An *Oath* is either a statement of fact or a promise (i) calling upon something or someone who the oath maker considers sacred, usually God, as a witness to the binding nature of the promise or the truth of the statement of fact, or (ii) the statement or information given is true under penalty of perjury. To swear is to take an *Oath*, to make a solemn vow. By law, an affirmation may be substituted for an *Oath*, and in those cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Occupy. To live in. To reside in as an owner or tenant.

Occupant. See *RESIDENT*.

Occupancy Permit. A certificate of compliance and/or a zoning permit issued by the Planning and Inspections Department establishing the legal requirements for the occupation of a structure have been met.

Official Maps or Plans. Any map or plan officially adopted by the BOC as a guide to the development of the Town.

Office. A place where a business is transacted or a service is supplied.

Office: Business. An office with no stock or merchandise on premise for sale to the general public. Operations and services are primarily conducted and concluded by means of written, verbal, or mechanically reproduced communications material.

Office: Medical. The office of a doctor, dentist, osteopath, chiropractor, optometrist or other medically oriented profession in which medical services are provided.

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Office: Professional. Offices where services are provided that require specialized training for professional certification including but not limited to accountant, appraiser, attorney, architect, engineer, and surveyor. No stock or merchandise is sold on site.

Office: Small Business. An office which administrative functions are performed in support of a small business as defined in this Ordinance.

Open Space. In urban planning, *Open Space* may refer to:

- A) Landscape – areas of land without human-built structures.
- B) Open space reserve – areas of protected or conserved land on which development is indefinitely set aside.
- C) Urban open space – urban areas of protected or conserved land on which development is indefinitely set aside.
- D) Greenway (landscape) – a linear chain of open space reserves or a recreational corridor through the same.
- E) Public space – areas left open for the use of the public, such as a piazza, plaza, park, and courtyard.

Open Storage. An unroofed storage area, whether enclosed by fence or not.

Ordinance. The map and text adopted by the BOC commonly known as the “*Land Development Ordinance for the Town of Beaufort;*” and any revisions to such *Ordinance* as approved and adopted by the BOC.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place (yard) for a period of more than twenty-four hours in an unroofed area or any type of shed which does not have four sides.

Overlay Districts/Zones. A set of zoning requirements in the Ordinance which are in addition to those of the underlying zoning district. Development of the *Overlay District* must conform to the requirements of both zoning districts or the more restrictive of the two.

Owner. Any person or entity who, alone or jointly or severally with others, is:

- A) The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner.
- B) In charge, care or control of any dwelling or dwelling unit, as *Owner* or designee of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the *Owner*. Any such person thus representing the actual *Owner* shall be bound to comply with the provisions of this Ordinance, and of rules and regulations adapted pursuant to this Ordinance, to the same extent as if he or she were the *Owner*.
- C) The owner may authorize a person holding a valid option, lease or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approval.

P

Parcel. A lot or contiguous group of lots under single control and usually considered a unit for the purposes of development.

Park. A recreation area of public or private ownership operated for the convenience and recreation of the public, containing facilities as the owning public or private agency shall see fit.

Parking Area Aisles. The portion of the VAA consisting of lanes providing access to parking spaces.

Parking Lot. An area or plot of land used for the storage or parking of vehicles.

Parking Space. A portion of the VAA designated for the parking of one vehicle and meeting the Town’s dimensional requirements.

Parties in Interest/Parties of Interest. Individuals, associations, and corporations who have interests in a dwelling and/or land and any who are in possession thereof.

Patio. A court or terrace, often paved, which is open to the sky and adjoins a dwelling.

Permeable. Capable of being permeated; penetrable; having pores or openings which allow liquids or gases to pass through often in reference to parking and storm water.

Permitted Use. A use by right which is specifically authorized in a particular zoning district.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Persons with Disabilities. As defined in N.C. Gen. Stat. §168A-3(7a), 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 any mentally ill persons who are dangerous to others as defined in N.C. Gen. Stat. §122C-3(11)(b).

Pervious. Accessible; permeable. See *PERMEABLE*.

Phased Development. A term referring to programs or techniques to guide the timing and sequence of development.

Planning and Development Regulation Jurisdiction. The geographic area including the Town and the ETJ within which the Town may undertake planning and apply the development regulations authorized by Chapter 160D.

Planned Unit Development. A form of development characterized by a unified site design for a number of housing units, clustering of buildings, and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.

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Planning Board. The board empowered to discharge the duties described in this Ordinance or Chapter 160D, including, preparing a comprehensive plan and evaluating proposed changes in land use, either by public or private developers, for conformance with the Town’s Comprehensive and CAMA Land Use Plan.

Planning Director. The Director of Planning and Inspections.

Planting Strip or Area. A surface on the ground free of concrete, asphalt, stone, gravel, brick, or other paving material, including sidewalks, which is required for use for vegetative landscaping purposes.

Plat. A map, generally of a subdivision, showing the location, boundaries, and ownership of individual properties. A *Plat* may simply be the device for officially recording ownership changes or new lot divisions or new rezonings.

Plot. An unspecified term usually referring to a piece of useable property, often used synonymously with parcel, plat, or site.

Plot Plan. A diagram showing the proposed use or existing use of a specific parcel of land.

Ponding. A flooding condition in flat areas caused when rain runoff drains to a location which has no ready outlet. *Ponding* water usually stands until it evaporates, seeps into the ground, or is pumped out.

Porte Cochere. An open covered area attached to a structure or building which shelters passengers getting in and out of vehicles.

Post-Secondary Education. Refers to the stage of learning which occurs at universities, academies, colleges, seminaries, and institutes of technology. Higher education includes certain collegiate-level institutes such as vocational schools, trade schools, and career colleges which award academic degrees or professional certifications.

Preexisting. In existence before the effective date of the enacting of this Ordinance.

Principal Building. The *Principal Building* or other structure on a lot or building site designed or used to accommodate the primary use which the premises are devoted. *Principal Building* and *Main Building* are synonymous terms.

Private Driveway. A roadway serving two or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.

Private Street. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision street disclosure statement in accordance with N.C. Gen. Stat. §136-102.6.

Professional Office. See *OFFICE: PROFESSIONAL*.

Property. All real property subject to land-use regulation generally by the Town. The term includes any improvements or structures customarily regarded as a part of real property.

Pub. See *TAVERN/BAR/PUB*.

Public Official. Any elected or appointed member of a board or commission.

Public Right-of-Way. Any street, highway, sidewalk, parking lot or alley which is owned, controlled, maintained, or operated by the Town or the State of North Carolina.

Public Street. A dedicated public right-of-way for vehicular traffic.

Q

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

R

Rear Yard. See *YARD, REAR*.

Recreation Area. An area of land or combination of land and water resources developed for active and/or passive recreation pursuits with various attributes and man-made features which accommodate such activities. See *PARK*.

Recreation, Indoor. A broad classification which includes a wide variety of recreational activities designed for housing in an enclosed building. Examples include bowling alleys, gymnasiums, movie theaters (excluding adult establishments), museums, pool halls, archery lanes, and classes for gymnastics, aerobics, karate, and dance.

Recreation Space. The part of the open space which is specifically designated to serve the needs of residents of the district with active recreation which may include, but is not limited to, swimming, tennis, golfing, ball fields, biking, hiking, and the like.

Recreation Vehicle. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, and motor home, as defined below:

- A) **Camping Trailer.** A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite.
- B) **Motor Home.** A vehicular unit built on a self-propelled motor vehicle chassis.
- C) **Travel Trailer.** A vehicular portable unit, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.

- D) **Truck Camper.** A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck. *Truck Campers* are of two basic types as defined below:
 - 1) **Slide-In Camper.** A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
 - 2) **Chassis-Mounted Camper.** A portable unit designed to be affixed to a truck chassis.

Recreational Vehicle Park. Any single parcel of land upon which two or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a fee is assessed for such purposes.

Recycling Centers. A facility which is not a salvage yard and where recoverable resources, such as newspapers, glassware, plastics, motor oil, batteries, and metal or tin cans are collected, stored, flattened, crushed, or bundled to be taken to another recycling site for processing.

Recycling Collection Points. An incidental use which serves as a neighborhood drop-off point for temporary storage of recoverable materials. No permanent storage or processing of such items would be allowed on this site. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas such as churches or schools.

Redeveloper. Any individual, partnership, or public or private corporation which shall enter or propose to enter into a contract with a redevelopment commission for the redevelopment of an area under the provisions of N.C. Gen. Stat. §160A-503.

Redevelopment. The acquisition, re-planning, clearance, rehabilitation, or rebuilding of an area for residential, recreational, commercial, industrial, or other purposes, including the provisions of streets, utilities, parks, recreational areas, and other open spaces.

Repair. The replacement of existing work with the same or similar material used in the existing work, not including additional work which would change the structural safety of the building or which would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring, or heating installations, or which would be in violation of a provision of law or Ordinance. The term *Repair(s)* shall not apply to any change of construction.

Required/Requirement. An obligation by some provision(s) of this Ordinance.

Reservoir Land Capacity. The portion of the VAA set aside for stacking of automobiles such as drop-off and pick-up lanes, drive through lanes, and similar activities.

Residence, Duplex. A two-family residential use in which the dwelling units share a common wall (including the wall of an attached garage or porch) or are separated by a ceiling and/or floor and in which each dwelling unit has separate living spaces and entrances.

Residence, Multi-Family. See *TOWNHOMES, CONDOMINIUMS, APARTMENTS.*

Residence, Single-Family Detached, One Dwelling Per Lot. A residential use consisting of a single-family detached building containing one primary dwelling unit and located on an individual lot exclusive to such unit and its accessory use.

Resident. A person who lives in a particular place.

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Residential Occupation. Buildings where families or households live or where sleeping accommodations are provided. Such buildings include, among others, the following: single-family dwellings, multiple dwellings, dormitories, and lodging houses.

Residential, Single-Family (land use). A building containing one dwelling unit located on a single lot. These include manufactured homes, or factory-built housing.

Retail Adult Establishment. See *ADULT ESTABLISHMENT*.

Retail Establishment. A place of business where a commodity is sold to a consumer and not customarily subject to re-sale.

Rezoning. A change in the zoning district for a specific property or properties pursuant to Section 3 herein.

Right-of-Way. A general term denoting land, property or interest therein, usually in a strip acquired for or devoted to transportation or utility purposes.

Riparian. Of or on the bank of a natural course of water.

Riparian Lot. A parcel of land adjacent to public bodies of water which either meets all requirements of an approved zoning lot or exists as a nonconforming lot. A *Riparian Lot* shall also include lots lying to the north of Front Street when the related lot between Front Street and Taylor’s Creek is in common ownership.

Roadway. The portion of the highway including shoulders intended for vehicular use.

Rubbish. Combustible and noncombustible waste materials except garbage; useless waste or rejected matter: trash.

S

Salvage/Automotive/Junk Yards. A parcel of land where wastes or used materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other ferrous metals, paper, rags, rubber tires, bottles, discarded goods, machinery, or two or more inoperable motor vehicles.

Salvage Operation. The reclamation, dismantling, or storage of pre-used commodities, junk, and similar materials for the purposes of resale, processing, distribution, or disposition of used or salvaged materials as part of manufacturing operations.

School, Public. An organization operated under the authority of the Carteret County Board of Education which provides educational and academic instruction to children and includes pre-school, elementary, middle, and high schools.

School, Private. An organization, except those operated under the authority of the Carteret County Board of Education, which provides educational and academic instruction to children including pre-school, elementary, middle, and high schools for any form of consideration.

Screening/Buffering. The required built and/or plant material located in the buffer yard for the purpose of visually separating different land uses.

Semi-Public. A place where the public can come such as a café or movie theater. A shop is an example of what is intermediate between public and *Semi-Public* because everyone can enter and look around the shop without obligation to pay, but activities unrelated to the purpose of the shop are not usually permitted.

Sensitive Area, Environmental. An area defined by state or local regulations as deserving special protection because of unique natural features or its value as habitat for a wide range of species of flora and fauna. An *Environmentally Sensitive Area* is subject to more restrictive development regulations than other floodplains or wetlands. Although sensitive areas are often closely associated with a body of water, they may extend beyond the Special Flood Hazard Area.

Service Station. See *GAS/SERVICE STATION*.

Shared Roadway. A roadway which is open to both bicycle and motor vehicle travel. This may be an existing roadway, street with wide curb lanes, or a road with paved shoulders.

Shed. An unattached one-story nonresidential building other than a carport, which can be used for gardening, repair shop, storage, and the like.

Shopping Centers/Malls. A grouping of retail business and service uses with common parking facilities.

Shopping Centers/Outparcel. A separate parcel or tract of real property within or part of a shopping center which has a property boundary abutting a public right-of-way, as depicted at the time or created by subdivision, any time after a development proposal for the shopping center is approved.

Shoulder. The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of sub-base, base, and surface courses.

Shrub, Large. A shrub type vegetation with a typical height at maturity of between six and eight feet (6-8').

Shrub, Small. A shrub type vegetation with a typical height range at maturity of between one and six feet (1-6').

Side Yard. See *YARD, SIDE*.

Sidewalk. Any designated portion of a street between the curb line and the adjacent property line or highway right-of-way intended for the use of pedestrians.

Signs. Any form of information which is visible from any public area directing attention to an individual, business, commodity, service, activity, opinion, fact or product, by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, or other pictorial matter designed to convey information, and displayed by any visual means and erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports or self-supporting.

- A) **Above-Roof Sign.** A sign attached to a building which is above the peak or parapet of the building.
- B) **Banner Sign.** A sign which is printed upon fabric, paper, vinyl, or other lightweight material and meets the definition of "temporary sign," as provided in this section.

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- C) **Billboard.** A type of freestanding sign which has greater than three hundred square feet (300 ft²) of sign.
- D) **Flashing Sign.** Any sign which contains a light source and maintains the same appearance or copy display for twenty-nine seconds or less.
- E) **Flush-Mounted Sign.** A sign which does not project outward and is mounted flat against the surface of a building.
- F) **Freestanding Sign.** A sign which is attached to, erected on, or supported by some structure such as a pole, mast, frame, or other structure, which is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. If the message is removed from a structure which was originally designed and used as a *Freestanding Sign*, this structure shall still be considered a sign.
- G) **Internally Illuminated Signs.** Signs where the source of the illumination is inside the sign and light emanates through the message of the sign rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs which consist of or contain tubes shall also be considered *Internally Illuminated Signs* if:
 - 1) They are filled with neon or some other gas which glows when an electric current passes through it; and
 - 2) They are intended to form or constitute all or part of the message of the sign rather than merely providing illumination to other parts of the sign which contain the message.
- H) **Messaging Board.** A sign with multi-animation, LED display, and/or changeable lettering and animation such as an outdoor bulletin board. Electronic messaging boards whose copy display or message does not change more frequently than every thirty seconds shall not be considered flashing.
- I) **Monument Sign.** A two-sided freestanding sign with an overall height of eight feet (8') or less, which stands directly on the ground and where supporting poles or structures, if any, are enclosed by decorative covers.
- J) **Painted-On (Building) Sign.** A sign which is painted directly upon the wall, roof, or other portion of a building. This definition shall include stick-on lettering and other similar type applications which are not composed within an independent unitary sign structure affixed to the wall of a building.
- K) **Portable Sign.** A sign made of wood, metal, heavy plastics, or similar substantial materials, illuminated or non-illuminated, which is not permanently attached to the ground or a building or which is designed not to be attached to the ground or a building (e.g. such as a mobile sign on wheels). A sign which stands without supporting elements, such as a "sandwich board," is also a *Portable Sign*.
- L) **Projecting Sign.** A sign which is attached to a building by supports and which may extend at any angle from the building no more than eighteen inches (18").
- M) **Roof Sign.** A sign which is displayed above the eaves and under the peak (of a roof).
- N) **Temporary Sign.** A sign which is:
 - 1) Used in connection with a circumstance, situation, or event designed, intended, or expected to take place or to be completed within a reasonably short or definite period after erection of such sign; or
 - 2) Intended to remain on the location where it is erected or placed for a period of not more than fifteen days with a separation of the placement of at least thirty days and no more than two times per calendar year.

3) If a sign display area is permanent but the message displayed is subject to periodic changes, such sign shall not be regarded as temporary.

O) Works of Art. Aesthetic objects which do not advertise merchandise, a product, or a service, or draw attention to a particular merchandise, product or service.

Sign Area. Sign area shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof which will encompass the entire sign including lattice work, wall work, frame, or supports incidental to its decoration. In computing the area, only one side of a double-face sign structure shall be considered, provided the opposite side is identical. Frames and structural members which do not bear any advertising matter, are not lit, or are not designed to increase the sign face, shall not be included in the computation of *Sign Area*. When signs are painted or attached to walls or fences, only the area covered by the sign shall be included in the computation.

Single-Family Dwelling. See *DWELLING, SINGLE-FAMILY*.

Site Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Site Plan Review. The process whereby local officials review the site plan and maps of a developer to ensure they meet the stated purposes and standards of the zone, provide the necessary public facilities such as paved roads and schools, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

Site Specific Development Plan. As referred to in N.C. Gen. Stat. §160D-108.1, a *SITE-SPECIFIC Development Plan* is a plan which has been submitted to the Town by the landowner or his/her designee describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Small Business. A business which is privately owned and operated with a small number of employees. A business is defined as a *Small Business* if it meets the above criteria as determined by the Town’s Planning and Inspections Department.

Small Business Office. See *OFFICE: SMALL BUSINESS*.

Sound Amplifying Equipment. Any device for the amplification of the human voice, music, or any other sound, including televisions, electronic loudspeakers, jukeboxes, stereos, compact disc players, radios, and the like.

Special Use. *Special Uses* are uses which are not permitted by right in any zoning district in the Town, but may only be granted after due consideration by the BOC. The consideration of a *Special Use* permit is a quasi-judicial function requiring evidentiary hearings and specific findings of fact.

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Special Flood Hazard Area. Defined as the area which will be inundated by the flood event having a one percent chance (1%) of being equaled or exceeded in any given year. The one percent (1%) annual chance flood is also referred to as the base flood or one-hundred-year flood.

Special Flood Hazard Areas (SFHA) are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. Moderate flood hazard areas, labeled Zone B or Zone X (shaded), are the areas between the limits of the base flood and the 0.2% annual-chance (or five hundred-year) flood. The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2% annual-chance flood, are labeled Zone C or Zone X (un-shaded).

Special Needs Persons. *Special Needs Persons* are defined as battered individuals, abused children, foster children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally, or physically, individuals recovering from drug or alcohol abuse, and all other persons who possess a disability which is protected by either the provisions of the American with Disabilities Act of 1990 as amended, 42 USC 12101, the Fair Housing Act as amended, 42 USC §3601 and the following, or Chapter 168A of the North Carolina General Statutes as they may be amended, but does not include any persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs, or persons with or without disabilities who present a threat to the health, safety, or property of others.

Species (trees). The unit in the botanical classification of plants.

Spire. A tapering conical or pyramidal structure on the top of a building.

Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual *Start of Construction*, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either 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; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not such alteration affects the external dimensions of the building.

Stairway. One or more flights of stairs and the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one story to another.

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Stormwater Ordinance, Town of Beaufort. The storm water regulations for the Town. The text is cited in this Ordinance and it has been adopted by the BOC and may be amended from time to time. A copy of this Ordinance may be found at Town Hall.

Story. The portion of a building including between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, the space between such floor and the ceiling next above it. In computing the number of stories of a building, the basement or cellar shall not be included if fifty percent (50%) or more of such basement or cellar is below grade.

Storage. A depository for commodities or items for the purpose of future use or safekeeping.

Street. Any public way, road, highway, causeway, avenue, boulevard, parkway, dedicated alley, lane, bridge, and the approaches thereto within the Town, and shall mean the entire width of the right-of-way between abutting property lines.

Street Line. The line between the street right-of-way and the abutting property.

Street or Public Right-of-Way. A public thoroughfare, avenue, road, highway, boulevard, drive, parkway, way, lane, court, or private easement, not including freeways, providing any access to and egress from the property abutting thereon.

Street Trees. *Street Trees* are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, circles, drives, or ways within the Town.

Street Yard. See *YARD, STREET*.

Structure. Anything constructed or erected the use of which requires location on the land, or attachment to something having a permanent location on the land. See *BUILDING*.

Subdivider. A person, including a governmental agency or redevelopment authority, who undertakes any subdivision of land and who is the landowner of the property to be subdivided or who has been authorized by the landowner to undertake such subdivision of that property.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Ordinance:

- A) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations.
- B) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- C) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- D) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the

resultant lots are equal to or exceed the standards of the Town, as shown in its subdivision regulations.

- E) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Subdivision Regulations, Town of Beaufort. The regulations and procedures governing the subdivision of property within the Town which are found in Section 34 herein.

Subdivision Recreation Fee. Refer to Section 34(I) “Public Facilities” of this Ordinance.

Substandard Dwelling or Structure. A dwelling, dwelling unit, multiple dwelling, apartment house, or any other space used or intended to be used as a habitable living space in any building or structure which does not meet the minimum requirements of this Ordinance.

Substantial Damage. Damage of any kind sustained by a building or structure during any one year period whereby the cost of restoring the building or structure to its before-damage condition would equal or exceed fifty percent (50%) of the market value of the building or structure before the damage occurred. See *SUBSTANTIAL IMPROVEMENT*.

Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, additional, or other improvement of a structure taking place during any one-year period whereby the cost of such equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement(s). This term includes structures which have suffered substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- A) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- B) Any alteration of a historic structure provided the alteration will not preclude the structure’s continued designation as a historic structure.

T

Tavern/Bar/Pub. Any private or public business established primarily for the sale or service of (alcoholic and non-alcoholic) beverages for consumption on the premises where entertainment may or may not be provided.

Telecommunication Tower. A tower, regardless of form, used as an antenna or other device, or to support an antenna or other device, for the transmission, receipt, or relay of radio waves, light waves or impulses, or other forms of wireless communication. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and other similar structures.

Temporary Housing. Any tent, mobile home, or other structure used for human shelter which is designed to be transportable and not attached permanently to the ground.

Temporary Refreshment Stand. A transportable building, structure, or stand used for providing food and refreshments on a non-permanent basis. Such operations shall comply with all Town and County Health Department regulations.

Temporary Construction/Real Estate Office. A temporarily established structure or use of a structure intended specifically as an on-site office during the construction of either residential or non-residential development.

Tenant. One who pays rent to occupy another's property.

Theater, Live Performance or Motion Picture. Any establishment located in a building or outdoor structure to show live dramatic or other such performances, enactments of significant events, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown for some form of consideration. Such facilities must devote less than twenty-five percent (25%) of the total presentation time to the showing of material characterized by an emphasis on the depiction or description of specific sexual activities or specific anatomical areas (of the body) which are for observation by the patrons therein.

Topping (trees). *Topping* is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Town or Municipality. The Town of Beaufort, North Carolina.

Town Board of Commissioners. See BOARD OF COMMISSIONERS.

Town Planner. The Director of Planning and Inspections.

Townhomes, Condominiums, Apartments District. The *Townhome, Condominium, Apartment* multi-family district is established to provide a high-density district in which the primary uses are multi-family residences and duplexes.

Townhouse/Townhome. One of a row of houses connected by common sidewalls and where the land on which it is located is part of the house.

Townhouse/Townhome Development. Three or more attached single-family residences in one or more multi-residential structures, with each *Townhouse* or row house occupying its individual land area, with streets, drives, recreational areas, open spaces, parking, and other facilities for ownership by the association of property owners within a development.

Transportation Center. A transport area where passengers and cargo are exchanged between vehicles or between transportation modes. A *Transportation Center* includes transit stations, bus stops, tram stops, airports, and ferry slips.

Transportation Hub. Freight hubs which include classification yards, seaports, and truck terminals, or combinations of these.

Trees, Large Canopy. A tree which at the time of planting shall be a minimum of two inches (2") in caliber and eight feet (8') in height. When mature, a large deciduous tree should be at least fifty feet (50') or higher and have a minimum crown width of thirty feet (30').

Trees, Medium Canopy. A tree at which the time of planting shall be a minimum of two inches (2") in caliber and eight feet (8') in height. When mature, a medium deciduous tree should be at least twenty feet (20') to fifty feet (50') tall.

Trees, Small Canopy. Trees with a typical height range, at maturity, of between ten and twenty feet (10'-20') tall.

U

Unenclosed. A covered area with one or more sides open.

Use. The purpose for which land or structure thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.

Use, By Right. A use which is listed as an unconditionally permitted activity in a zoning district according to this Ordinance.

Use, Nonconforming. A use of a building or land which does not conform with the regulations of the zoning district in which the building or land is situated.

Use, Non-Farm. Any use of property which is not encompassed by the definition of a bona fide farm as so defined in this Ordinance.

Utility. Elements of utility distribution or collection, or transmission networks required by their nature to be relatively dispersed throughout the service area requiring above or below ground infrastructure which exceed a minor utility. Typical uses include public water supply wells, gas and water substations, sewage lift stations, water tanks, substations, and communication exchange buildings. Enclosed structures may not be manned. Open structures including electrical substations and water towers are permitted.

Utility, Minor. Infrastructure services which need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water and sewage pump stations, water wells, storm water retention and detention facilities, windmills less than thirty-five feet (35') in height, and telephone exchanges.

V

Variance. A permit granted by the BOC or the BOA providing for deviation from the terms of this Ordinance, as set forth in Section 21(I). A *Variance* must be in harmony with the intent of this Ordinance, ensure public safety and welfare, and be just. The BOC or BOA may place conditions on a *Variance* to protect neighboring properties and larger public interests.

Vehicle Accommodation Area. The portion of a lot which is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

Vehicular Surface Area. The area of a site, paved or non-paved, intended for circulation or parking for business patron vehicles. Square footage calculations shall include the total of all *Vehicular Surface Areas*.

Vested Right. The definition of *Vested Right* as set forth in Section 30 herein is incorporated herein and the provisions of this section and N.C. Gen. Stat. §160D-1007 shall control the administration of vested rights.

Veterinary Clinic. Any premises which animals are brought, or where they are temporarily kept, solely for the purpose of diagnosis or treatment of any illness or injury. A *Veterinary Clinic* may or may not have a kennel. See *KENNEL*.

Violation. The failure of a structure or other development to be fully compliant with this Ordinance and/or other legal requirements. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required is presumed to be in *Violation* until such time as such documentation is provided.

Visual Obstruction. Any sign, fence, wall, tree, hedge, or shrub, or a combination of them, which limits visibility. Such obstructions are usually prohibited at corners to ensure good visibility for motorists.

W

Warehouse. A structure, facility, building, or complex designed for the storage of goods usually with individual external access.

Waste Water Treatment Plant or Water Treatment Plan, Public. A central water treatment facility.

X

Y

Yard. An open space on a lot between a setback line and its corresponding boundary line where no structure is permitted except as specifically allowed in this Ordinance.

Yard, Front. The yard across the full width of the lot extending from the front building setback line of the lot to the street or front boundary line of the lot.

Yard, Rear. The yard extending across the full width of the lot extending from the rear building setback line and measured between the rear line of the lot and the rear line of the main building.

Yard, Side. A yard situated between the side building setback line and the adjacent sideline of the lot and extending from the front building setback line yard to rear building setback line.

Yard, Street. The yard between the street right-of-way property line and the front building setback line. See *YARD, FRONT*.

Z

Zero Lot Line. A situation where a wall of a main structure is allowed to be constructed on a boundary line of a lot. In this Ordinance where a residence is allowed with a *Zero Lot Line* on one boundary line of the lot, unless otherwise specified, the following criteria for *Zero Lot Line* housing shall apply:

- A) The final subdivision plat shall designate placement of the dwelling unit on one side of the lot lines;
- B) No two detached single-family dwelling units shall utilize the zero lot-line provision on a common lot line;
- C) The remaining side setback shall not be less than the sum of the two side setbacks normally required; and,
- D) The dwelling unit wall abutting the zero lot-line side yard shall be a solid structural and fire-rated wall with no windows, doors, or other openings.

Zoning. A system of developing a plan where various geographic areas (zones) are restricted to certain uses and development. *Zoning* is the chief planning tool to guide the future development of a community, protect neighborhoods, concentrate retail business and industry, channel traffic, and play a major role in the enhancement of urban as well as small-town life.

Zoning Certificate. A certification by the Zoning Administrator or the BOC or its authorized designee, where a course of action to use or occupy a tract of land or a building, or to erect, install, or alter a structure, building, or sign situated in the Town’s planning and development regulation jurisdiction fully meets the requirements of this Ordinance.

Zoning Administrator. The Director of Planning and Inspections.

Zoning District. A section of the Town designated in the Ordinance text and (usually) delineated on the Official Zoning Map, in which requirements for the use of land, building, and development standards are prescribed.

Zoning Map. The Official Zoning Map shall be identified by the signature of the Mayor of the Town, attested by the Town Clerk, and bearing the seal of the Town. No changes of any nature shall be made on the Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. The map delineating the boundaries of districts, along with this text, comprises the “*Land Development Ordinance for the Town.*”

The Official Zoning Map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures within the Town’s planning jurisdiction.

The Official Zoning Map shall be maintained for public inspection in the office of the Zoning Administrator. Copies of the Official Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Town Clerk in accordance with N.C. Gen. Stat. §160A-79 shall be admissible into evidence and shall have the same force and effect as would the original map.

SECTION 4 Acronyms

3-D	Three dimensional (object)
AASHTO	American Association of State Highway and Transportation Officials
AEC	Area of Environmental Concern
A-ED	Airport Environmental Overlay District
A-RE	Airport Runway Exclusion Overlay District
B-1	General Business District
BFE	Base flood elevation
BHPC or HPC	Beaufort Historic Preservation Commission
BOA	Board of Adjustment
BOC	The Town of Beaufort Board of Commissioners
B-W	Business Waterfront District
CAMA	N.C. Coastal Area Management Act
CFS	Cubic feet per second
CO	Certificate of Occupancy
COA	Certificate of Appropriateness
COC	Certificate of Compliance
CZ	Conditional Zoning
DBH	Diameter breast height
DCM	Division of Coastal Management
EC	Entry Corridor Overlay District
ETJ	Extraterritorial jurisdiction
FAR	Floor area ratio
FEMA	Federal Emergency Management Agency
FT²	Square foot
GFA	Gross floor area
H-BD	Historic Business District
H-L	Historical Local District
H-N	Historical National District
HUD	(U.S. Department of) Housing and Urban Development
H-WBD	Historic Waterfront Business District
ISI	Impervious surface intensity

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ISO	Insurance services office
ISR	Impervious surface ratio
I-W	Industrial Warehouse District
LED	Light-emitting diode
L-I	Light Industrial District
N.C.	North Carolina
N.C. Gen. Stat.	North Carolina General Statutes
NCDENR or DENR	North Carolina Department of Environmental and Natural Resources
NCDOI or DOI	North Carolina Department of Insurance
NCDOT or DOT	North Carolina Department of Transportation
OS	Open Space
PUD	Planned Unit Development
R-20	Single-Family Residential District
R-8	Medium Density Residential District
R-8A	Single-Family Waterfront Residential District
R-8MH	Single-Family Residential Manufactured Home Park/Recreational Vehicle Park District
RC-5	Residential Cluster Development District
RS-5	Residential Single-Family 5 Development District
RV	Recreational vehicle
TCA	Townhomes, Condominiums, Apartments District
TOB	Town of Beaufort
TR	Transitional District
VAA	Vehicle accommodation area

SECTION 5 Zones and Boundaries

In order to regulate and limit the height and size of buildings; to regulate and limit the intensity of the use of lot areas; to regulate and determine the areas of open space surrounding buildings; to classify, regulate, and restrict the location of trades and industries; and to regulate the location of buildings designed for specific industrial, business, residential, and other uses, the Town is hereby divided into the zones listed below:

Residential Zoning Districts

- R-20** Residential Single-Family District
- R-8MH** Residential Manufactured Home Park/Recreational Vehicle Park District
- R-8** Residential Medium Density District
- R-8A** Residential Single-Family Waterfront District
- RC-5** Residential Cluster Development District
- RS-5** Residential Single-Family 5 Development District

Transitional Zoning Districts

- TCA** Townhomes, Condominiums, Apartments District
- TR** Transitional District
- PUD** Planned Unit Development
- CS-MU** Cedar Street Mixed-Use District

Nonresidential Zoning Districts

- H-BD** Historic Business District
- H-WBD** Historic Waterfront Business District
- B-1** General Business District
- B-W** Business Waterfront District
- L-I** Light Industrial District
- I-W** Industrial Warehouse District

Overlay/Conservation/Companion Zoning Districts

- OS** Open Space District
- H-L** Historic-Local District
- H-N** Historic-National District
- EC** Entry Corridor Overlay District
- A-ED** Airport Environmental District
- A-RE** Airport Runway Exclusion District
- CZ** Conditional Zoning

A) **R-20 Residential Single-Family District.**

Purpose: This residential district is intended to maintain a compatible mixture of single-family residential and bona fide farm uses with a density of two families per acre in accordance with the North Carolina State Board of Health recommendations for residential areas without public water and public sewer, and to prevent the development of blight and slum conditions.

B) **R-8MH Residential Manufactured Home Park/Recreational Vehicle Park District.**

Purpose: This residential district is established as per N.C. Gen. Stat. §160D-910 (zoning regulations for manufactured homes) to provide a medium density district in which the principal use of land is for site-built, single-family dwelling units and approved manufactured home and/or recreational vehicle parks. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

C) **R-8 Residential Medium Density District.**

Purpose: This residential district is established as a medium density district in which the principal use of the land is for single-family dwelling units. The regulations of this district are intended to provide areas of the community for those persons desiring residences in relatively medium density areas. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in Section 2(H) of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

D) **R-8A Residential Single-Family Waterfront District.**

Purpose: This residential district is established to provide a medium density district area in which the principal use of the land is for single-family residences together with customary accessory buildings, structures and docks in conformity with Sections 2(F) and 2(H) of this Ordinance. This district is identified on the Town’s zoning map and is confined to the existing residential portions on the south side of Front Street. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

E) **RC-5 Residential Cluster Development District.**

Purpose: This district is established as a medium to high density district encouraging the practice of residential cluster development designed to conserve land, create useable open space, reduce building and infrastructure costs, and provide for more attractive and functional communities. The regulations of this district are designed to provide greater open space and other amenities, while relaxing minimum yard and similar regulations which would apply to a traditional district. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

F) **RS-5 Residential Single-Family 5 Development District.**

Purpose: This residential district classification is intended for existing or older neighborhoods characterized by single-family residences on relatively smaller lots and provides reduced setback requirements and a defined street orientation. The purpose of this district is to provide relief to existing lots of record which make them difficult to be developed as single-family residences. The RS-5 district has a fifty percent (50%) lot coverage restriction which must be maintained. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in Section 2(H) of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this

district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

G) **TCA Townhomes, Condominiums, Apartments District.**

Purpose: This district is established to provide a high density district in which the primary uses are multi-family residences and duplexes. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

H) **TR Transitional District.**

Purpose: This intent of this district is to serve as a transition between residential and more intensive districts. This includes residential and commercial uses with a low noise and traffic impact which would generally be considered compatible with a residential area which may or may not have buffering requirements as documented in Section 19 of this Ordinance. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

I) **PUD Planned Unit Development.**

Purpose: This district is defined as an area characterized by an orderly integration of residential, commercial (inclusive of offices and institutions), industrial, and open space land uses which conform to the design requirements contained herein.

J) **CS-MU Cedar Street Mixed-Use District.**

Purpose: The reason for this district is to protect, enhance and guide the redevelopment of the Cedar Street corridor by reducing visual clutter through the implementation of commercial design standards and selecting the appropriate type of uses for this district. These standards are designed to improve the aesthetics, traffic congestion and provide for a solid and vibrant tax base as well as promote the public health, safety and welfare of the Town.

K) **H-BD Historic Business District.**

Purpose: The intent of this district is to allow land and structures which provide personal services, retailing, and business services compatible with the district’s historic character. This district should be limited to the Town’s Historic Overlay District and may be subject to additional requirements found within the “*Design Guidelines for the Beaufort Historic District & Landmarks.*” Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

L) **H-WBD Historic Waterfront Business District.**

Purpose: The function of this district is to protect the character of the commercial development along the historic waterfront of the Town. This district is also part of the Town’s Historic Overlay District and may be subject to additional requirements found within the “*Design Guidelines for the Beaufort Historic District & Landmarks.*”

M) **B-1 General Business District.**

Purpose: The General Business District is established as the district in which a wide variety of sales and service facilities may be provided to the general public. This district will be located throughout the Town’s planning jurisdiction.

N) **B-W Business Waterfront District.**

Purpose: The objective of this district shall be to protect the character of the commercial development along the waterfront of the Town.

O) **L-I Light Industrial District.**

Purpose: This district is established to provide for the industries and for certain commercial establishments which in their normal operations have little or no adverse effect upon adjoining properties.

P) **L-W Industrial Warehouse District.**

Purpose: This district is established to provide for industries which generally require specially reserved for flood control, public recreation, natural or man-made bodies of water, forests, and other similar open space uses. In promoting the general purposes of this Ordinance, the specific intent of this section is:

Q) **OS Open Space District.**

Purpose: The Open Space District is established as a district in which the land is predominately reserved for flood control, public recreation, natural or man-made bodies of water, forests, and other similar open space uses. In promoting the general purposes of this Ordinance, the specific intent of this section is:

- 1) To discourage investing in improvements which may be subject to flooding or located on land otherwise unsuitable for urban development due to its natural conditions.
- 2) To avoid the possibility of having to spend public funds to protect threatened private investments.
- 3) To encourage the preservation of and continued use of the land for conservation purposes. There shall be no residential structures of any type including homes, townhomes, manufactured homes, apartments, duplexes, motels, hotels, etc., and there shall be no commercial or industrial uses permitted in any area designated as open space.

R) **H-L Historic – Local District.**

Purpose: The function of the historic district regulations is to promote the education, culture, and general welfare of the public through the preservation and protection of historical buildings, places, and areas and to maintain such lands as examples of past architectural styles. The H-L District shall consist of areas which are deemed to be especially significant in terms of their history, architecture, and/or culture; and possess integrity of design, setting, materials, feelings, and association. This district may be subject to additional requirements found within the “*Design Guidelines for the Beaufort Historic District & Landmarks.*”

S) **H-N Historic – National District.**

Purpose: The National Register is the nation’s official list of buildings and districts worthy of preservation and recognition because of their architectural and/or historic significance. The National Register is a federal program administered by the National Parks Service. Properties within the Town’s Historic National District are subject to review by the Beaufort Historic Preservation Commission (BHPC) only if they are also within the Historic Local District boundaries or if they are designated by the National Register as an historic landmark.

T) **EC Entry Corridor Overlay District.**

Purpose: There is a need to enhance the entryways into the Town to maintain the historical context and aesthetics of the community. There are three main entry corridors points providing access to Town which, in turn, will be the core of the Entry Corridor Overlay District. These overlay districts will enhance the arrival experience and create a sense of identity utilizing streetscape, landscape, and transportation strategies which can be implemented within roadway rights-of-way.

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U) **A-ED Airport Environmental District.**

Purpose: The objective of the A-ED District is to establish noise mitigation measures and to provide mechanisms for the notification of property owners around the airport of potential noise and vibration impacts from the Michael J. Smith Field.

V) **A-RE Airport Runway Exclusion District.**

Purpose: The intent of the A-RE District is to reduce high density development in zones with high aircraft possibilities and where a crash could result in catastrophic loss of life, structure, and property. It is also to encourage development which is compatible to the airport use characteristics within the intent and purpose of the zoning.

W) **CZ Conditional Zoning.**

Purpose: The Conditional Zoning Districts set forth herein are authorized by N.C. Gen. Stat. §703(b). CZs are districts which parallel general zoning districts outlined in this Ordinance. CZs are identical to their corresponding general zoning district in all respects except that only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the conditional zoning regulations.

SECTION 6 Height and Area Exceptions and Supplements

The following requirements or regulations qualify or supplement, as the case may be, the zoning regulations or requirements appearing elsewhere in this Ordinance.

A) *Allowed Projections into Required Yards.*

Certain architectural features, fences, walls, and hedges may project into required yards as follows as long as the corner lot visibility provisions as specified in Section 6(D) shall be observed;

- 1) Cornices, eaves, and sills – not more than two feet (2’) into any required yard;
- 2) Balconies, bay windows, and chimneys – not more than three feet (3’) into any required yard;
- 3) Planted buffer strips, hedges, fences, or walls, not exceeding four feet (4’) in height, shall be exempt from the front yard and front building setback line requirements of this Ordinance;
- 4) Planted buffer strips, hedges, fences, or walls, not exceeding six feet (6’) in height, erected in side and rear yards shall be exempt from the yard and building setback requirements of this Ordinance; and,
- 5) Open or enclosed fire escapes, outside stairways, balconies, and other necessary unenclosed projections, protruding into a minimum yard not more than thirty-two inches (32”) may be permitted where such projections are so placed as not to obstruct the light and ventilation.
- 6) Paved driveways and walkways at grade as long as all impervious surface limits are met.
- 7) Trees, shrubs, and vegetation.
- 8) Every part of a required yard shall be open from its lowest point to the sky unobstructed except as permitted in Sections 6(A)(1) through 6(A)(7).
- 9) When adjacent lots of record are under single control by a lease agreement or a combination of ownership and lease agreement, temporary structures such as manufactured homes, manufactured offices, utility buildings, accessory buildings, etc., may extend across any common lot line(s) of the adjacent lots of record under such lease agreement. The location of such structures shall not conflict with any off-street parking requirements, on-site traffic circulation, or other applicable regulatory codes. Upon the expiration of the lease agreement, such structure must be removed to conform to the standard side or rear yard setbacks of the district within sixty days of expiration of the lease agreement.

B) *Vacant Lot Exceptions.*

If a vacant lot is adjacent to an existing lot containing an existing dwelling on the lot, and such dwelling is situated less than the required front building setback line, the required minimum front building setback line for the vacant lot shall be a line projected along the front wall of the main building to the adjacent lot and across the vacant lot. In cases where existing dwellings are situated on both sides of the vacant lot and each exists less than the required minimum front building setback line, the required minimum front building setback line for the vacant lot shall not be less than the average of the two front building setbacks of the existing dwellings.

C) *Board Action.*

In the case of a development project consisting of a group of two or more buildings to be constructed on a plot of ground of at least two acres and not subdivided into the customary streets and lots, and where the existing or contemplated street and layout makes it impractical to apply the requirements of this Ordinance to the individual buildings in such housing project(s), the

application of such requirements for such housing project(s) may be adjusted by the BOA consistent with the variance procedures of Section 21(I) in a manner which will be in harmony with the characteristics of the neighborhood, will substantially ensure the same kind of occupancy, when the density of land use will be no higher than allowed by this Ordinance, and a standard of open space will be at least as high as required by this Ordinance in the zoning district in which such proposed project is to be located. In no case shall the BOA authorize a use, a building height, or a building area prohibited in the district where the housing project is to be located, provided; however, the BOA shall not exercise the authority permitted by this subsection unless or until the BOC has approved such housing project(s) after receiving a recommendation from the Planning Board.

D) **Height Restrictions.**

- 1) Height restrictions will be determined by the specific zoning district inside the Town’s planning and development regulation jurisdiction.
- 2) Fixtures and architectural features which are not capable of occupation, such as chimneys, cupolas, domes, elevator shafts, heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices and antennae, and which extend no more than ten feet (10’) above the highest point on the structure, shall be allowed if the base of such architectural feature or fixture has a square footage which is ten percent (10%) or less than the square footage of the highest habitable floor on the structure.
- 3) Any nonconforming residential structure in a specific zoning district which exceeds the height limitation for its specific zoning district and is damaged or destroyed by fire, flood, wind, or act of God, may be rebuilt to the dimension of such building or structure as it existed prior to the damage or destruction and according to the North Carolina State Building Codes.
- 4) Any building or structure in existence on the effective date of this Ordinance may be raised the minimum amount necessary to bring the structure into compliance with the prescriptive minimum flood elevation as determined by the National Flood Insurance program regulations, notwithstanding raising such building or structure will increase its overall height above the building height limitations established herein.

E) **Exemptions.**

In addition to those fixtures and architectural features allowed to extend above the maximum height limits provide in Section 6(D)(2), the following are also exempted from the building height limit established in this Ordinance:

- 1) School gymnasiums,
- 2) The Carteret County Courthouse,
- 3) Public utility poles and towers (except towers may be subject to other limits or procedures in this Ordinance),
- 4) Municipal and public water towers,
- 5) Permitted communication towers,
- 6) Bell towers, steeples, and spires on structures used for religious purposes, elevator shafts, chimneys, and similar structural appendages not intended for occupancy or storage;
- 7) Flagpoles.

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F) **Canopies.**

A canopy in a conforming nonresidential land use which is totally or partially supported by a structural pillar (upright support), such as but not limited to a canopy over gasoline pumps, may extend to the street right-of-way line or property line of a nonresidential use or nonresidential zone, provided such pillar is located at least ten feet (10') from a property line and the canopy is open on all four sides. Any side of a canopy may be enclosed provided the enclosed side meets the required building setback lines established herein.

SECTION 7 Residential Zoning Districts

A) **R-20 Residential Single-Family District.**

This residential district is intended to maintain a compatible mixture of single-family residential and bona fide farm uses with a density of two families per acre in accordance with the North Carolina State Board of Health recommendations for residential areas without public water and public sewer, and to prevent the development of blight and slum conditions.

1) **Minimum Lot Size.**

All lots in this district shall be a minimum of twenty thousand square feet (20,000 ft²).

2) **Minimum Lot Width.**

All lots in the R-20 district shall have a minimum lot width of one hundred feet (100') at the minimum building line.

3) **Building Setback and Building Height Requirements and Limitations.**

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-1 Interior Lot Requirements

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
R-20	30 feet	25 feet	15 feet	40 feet

Table 7-2 Corner Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
R-20	30 feet	30 feet	25 feet	15 feet	40 feet

Table 7-3 Double Frontage Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Rear (Right-of-Way) Setback	Side Setback	Building Height Limitation
R-20	30 feet	25 feet	15 feet	40 feet

4) **Accessory Building Setback Requirements.**

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

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5) Permitted Uses.

- Agritourism
- Antenna Co-Location on Existing Tower
- Aquaculture
- Assisted Living
- Athletic Field, Public
- Athletic Field, Private
- Carport
- Club, Lodge, or Hall
- Community Garden
- Dock
- Dwelling, Single-Family
- Family Care Homes
- Farming, General
- Forestry
- Garage, Private Detached
- Government/Non-Profit Owned/Operated Facilities & Services
- Group Home
- Home Occupation
- Manufactured Home
- Neighborhood Recreation Center Indoor/Outdoor, Private
- Neighborhood Recreation Center, Public
- Nursing Home
- Park, Public
- Produce Stand/Farmers' Market
- Public Utility Facility
- Religious Institution
- Resource Conservation Area
- Satellite Dish Antenna
- Shed
- Swimming Pool (Personal Use)
- Temporary Construction Trailer
- Utility Minor
- Vehicle Charging Station

6) Special Uses. (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- Accessory Dwelling Unit
- Bed & Breakfast
- Boat Sales/Rentals
- Cemetery/Graveyard
- Concealed (Stealth) Antennae & Towers
- Day Care/Child Care Home
- Dry Boat Storage
- Golf Course, Privately Owned
- Golf Driving Range
- Kennel, Indoor Operation Only
- Kennel, Indoor /Outdoor Operation
- Marina
- Museum
- Office: Small Business
- Other Free Standing Towers
- Outdoor Amphitheater, Public
- Preschool
- Public Safety Station
- School, K-12
- School, Post-Secondary
- Utility Facility

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B) **R-8MH Residential Manufactured Home Park/Recreational Vehicle Park District.**

The North Carolina General Assembly has found that manufactured housing offers affordable housing opportunities for low- and moderate-income residents of this State who could not otherwise afford to own their own home.

The General Assembly in enacting N.C. Gen. Stat. §160D-910 stated its intent that local governments reexamine their land-use practices to ensure compliance with applicable statutes and case law and consider allocating more residential land area for manufactured homes based upon local housing needs.

The Town adopted this Ordinance to provide, inter alia, appearance and dimensional criteria for manufactured homes. Such criteria is designed to protect property values, to preserve the character and integrity of communities or individual neighborhoods within communities, and to promote the health, safety, and welfare of Town residents.

In amending this Ordinance in light of the General Assembly’s adoption of Chapter 160D of the General Statutes, the Town has evaluated this Ordinance in light of the provisions of N.C. Gen. Stat. §160D-910 in order to meet the intent expressed therein.

This residential district is established as per N.C. Gen. Stat. §160D-910 (zoning regulations for manufactured homes) to provide a medium density district in which the principal use of land is for site-built, single-family dwelling units and approved manufactured home and/or recreational vehicle parks. Uses in this district which require potable water and sanitary sewer must be connected to municipal water and municipal sewer.

1) Minimum Lot Size.

All lots in the R-8MH district shall be a minimum of eight thousand square feet (8,000 ft²).

2) Minimum Lot Width.

All lots in the R-8MH district shall have a minimum lot width of sixty feet (60’) at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-4 Interior Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8MH	25 feet	25 feet	8 feet	35 feet

Table 7-5 Corner Lot Requirements

<i>District</i>	<i>Designated Front (Right-of-Way) Setback</i>	<i>Designated Side (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8MH	25 feet	20 feet	25 feet	8 feet	35 feet

Table 7-6 Double Frontage Lot Requirements

<i>District</i>	<i>Designated Front (Right-of-Way) Setback</i>	<i>Designated Rear (Right-of-Way) Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8MH	25 feet	15 feet	8 feet	35 feet

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4) Accessory Building Setback Requirements.

All accessory buildings must comply with the setback requirements as set forth in Section 2 (F) of this Ordinance, Section 6 of this Ordinance, Section 15 of this Ordinance, and all sections of this Ordinance.

5) Permitted Uses.

Antenna Co-Location on Existing Tower	Neighborhood Recreation Center, Indoor/Outdoor, Private
Athletic Field, Public	Neighborhood Recreation Center, Public
Carport	Park, Public
Community Garden	Public Utility Facility
Dock	Resource Conservation Area
Dwelling, Single-Family	Shed
Garage, Private Detached	Swimming Pool (Personal Use)
Government/Non-Profit Owned/Operated Facilities & Services	Temporary Construction Trailer
Family Care Homes	Utility Minor
Home Occupation	Vehicle Charging Station
Manufactured Home	

6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

Athletic Field, Private	Preschool
Concealed (Stealth) Antennae & Towers	Public Safety Station
Golf Course, Privately-Owned	Recreational Vehicle Park
Golf Driving Range	Religious Institution
Manufactured Home Park	Satellite Dish Antenna
Outdoor Amphitheater, Public	School, Post-Secondary
	Utility Facility

7) Application Requirements.

No person shall construct or make any renovations to a manufactured home park or recreational vehicle park which either alters the number of sites for manufactured homes or recreational vehicles within the park or affects the facilities required therein until he or she first secures a permit authorizing such construction or renovation. The construction or renovation shall be in accordance with plans and specifications submitted with the appropriate application. The application shall be considered by the Town utilizing the procedures set forth in Section 34.

8) Manufactured Home Park Site Development.

a) Minimum Size.

Every manufactured home park shall contain at least ten acres. Each manufactured home space within the park shall be seven thousand, five hundred square feet (7,500 ft²) and shall have a minimum lot width of seventy-five (75') at the minimum building line.

b) Compliance with Dimensional Requirements.

The dimensions of each manufactured home space shall be in accordance with the dimensional standards set forth in this section.

c) Parking Space.

Parking space sufficient to accommodate at least two automobiles shall be located in each manufactured home space.

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d) Width, Setbacks, and Height Limitations.

Each manufactured home space shall have the following dimensional requirements for each individual lot:

Table 7-7 Manufactured Home Width, Setbacks, and Height Limitations.

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
R-8MH	25 feet	25 feet	5 feet	35 feet

e) Interior Drives.

All manufactured home spaces shall abut an interior drive of not less than thirty feet (30') of the right-of-way, which shall have unobstructed access to a public street or highway. Manufactured home spaces shall not have direct access to public streets or highways except through the interior drive. All interior drives shall have a paved width not less than twenty feet (20'). All drives shall be designed and built to Town specifications and maintained by the park owner.

f) Refuse Collection Facilities.

The park owner is responsible for refuse collection facilities. All trash and recycling shall be made in accordance with the Town of Beaufort Solid Waste Collection Ordinance found in the Town Code of Ordinances.

g) Accessory Structures.

Within a manufactured home park, one manufactured home may be used as an office. All other accessory structures shall comply with Section 2(F) and Section 6 of this Ordinance.

h) Recreation Area.

All manufactured home parks shall provide a minimum of two hundred square feet (200 ft²) of recreation area or open space per each manufactured home space within the park. Such open space shall be contiguous and in a central location within the park and shall be accessible for all occupants of the manufactured home park provided the Planning Board may vary this requirement for proposed parks of ten spaces or less. For each proposed park with a minimum of one hundred spaces or more, the Planning Board may require a minimum of one-half acre.

i) Stands and Anchors.

The manufactured home space shall provide an adequate area for placement and/or anchoring of the home thereby securing the structure against uplifts, sliding, rotating, or overturning during high winds. The anchors or other such permitted device shall comply with the North Carolina State Building Codes.

j) Management, Administrative Office, and Service Buildings.

i) Manufactured home parks with twenty or more manufactured home spaces shall contain an administrative office. Other administrative and service buildings housing sanitation, laundry facilities, or any other such facilities shall comply with all applicable installations, plumbing, and sanitation codes as set forth in this Ordinance. The management, owner, duly authorized attendant, or caretaker of the manufactured home park shall at all times be responsible for keeping the manufactured home park and its facilities and equipment in a clean, orderly, safe, and sanitary condition.

ii) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition which will hinder the health of any occupant of the park, the public, or constitute a nuisance.

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- k) Storm Water/Drainage System.
All manufactured home parks shall provide an adequate storm water drainage system to provide for proper capture and drainage of storm water. At no time shall a drainage system be so constructed as to permit the freestanding of water which may stimulate breeding places for mosquitoes.
 - l) Structural Additions.
All structural additions to manufactured homes, other than those which are built into the unit and designed to fold out or extend from the unit, shall be erected only after a building permit is obtained in the Town’s Planning and Inspections Office. Such additions shall conform to the building codes of the Town and to the North Carolina State Building Codes. The building permit shall specify whether such structural addition(s) will remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed. Structural alterations existing at the time of the passage of this Ordinance shall be removed within thirty days after the subject manufactured home is removed, unless attached to another manufactured home on the same site within the thirty-day period.
 - m) Space Numbering System.
Upon adoption of this section, all approved manufactured home parks shall institute a space numbering system which will correspond to the manufactured home plan as approved by the Planning Board. Each manufactured home space shall be numbered, and such numbers shall be displayed in a visible manner to facilitate space location. Such individual numbers shall be posted on the manufactured home, on a display post not greater than two feet (2’) in height, or displayed in such a manner as to be acceptable to the Code Enforcement Officer.
 - n) Compliance.
Manufactured home parks in existence at the time of the adoption of this Ordinance which are not in compliance with the provisions of this Ordinance shall be deemed nonconforming.
- 9) Design Standards and Specifications for Recreational Vehicle Parks.
Contents of the park plan shall meet the standards as set forth in Section 18 of this Ordinance, and include the following standards:
- a) Minimum Size.
Every recreational vehicle park shall contain at least ten acres. Each recreational vehicle space within the park shall be one thousand square feet (1000 ft²) and shall have a minimum lot width of twenty-five feet (25’) at the minimum building line.
 - b) Compliance with Dimensional Requirements.
The dimensions of each recreational vehicle space shall be in accordance with the dimensional standards set forth in this section.
 - c) Parking Space.
Parking space sufficient to accommodate at least one motor vehicle and one recreational vehicle shall be located in each space. No more than one recreational vehicle may be parked within any one space.
 - d) Width, Setbacks, and Height Limitations.
Each recreational vehicle space shall have the following dimensional requirements for each individual lot:

Table 7-8 Recreational Vehicle Width, Setbacks, and Height Limitations

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8MH	25 feet	15 feet	5 feet	35 feet

- e) Interior Drives.
All spaces shall abut an interior drive of not less than thirty feet (30') of right-of-way, which shall have unobstructed access to a public street or highway. Recreational vehicles shall not have direct access to public streets or highways except through the interior drive. All interior drives shall have a paved width not less than twenty feet (20'). All drives shall be designed and built to Town specifications and maintained by the park owner.
- f) Refuse Collection Facilities.
The park owner is responsible for refuse collection facilities. All trash and recycling shall be made in accordance with the Town of Beaufort Solid Waste Collection Ordinance found in the Town Code of Ordinances.
- g) Accessory Structures.
Within a recreational vehicle park, one manufactured home may be used as an office. All other accessory structures shall comply with Section 2(F) and Section 6 of this Ordinance.
- h) Restroom Facilities.
Each park shall have a central structure or structures, which provides separate toilet and bath or shower facilities for both sexes.

- i) Swimming Pools.
No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with the applicable regulations of the Town. No bathing area shall be used without the approval of the Carteret County Health Department.
- j) Management, Administrative Office, and Service Buildings.
 - i) Recreational vehicle home parks with twenty or more spaces shall contain an administrative office. Other administrative and service buildings housing sanitation, laundry facilities, or any other such facilities shall comply with all applicable installations, plumbing, and sanitation codes as set forth in this Ordinance. The management, owner, duly authorized attendant, or caretaker of the park shall be responsible at all times to keep the park, its facilities and equipment, in a clean, orderly, safe, and sanitary condition.
 - ii) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition which will hinder the health of any occupant of the park, the public, or constitute a nuisance.
- k) Storm Water/Drainage System.
All recreational vehicle parks shall provide an adequate storm water drainage system to provide for proper capture and drainage of storm water. At no time shall a drainage system be so constructed as to permit the freestanding of water which may stimulate breeding places for mosquitoes.
- l) Sanitary Facilities.
All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilets, shower, lavatory, and laundry room facilities shall be acceptable to the county health department and shall be in conformity with county codes.
- m) Sewage Disposal.
All approved recreational vehicle parks shall be required to tie into the Town's sanitary sewer system. All sewage waste from each park and park space, including waste from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliances not herein mentioned, shall be tied into the Town's sanitary sewer system.
- n) Electrical Service/Electrical Inspection.
The Building Inspector shall review park plans to determine if the proposed electrical system is in accordance with the state and national electric codes adopted by the BOC. Distribution lines shall be installed underground at least eighteen inches (18") below the ground surface where possible and at least one foot (1') extra radial distance from any water, sewer, gas, or communication line. Electrical systems shall be calculated on the basis of at least one hundred amps at 120/140 volts for each recreational vehicle site in the park. The point of electrical connection shall be approximately forty feet (40') from the front of the RV and approximately four feet (4') from either side of the RV and within the RV space. Electrical connections shall be made with due regards to uniformity, safety, and convenience.

o) Management of the Recreational Vehicle Park.

- i) It shall be unlawful for a person to park or store a manufactured home in a recreational vehicle park for longer than seven days. However, one manufactured home may be allowed within an RV park to be used as an office and/or residence of the persons responsible for the operation and maintenance of the park.
- ii) It shall be the duty of the operator of an RV park to keep an accurate ledger containing a record of all occupants of the RV park. The operator shall keep the ledger available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the ledger.
- iii) The ledger shall contain the following information:
 - Name and permanent address of the occupants of each space;
 - Dates entering and exiting the park; and,
 - The vehicle license plate number with the state of issuance for the license plate, make, and type of vehicle for each car, truck, camping vehicle, etc. staying within the RV park.

C) ***R-8 Residential Medium Density District.***

This residential zoning district is established as a medium density zoning district in which the principle use of the land is for single-family dwelling units. The regulations of this zoning district are intended to provide areas of the community for those persons desiring residences in relatively medium density areas. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in Section 2(H) of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) Minimum Lot Size.

All lots in the R-8 district shall be a minimum of eight thousand square feet (8,000 ft²).

2) Minimum Lot Width.

All lots in the R-8 district shall have a minimum lot width of sixty feet (60') at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-9 Interior Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8	25 feet	25 feet	8 feet	35 feet

Table 7-10 Corner Lot Requirements

<i>District</i>	<i>Designated Front (Right-of-Way) Setback</i>	<i>Designated Side (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8	25 feet	20 feet	25 feet	8 feet	35 feet

Table 7-11 Double Frontage Lot Requirements

<i>District</i>	<i>Designated Front (Right-of-Way) Setback</i>	<i>Designated Rear (Right-of-Way) Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8	25 feet	15 feet	8 feet	35 feet

Where a lot extends across Front Street, the above setbacks shall apply to the portion of the lot north of Front Street. The docks or piers permitted on the south side of Front Street will be subject to an eight feet (8') side setback, or any more restrictive setback required by CAMA or the regulations promulgated thereunder.

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) Permitted Uses.

- | | |
|--|---|
| Antenna Co-Location on Existing Tower | Neighborhood Recreation Center, Indoor/Outdoor, Private |
| Athletic Field, Public | Neighborhood Recreation Center, Public |
| Carport | Park, Public |
| Community Garden | Public Utility Facility |
| Dock | Resource Conservation Area |
| Dwelling, Single-Family | Shed |
| Family Care Homes | Swimming Pool (Personal Use) |
| Garage, Private Detached | Temporary Construction Trailer |
| Government/Non-Profit Owned/Operated Facilities & Services | Utility Minor |
| Group Home | Vehicle Charging Station |
| Home Occupation | |

6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- | | |
|---------------------------------------|-------------------------------|
| Accessory Dwelling Unit | Marina |
| Athletic Field, Private | Outdoor Amphitheater, Public |
| Bed & Breakfast | Preschool |
| Cemetery/Graveyard | Produce Stand/Farmers' Market |
| Club, Lodge, or Hall | Public Safety Station |
| Concealed (Stealth) Antennae & Towers | Religious Institution |
| Day Care/Child Care Home | Satellite Dish Antenna |
| Golf Course, Privately-Owned | School, Post-Secondary |
| Golf Driving Range | Utility Facility |

D) **R-8A Residential Single-Family Waterfront District.**

This residential zoning district is established to provide a medium density district area in which the principal use of the land is for single-family residences together with customary accessory buildings, structures and docks in conformity with Sections 2(F) and 2(H) of this Ordinance. This district is identified on the Town’s zoning map and is confined to the existing residential portions on the south side of Front Street. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) Minimum Lot Size.

All lots in the R-8A district shall be a minimum of eight thousand square feet (8,000 ft²).

2) Minimum Lot Width.

All lots in the R-8A district shall have a minimum lot width of sixty feet (60’) at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

This district does not have corner lots or double frontage lots as do other residential zoning districts. This district also has CAMA requirements which must be followed.

Table 7-12 Interior Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
R-8A	25 feet	15 feet	8 feet	35 feet

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) Permitted Uses.

- | | |
|--|--------------------------------|
| Carport | Park, Public |
| Community Garden | Public Utility Facility |
| Dock | Resource Conservation Area |
| Dwelling, Single-Family | Shed |
| Family Care Homes | Swimming Pool (Personal Use) |
| Garage, Private Detached | Temporary Construction Trailer |
| Government/Non-Profit Owned/
Operated Facilities & Services | Utility Minor |
| Home Occupation | Vehicle Charging Station |

6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- | | |
|------------------------------|------------------------|
| Accessory Dwelling Unit | Preschool |
| Athletic Field, Private | Public Safety Station |
| Bed & Breakfast | Religious Institution |
| Cemetery/Graveyard | Satellite Dish Antenna |
| Club, Lodge, or Hall | School, Post-Secondary |
| Day Care/Child Care Home | Utility Facility |
| Outdoor Amphitheater, Public | |

E) **Residential Cluster (RC-5) Development District.**

This zoning district is established as a medium to high density district encouraging the practice of residential cluster development designed to conserve land, create useable open space, reduce building and infrastructure costs, and provide for more attractive and functional communities. The regulations of this district are designed to provide greater open space and other amenities while relaxing minimum yard and similar regulations which would apply to a traditional district. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) **Minimum Lot Size.**

All lots in the RC-5 district shall be a minimum of five thousand square feet (5,000 ft²). The overall density of each cluster development shall not exceed eight units per acre regardless of the minimum lot area required per dwelling or unit herein.

2) **Minimum Lot Width.**

All lots in the RC-5 district shall have a minimum lot width of fifty feet (50') at the minimum building line.

3) **Building Setback and Building Height Requirements and Limitations.**

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-13 Interior Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
RC-5	20 feet	30 feet	5 feet*	35 feet

Table 7-14 Corner Lot Requirements

<i>District</i>	<i>Designated Front (Right-of-Way) Setback</i>	<i>Designated Side (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
RC-5	20 feet	10 feet	30 feet	5 feet*	35 feet

Table 7-15 Double Frontage Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way) Setback</i>	<i>Rear Setback (Right-of-Way) Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
RC-5	20 feet	30 feet	5 feet*	35 feet

*Zero lot line housing in the RC-5 district is permitted for one interior lot line provided each of the conditions below are met:

- a) The final subdivision plat designates placement of the dwelling unit on one of the side lot lines;
- b) No two detached single-family dwelling units shall utilize the zero-lot line provision on a common lot line;
- c) The remaining side yard shall not be less than the sum of the two side yard setbacks

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normally required; and,

- d) The dwelling unit wall abutting the zero lot line side yard shall be a solid structural and fire-rated wall with no windows, doors, or other openings.
- e) A ten-foot (10') setback shall be required along all peripheral boundaries of a cluster development. A structure, whether it is the principal or accessory structure, shall not encroach upon this required setback distance. Within said setback, the Town may require as a part of its site plan review, the establishment of a reasonable buffer to protect and maintain the character of adjacent uses (see Section 10 of this Ordinance for more information).
- f) A zero side yard setback may be permitted on one side of each lot subject to the following provisions:
 - i) The minimum building separation for the side yard opposite the zero lot line shall be either a separation of ten feet (10') from the side of the adjacent dwelling when constructed, or a minimum ten feet (10') setback line from the adjoining side lot line, whichever is greater;
 - ii) A five-foot (5') maintenance easement with a maximum eave encroachment easement of two feet (2') within the maintenance easement shall be established in the deed restrictions, recorded plat, and/or covenants of the adjoining lot and shall ensure ready access to the lot line wall at reasonable periods of the day for normal maintenance; and,
 - iii) Preliminary and final site development plans shall indicate the proposed envelope location of the dwellings, driveways, and parking arrangements for each lot. The final site development plans shall include a draft of the proposed encroachment and maintenance easements within the covenants or on the proposed final plat for review and approval by the Town.
 - iv) Upon the recording of the final plat in the Register of Deeds office, a copy of the completed covenants must be submitted with the final plat. A copy of the covenants and final recorded plat shall also be made available to the Town's Planning and Inspections Department.

4) Accessory Building Setback Requirements.

An unattached accessory structure may be located in a rear yard provided it is located at a distance not less than eight feet (8') from the principal structure and is not closer than three feet (3') from the rear yard line, and provided not more than twenty-five percent (25%) of the total lot area is covered by the accessory building. On a reversed corner lot or double frontage lot, no accessory building shall extend beyond the front yard line of the lot located to the rear of the lot on which the accessory building is being proposed.

5) Permitted Uses.

Antenna Co-Location on Existing Towers	Garage, Private Detached Government/Non-Profit Owned/Operated Facilities & Services
Athletic Field, Public	Home Occupation
Carport	Neighborhood Recreation Center, Indoor/Outdoor, Private
Community Garden	Neighborhood Recreation Center, Public
Dock	Park, Public
Dwelling, Duplex/Townhome	
Dwelling, Single-Family	
Family Care Homes	

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- Public Safety Station
- Public Utility Facility
- Resource Conservation Area
- Shed
- Swimming Pool (Personal Use)
- Temporary Construction Trailer
- Utility Minor
- Vehicle Charging Station

6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- Athletic Field, Private
- Bed & Breakfast
- Concealed (Stealth) Antennae & Towers
- Golf Course, Privately-Owned
- Golf Driving Range
- Marina
- Outdoor Amphitheater, Public
- Preschool
- Religious Institution
- Satellite Dish Antenna
- School, Post-Secondary
- Transportation Facility
- Utility Facility

7) Owners Association Required.

The establishment of an owners association shall be mandatory for all residential cluster developments.

- a) The owners' association shall be organized and established as a legal entity prior to the conveyance of any lot or living unit in the residential cluster development.
- b) The owners' association membership shall be mandatory for each owner of a lot or living unit.
- c) The owners' association shall have the authority to assess its members to produce revenues to cover the expenses of the association and such assessments will be secured by a lien.
- d) The association shall be responsible for the payment of premiums for liability insurance, taxes, maintenance of recreational or other facilities located in common areas, payment of assessment for public and private capital improvements made to or for the benefit of the common areas, maintenance of any private street, and for such other purposes as the organizing documents provide.
- e) The residential cluster development will be subject to the North Carolina Planned Community Act regardless of the number of lots therein.

8) Common Walls.

Common walls between individual residences shall be party walls. Provisions for the maintenance and restoration of common walls, in the event of destruction or damages, shall be established.

9) Open Space.

- a) Open space shall be set aside for the use, benefit, and enjoyment of all residents of the cluster development and shall either be dedicated to the private use of the residents or conveyed to the owners' association for ownership, use, and management. Land which is restricted in any way so it may not be available for the use, benefit, and enjoyment of all residents of the cluster development at the time of lot sales or any time thereafter shall not qualify as open space.
- b) The open space in the cluster development shall be computed upon the following percentages of the overall area based upon the number of dwelling units per gross acre of cluster development as follows:

Table 7-16 Open Space Requirements

<i>Number of Dwelling Units Per Gross Acre</i>	<i>Required Percentage of Open Space</i>
3 units or less	20%
4-6 units	21-30%
7-8 units	31-45%

- c) To qualify as open space, land shall have a minimum width of five feet (5') excluding street rights-of-way, drives, parking areas, or structures other than recreational structures, and be one contiguous tract containing not less than ten thousand square feet (10,000 ft²) or four percent (4%) of the project area whichever is greater, exclusive of streets, parking areas, and utility easements. Street rights-of-way, drives, parking areas, buffer zones, and utility areas/easements may qualify as open space and be counted towards the percentage of open space required for each development provided the street rights-of-way, drives, parking areas, and utility areas/easements shall not compromise more than two-thirds of the required open space for each development unless the percentage is varied or waived by the BOC upon recommendation by the Planning Board in accordance with the variance standards set forth in Section 21(I) of this Ordinance. Such variances shall be freely allowed if any two or more of the following criteria are found to exist:
- i) To provide flexibility in design to take the greatest advantage of natural land, water, trees, environmental, and historical features;
 - ii) To provide for the creation of compatible arrangements which give the homebuyer greater choice in selecting his/her living environment;
 - iii) To provide sufficient freedom for the developer to submit plans which embody a creative approach to the use of lands and related physical development as well as utilize innovative techniques to enhance the visual character of the development;
 - iv) To provide for the efficient use of land which may result in smaller street and utility networks, better maintenance and upkeep of sewage disposal systems, and reduced development and maintenance costs;
 - v) To include compatible or associated uses which complement the residential area within the cluster development;
 - vi) To simplify the procedures for obtaining approval of proposed development through expeditious review of proposed land use, site layout, public needs, health and safety factors; and/or,
 - vii) To minimize expenditures of public funds for services and maintenance of streets, roads, central sewage systems and similar utilities, and to provide the efficient investment of community resources.

10) Preliminary and Final Review Procedures and Approvals.

The owner/developer of a new residential cluster development shall follow all requirements set forth in Section 18 of this Ordinance. However, before proceeding to the building phase of the development, the Town must issue to the owner/developer, a preliminary plat approval pursuant to Chapter 34, Subdivision Regulations.

11) Parking and Loading.

Two off-street parking spaces shall be provided per dwelling unit.

12) Signs.

The regulations for signs in an RC-5 district shall be as contained within Section 16 of this Ordinance.

F) **RS-5 Residential Single-Family 5 Development District.**

This residential district classification is intended for existing or older neighborhoods characterized by single-family residences on relatively smaller lots and provides reduced setback requirements and a defined street orientation. The purpose of this district is to provide relief to existing lots of record which make them difficult to be developed as single-family residences. The RS-5 district has a fifty percent (50%) lot coverage restriction which must be maintained. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in Section 2(H) of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) **Minimum Lot Size.**

All lots in the RS-5 district shall be a minimum of five thousand square feet (5,000 ft²).

2) **Residential Density.**

- a) All lots in the RS-5 district shall be limited to one single-family detached dwelling per lot.
- b) All lots in the RS-5 district shall not exceed an impervious surface area requirement of fifty percent (50%).

3) **Minimum Lot Width.**

All lots in the RS-5 district shall have a minimum lot width of fifty feet (50') at the minimum building line.

4) **Building Setback and Building Height Requirements and Limitations.**

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-17 Interior Lot Requirements

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
RS-5	20 feet	15 feet	5 feet	35 feet

Table 7-18 Corner Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
RS-5	20 feet	10 feet	15 feet	5 feet	35 feet

Table 7-19 Double Frontage Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Rear (Right-of-Way) Setback	Side Setback	Building Height Limitation
RS-5	20 feet	20 feet	5 feet	35 feet

Where a lot extends across Front Street, the above setbacks shall apply to the portion of the lot north of Front Street. The docks or piers permitted on the south side of Front Street will be subject to an eight feet (8') side setback, or any more restrictive setback required by CAMA, or the regulations promulgated thereunder.

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5) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

6) Permitted Uses.

Antenna Co-Location on Existing Towers	Indoor/Outdoor, Private
Athletic Field, Public	Neighborhood Recreation Center, Public
Carport	Park, Public
Community Garden	Public Safety Station
Dock	Public Utility Facility
Dwelling, Single-Family	Resource Conservation Area
Family Care Homes	Shed
Garage, Private Detached	Swimming Pool (Personal Use)
Government/Non-Profit Owned/Operated Facilities & Services	Temporary Construction Trailer
Home Occupation	Utility Minor
Neighborhood Recreation Center,	Vehicle Charging Station

7) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

Accessory Dwelling Unit	Marina
Athletic Field, Private	Outdoor Amphitheater, Public
Bed & Breakfast	Preschool
Cemetery/Graveyard	Religious Institution
Club, Lodge, or Hall	Satellite Dish Antenna
Concealed (Stealth) Antennae & Towers	School, Post-Secondary
Golf Course, Privately Owned	Transportation Facility
Golf Driving Range	

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Table 7-20 Residential Zoning Districts Table of Uses

Land Development Ordinance Uses		R-20	R-8MH	R-8	R-8A	RC-5	RS-5
Residential Uses							
Group Living	Assisted Living	P					
	Dormitory						
	Group Home	P		P			
	Nursing Home	P					
	Family Care Home	P	P	P	P	P	P
Household Living	Accessory Dwelling Unit	S		S	S		S
	Dwelling, Duplex/Townhome					P	
	Dwelling, Multi-Family						
	Dwelling, Single-Family	P	P	P	P	P	P
	Manufactured Home	P	P				
	Manufactured Home Park		S				
	Recreational Vehicle Park		S				
Mixed Uses							
	Mixed Use						
Public/Institutional Uses							
Aviation	Airport/Landing Strip						
Cemeteries/Graveyards	Cemetery/Graveyard	S		S			S
Cultural Facilities	Library						
	Museum	S					
Day Care	Day Care Center	P					
	Day Care/Child Care Home	S		S	S		
Government Services	Government/Non-Profit Owned/ Operated Facilities & Services	P	P	P	P	P	P
	Public Safety Station	S	S	S	S	P	P
	Public Utility Facility	P	P	P	P	P	P
Hospitals	Hospital						
Parks and Athletic Fields, Public Use	Athletic Field, Public	P	P	S		P	
	Community Garden	P	P	P	P	P	P
	Neighborhood Recreation Center, Public	P	P	S		P	P
	Outdoor Amphitheater, Public	S	S	S	S		S
	Park, Public	P	P	P	P	P	P
	Resource Conservation Area	P	P	P	P	P	P
Religious Uses	Religious Institution	P	S	S	S	S	S
Educational Uses	Preschool	S	S	S	S	S	S
	School, K-12	S					
	School, Post-Secondary	S	S	S	S	S	S
Non-Governmental Facilities	Transportation Facility					S	S
	Utility Facility	S	S	S	S	S	
	Utility Minor	P	P	P	P	P	P
Agricultural Uses	Agritourism	P					
	Aquaculture	P					
	Farming, General	P					
	Forestry	P					
	Produce Stand/Farmers' Market	P		S			

Permitted Use

Special Use

Land Development Ordinance for the Town of Beaufort

Table 7-20 Residential Zoning Districts Table of Uses

Land Development Ordinance Uses		R-20	R-8MH	R-8	R-8A	RC-5	RS-5
Commercial Uses							
Animal Services	Kennel, Indoor Operation Only	S					
	Kennel, Indoor/Outdoor Operation	S					
Assembly	Club, Lodge, or Hall	P		S	S		S
Financial Institutions	Financial Institution						
Food and Beverage Services	Microbrewery						
	Restaurant, with Drive-Thru Service						
	Restaurant, with Indoor Operation						
	Restaurant, with Outdoor Operation						
	Tavern/Bar/Pub with Indoor Operation						
	Tavern/Bar/Pub with Outdoor Operation						
Offices	Office: Business, Professional, or Medical						
	Office: Small Business	S					
Public Accommodations	Bed & Breakfast	S		S	S	S	S
	Hotel or Motel						
Indoor Recreation & Entertainment, Privately Owned	Adult Entertainment						
	Amusement Establishment						
	Commercial Indoor Recreation Facility						
	Neighborhood Recreation Center Indoor/Outdoor, Private	P	P	S		P	P
	Pool Hall or Billiard Hall						
	Theater, Large						
	Theater, Small						
Outdoor Recreation & Entertainment, Privately Owned	Athletic Field, Private	P	S	S	S		
	Commercial Outdoor Amphitheater						
	Commercial, Outdoor Recreation Facility						
	Golf Course, Privately-Owned	S	S	S			S
	Golf Driving Range	S	S	S			S
	Motor Vehicle Raceway						
Retail Sales and Services	Adult-Oriented Retail Establishment						
	Convenience Store						
	Mortuaries/Funeral Homes/Crematoriums						
	Liquor Store						
	Personal Service Establishment						
	Retail Store						
Vehicle Storage Facilities	Dry Boat Storage	S					
	Marina	S		S		S	S
	Parking Lot						
	Parking Structure						
Vehicles and Equipment Facilities	Boat Sales/Rentals	S					
	Car Wash						
	Gas/Service Station						
	Heavy Equipment Sales/Rentals						
	Heavy Vehicle Repair						
	Moped/Golf Cart Sales/Rentals						
	Motor Vehicle Sales/Rentals						
	Towing & Vehicle Storage						
	Vehicle Service						

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Permitted Use

Special Use

Table 7-20 Residential Zoning Districts Table of Uses

Land Development Ordinance Uses		R-20	R-8MH	R-8	R-8A	RC-5	RS-5
Industrial Uses							
Industrial Service Uses	General Industrial Service						
Manufacturing and Production Uses	Manufacturing, Heavy						
	Manufacturing, Light						
	Resource Extraction						
Telecommunication Facilities	Antenna Co-Location on Existing Tower	P	P	P		P	P
	Concealed (Stealth) Antennae & Towers	S	S	S		S	S
	Other Building-Mounted Antennae & Towers						
	Other Freestanding Towers	S					
Warehouse and Freight Movement Uses	Commercial Waterfront Facility						
	Hazardous Material Storage						
	Mini-Storage						
	Outdoor Storage						
	Warehousing & Distribution Establishment						
Wholesale Establishment							
Waste-Related Uses	Recycling and Salvage Operation						
Accessory Uses and Structures							
Accessory Uses	Carport	P	P	P	P	P	P
	Dock	P	P	P	P	P	P
	Garage, Private Detached	P	P	P	P	P	P
	Home Occupation	P	P	P	P	P	P
	Outdoor Retail Display/Sales						
	Satellite Dish Antenna	P	S	S	S	S	S
	Shed	P	P	P	P	P	P
	Signs, Commercial Free-Standing						
	Swimming Pool (Personal Use)	P	P	P	P	P	P
	Temporary Construction Trailer	P	P	P	P	P	P
	Vehicle Charging Station	P	P	P	P	P	P

Permitted Use

Special Use

SECTION 8 Transitional Zoning Districts

A) TCA Townhomes, Condominiums, Apartments District.

This zoning district is established to provide a high-density district in which the primary uses are multi-family residences and duplexes. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

- 1) Maximum Overall Density.
The TCA district shall have a maximum density of twelve units per acre.
- 2) Minimum Lot Size.
All lots in the TCA district shall be a minimum of two thousand, seven hundred, and fifty square feet (2,750 ft²) per dwelling unit.
- 3) Minimum Lot Width.
All lots in the TCA district shall have a minimum lot width of eighty feet (80') at the minimum building line.
- 4) Building Setback and Building Height Requirements and Limitations.
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 8-1 Interior Lot Requirements

District	Front Setback (Right-of-Way)	Rear Setback	Side Setbacks	Building Height Limitation
TCA	25 feet	25 feet	8 feet	35 feet

Table 8-2 Corner Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
TCA	25 feet	15 feet	30 feet	8 feet	35 feet

Table 8-3 Double Frontage Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Rear (Right-of-Way) Setback	Side Setbacks	Building Height Limitation
TCA	25 feet	15 feet	8 feet	35 feet

5) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

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6) Covenants.

In any development proposing common areas, jointly used structures, or private streets, restrictive and protective covenants which provide for party wall rights, harmony of external design, continuing maintenance of building exteriors, grounds, or other general use improvements and similar matters, shall be submitted to the Town and approved by the Town as part of the development approval process. Condominium development must submit evidence of compliance with the North Carolina Condominium Act.

7) Permitted Uses.

- | | |
|--|---|
| Antenna Co-Location on Existing Tower | Group Home |
| Assisted Living | Home Occupation |
| Athletic Field, Public | Neighborhood Recreation Center
Indoor/Outdoor, Private |
| Carport | Neighborhood Recreation Center,
Public |
| Community Garden | Nursing Home |
| Concealed (Stealth) Antennae & Towers | Park, Public |
| Dock | Public Safety Station |
| Dormitory | Public Utility Facility |
| Dwelling, Duplex/Townhome | Resource Conservation Area |
| Dwelling, Multi-Family | Shed |
| Family Care Homes | Signs, Commercial Free-Standing |
| Garage, Private Detached | Temporary Construction Trailer |
| Government/Non-Profit Owned/
Operated Facilities & Services | Utility Minor |
| | Vehicle Charging Station |

8) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- | | |
|------------------------------------|---|
| Athletic Field, Private | Restaurant with Indoor Operation |
| Dwelling, Single-Family | Restaurant with Outdoor Operation |
| Golf Course, Privately-Owned | Retail Store |
| Golf Driving Range | Satellite Dish Antennas |
| Hotel or Motel | School, Post-Secondary |
| Marina | Tavern/Bar/ Pub with Indoor
Operation |
| Mixed Use | Tavern/Bar/ Pub with Outdoor
Operation |
| Outdoor Amphitheater, Public | Theater, Small |
| Personal Service Establishment | Transportation Facility |
| Preschool | Utility Facility |
| Religious Institution | |
| Restaurant with Drive-Thru Service | |

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B) **Transitional District (TR).**

The intent of this zoning district is to serve as a transition between residential and more intensive districts. This includes residential and commercial uses with a low noise and traffic impact which would generally be considered compatible with a residential area which may or may not have buffering requirements as documented in Section 19 of this Ordinance. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) Minimum Lot Size.

All lots in the TR district shall be a minimum of eight thousand square feet (8,000 ft²).

2) Minimum Lot Width.

All lots in the TR district shall have a minimum lot width of sixty feet (60') at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 8-4 Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setbacks</i>	<i>Building Height Limitation</i>
TR	25 feet	25 feet	15 feet	35 feet

Table 8-5 Other Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setbacks</i>	<i>Building Height Limitation</i>
TR	25 feet	25 feet	8 feet	35 feet

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

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5) Permitted Uses.

Antenna Co-Location on Existing Tower
 Assisted Living
 Athletic Field, Public
 Bed & Breakfast
 Carport
 Club, Lodge, or Hall
 Commercial Indoor Recreational Facility
 Community Garden
 Dock
 Dormitory
 Dwelling, Duplex
 Dwelling, Single-Family
 Family Care Homes
 Garage, Private Detached
 Government/Non-Profit Owned/Operated Facilities & Services
 Group Home
 Home Occupation
 Library
 Mixed Use

Mortuary/Funeral Home/ Crematorium
 Neighborhood Recreation Center
 Indoor/Outdoor, Private
 Neighborhood Recreation Center, Public
 Nursing Home
 Office: Business, Professional, or Medical
 Park, Public
 Personal Service Establishment
 Public Safety Station
 Public Utility Facility
 Religious Institution
 Resource Conservation Area
 Restaurant with Indoor Operation
 Shed
 Signs, Commercial Free-Standing
 Swimming Pool (Personal Use)
 Temporary Construction Trailer
 Utility Minor
 Vehicle Charging Station

6) Special Uses. (*Special Uses* requirements may be found in Section 20 of this Ordinance).

Accessory Dwelling Unit
 Aquaculture
 Financial Institution
 Cemetery/Graveyard
 Concealed (Stealth) Antennae & Towers
 Day Care Center
 Day Care/Child Care Home
 Golf Course, Privately Owned
 Golf Driving Range
 Hotel or Motel
 Kennel, Indoor/Outdoor Operation
 Marina

Museum
 Other Freestanding Towers
 Outdoor Amphitheater, Public
 Parking Lot
 Preschool
 Produce Stand/Farmers' Market
 Retail Store
 Satellite Dish Antenna
 School, K-12
 School, Post-Secondary
 Tavern/Bar/ Pub with Indoor Operation
 Utility Facility

C) **Planned Unit Development (PUD) District.**

This district is defined as an area characterized by an orderly integration of residential, commercial (inclusive of offices and institutions), industrial, and open space land uses which conform to the design requirements contained herein.

The procedure for establishment of a PUD is provided in Section 34, Subdivision Regulations .The Town recognizes the PUD as a special district where the developer/owner proposes an integrated expansion of land combining mixed uses. The PUD will be divided into sub-districts with each sub-district being one of the recognized districts within this Ordinance. Development within such sub-districts must be consistent with the requirements and limitations of the normal district it correlates with, and of this PUD section, the most stringent requirements will apply.

PUD developers are required to submit a site plan for review, as established in Section 18 of this Ordinance, in order for the Planning Board and Board of Commissioners (BOC) to look at the relationships between the mixed use development. There are no minimum lot sizes or setback requirements in this district; however when the PUD comes for review, those items will be evaluated to make sure they conform to the standards set forth in this section of this Ordinance.

During consideration and approval of the master plan for a PUD project, or a preliminary plat for a section of the master plan of the PUD project, the BOC, following a recommendation from the Planning Board, may vary the minimum requirements of this Ordinance or the Subdivision Regulations in Section 34 of the Ordinance, in accordance with the standards set forth in Section 21 (I) herein. The master plan or preliminary plat applicant must show how the PUD will be enhanced aesthetically, the environment will be better protected, or for any other reason the BOC determines appropriate, as long as the BOC determines such variance does not harm the public interest. Density within a mixed use district may be varied from the limit specified within the district as long as the maximum overall density limit of six dwelling units per acre is maintained.

1) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

2) Building Height Limitations.

The maximum building height for this district is forty feet (40').

3) Permitted Uses. All uses are allowed in the PUD District as a Special Use.

4) PUD Minimum Size.

Fifteen acres.

5) Maximum Overall Density.

Six dwelling units per acre.

6) Open Space Requirements.

A minimum of fifteen percent (15%) of the total PUD area shall be maintained as open space. Street rights-of-way, parking lots, building areas (as defined), and lots held in individual ownership shall not constitute any part of the required open space; however, building areas for recreational facilities may be computed as open space. The BOC may also require the owner/developer of the PUD to provide the Town with an option to purchase open space sites at a fair market value for the development of future public recreational areas and/or municipal facilities. This option shall become null and void if the Town has not exercised the option prior to the completion of seventy percent (70%) of the proposed dwelling units within the PUD.

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Any open space land use not included under the approval of the PUD preliminary plat must be reviewed by the Planning Board and approved by the BOC prior to its development.

7) Owner Association Required.

The creation of an owners' association shall be mandatory for all PUD developments.

- a) The owners' association shall be organized and established as a legal entity prior to the conveyance of any lot, townhome, or condominium within the PUD project.
- b) Membership in the owners' association shall be mandatory for each owner of a lot, townhome, or condominium within the PUD project.
- c) The owners' association shall have the authority to assess its members to produce revenues to cover the expenses of the association. Such assessments will be secured by a lien.
- d) The association shall be responsible for the payment of premiums for liability insurance, taxes, maintenance of recreational and other facilities located on common areas, payment of assessment for public and private capital improvements made to or for the benefit of the common areas, payment of assessment and maintenance of any private street, and for such other purposes as the organizing documents provide.
- e) A PUD may have a master association where all lot, townhome, and condominium owners are mandatory members. There also may be additional owners' associations or "section associations" for the individual housing sections developed within a PUD where only the lot, townhome, or condominium owners in such section are members.

8) Residential Development.

The applicable area, yard, and height requirements in Section 4 of this Ordinance shall be adhered to. With the exception of pre-designated lots employing the zero lot line provisions, the applicable yard setback requirements for single-family structures shall be based upon the square footage of the lot. All multi-family developments shall adhere to the applicable development regulations contained herein. The approved preliminary and final site plans for the PUD project shall designate the district category which shall apply to each parcel of property.

9) Commercial Development.

Any commercial land use will be developed under the regulations of this Ordinance. No commercial construction may begin until at least fifty percent (50%) of the proposed residential dwelling units or five hundred TCA dwelling units within the PUD, whichever is smaller, are completed and ready for occupancy.

D) Cedar Street Mixed-Use Zoning District (CS-MU)

1) Purpose.

The purpose of this zoning district is to protect, enhance and guide the redevelopment of the Cedar Street corridor by reducing visual clutter through the implementation of commercial design standards and selecting the appropriate type of uses for this district. These standards are designed to improve the aesthetics, traffic congestion and provide for a solid and vibrant tax base as well as promote the public health, safety and welfare of the Town.

2) Adoption.

The Cedar Street Mixed Use Zoning District (CS-MU) for the Town, as set forth on a map so entitled and dated 07/08/2019, is hereby adopted and incorporated by reference as part of this Ordinance and the Official Zoning Map of the Town.

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3) Permitted Uses.

The uses listed here, with the exception of single-family residential uses, shall be subject to the Development Standards listed below.

Convenience Store	Park, Public
Dwelling, Single-family	Personal Service Establishment
Dwelling, Multi-family	Produce Stand/Farmers' Market
Financial Institution	Public Utility Facility
Hotel or Motel	Religious Institution
Mixed Use	Restaurant with Indoor & Outdoor Operations
Office, Business, Professional, or Medical*	Retail Store
Outdoor Retail Display/Sales	Utility Minor

*Includes Government Offices

4) Special Uses (*Special Use Requirements* may be found in Section 20 of the *LDO*).

Any commercial use which results in a structure or combination of structures with over 15,000 square feet.

- Microbrewery
- Tavern/Bar/Pub with Indoor Operation

5) Prohibited Uses.

Any use not listed in Sections 8(D)(3) or 8(D) (4) of this Ordinance is prohibited.

6) Development Standards.

a) Design Criteria.

The intent of the following design criteria is to maintain and strengthen the unique character of Cedar Street by ensuring new development projects are architecturally compatible with the characteristics of the community. These characteristics include building forms, proportions, treatments, exterior materials, and architectural styles. It is intended that front elevations and overall massing of new structures shall be of human scale and related to the street. All design criteria will be reviewed and approved by the Zoning Administrator.

It is not the intent for new structures to closely duplicate existing historic structures. The intent is for new structures to include elements in ways which achieve a design compatible with and complementary to the historic character of the Town.

b) Site Plan Submission.

A detailed site plan, meeting all N.C. State Building Codes and Town Ordinances, shall be required for all commercial and mixed-use development within this zoning district.

c) Signage.

Whenever the regulations made under the authority of this section are in conflict with any other provisions of this Ordinance, the restrictions of this section shall supersede.

- i. Only attached wall or projecting type signs made of wood or substitute materials which have the appearance of wood are permitted.
- ii. The use of internally lit, flashing or free-standing signs of any kind is prohibited.
- iii. Subject to the provisions of this section, the maximum sign surface area permitted in this district shall not be more than 0.75 square feet per linear foot of total lot frontage.

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- d) Landscaping.
Any new commercial site plan with on-site parking shall provide a detailed landscape plan identifying all shrub and tree types as well as the number of such trees and shrubs as per Section 14 and Section 19 of this Ordinance. Additionally, if developing adjacent to a different type of land use, a screening and buffering plan shall also be required.
- e) Exterior Siding Materials (Commercial & Mixed-Use Structures Only).
The primary siding material constituting a minimum of eighty percent (80%) of the exterior shall be one or a combination of two of the following materials:
 - i) Brick;
 - ii) Stone: Natural, Limestone or Granite;
 - iii) Fiber Cement (Lap or Board & Batten Siding);
 - iv) Treated Wood excluding plywood (Board & Batten or Clapboard Design only); and/or,
 - v) Cedar Shake.
 - vi) Other materials or combinations thereof can be submitted to the Planning Board and BOC for consideration. Detailed elevation drawings and product specifications shall be required.
- f) Outside Walls (Commercial & Mixed-Use Structures Only).
 - i) The total area of glass, windows, and/or any similar transparent areas for any side of a commercial structure shall not exceed thirty-five percent (35%) of the surface area for such side of the building, and must be positioned uniformly along the face of the structure. This percentage may be increased if it needs to meet the state fire code. Each exterior wall of a building viewable from any public or private right-of-way shall incorporate architectural design features to create a visual break at least every one hundred feet (100') along the exterior wall in order to avoid a box like appearance. All plans for exterior walls shall be approved by the BOC as part of the site plan approval process.
- g) Roof Forms (Commercial & Mixed-Use Structures Only).
 - i) The dominant shape of roof forms shall be gabled, hipped or parapet. If pitched, the minimum pitch shall be five over twelve (5/12).
 - ii) All roof top mounted equipment shall be fully screened from view and the method of screening shall be integrated into the overall building design, for example within or behind pitched roofs. Hipped or gabled roofs with a mechanical element will not be considered mansard roofs when the roof appears to be a true hipped or gabled roof design.
- h) Driveway Limitations (Commercial & Mixed-Use Structures With Onsite Parking Only).
 - i) Two driveways entering the same street from a single lot shall only be permitted if the minimum distance between the closest edges of the driveways equals to or exceeds one hundred feet (100').
 - ii) In no case shall the total width of all driveways exceed fifty percent (50%) of the total property frontage.
 - iii) No driveway shall be located within a hundred feet (100') of an intersection except in cases where no other access to a public street is available.
- i) Parking Requirements.
 - i) Mixed use, multi-family and single-family lots shall provide 1.5 onsite parking spaces/unit;

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- ii) Commercial lots with an area less than 5000 ft² have no requirements for onsite parking; and,
 - iii) Commercial lots with an area more than 5000 ft² shall provide 1 onsite parking space for every 600 ft² of gross floor area.
 - j) Exterior Elevation Drawings (Commercial & Mixed-Use Structures Only).
Exterior elevation drawings shall be submitted to determine the visual break of exterior walls for the structure or structures.
- 7) Minimum Lot Size.
The Cedar Street Mixed-Use Zoning District will not have a minimum lot size.
- 8) Minimum Lot Width.
No minimum lot width is required in the Cedar Street Mixed-Use Zoning District at the minimum building line.
- 9) Building Setback and Building Height Requirements and Limitations.
Subject to the exemptions of this Ordinance, each structure on said lot in this zoning district shall be set back from the boundary line of the lot at least the distance provided in the tables set forth in this section. The building height limitation in this district is also provided in the tables of this section.

Table 8-6 Single Family Detached Setback Requirements

<i>District</i>	<i>Cedar Street Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
	15 feet minimum	25 feet	8 feet	40 feet
	20 feet maximum	25 feet	8 feet	40 feet

Table 8-7 Corner Lot and Interior Lot Requirements for Commercial and Mixed Use

<i>District</i>	<i>Cedar Street Front Setback (Right-of-Way)</i>	<i>Designated Side (Right-of-Way) Setback</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
	10 feet minimum	0 feet	20 feet	0 feet	40 feet
	20 feet maximum	0 feet	20 feet	0 feet	40 feet

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Table 8-8 Transitional Zoning District Table of Uses

Land Development Ordinance Uses		TCA	TR	PUD	CS-MU
Residential Uses					
Group Living	Assisted Living	P	P	S	
	Dormitory	P	P	S	
	Group Home	P	P	S	
	Nursing Home	P	P	S	
	Family Care Home	P	P	P	P
Household Living	Accessory Dwelling Unit		S	S	
	Dwelling, Duplex/Townhome	P	P	S	
	Dwelling, Multi-Family	P		S	P
	Dwelling, Single-Family	S	P	S	P
	Manufactured Home			S	
	Manufactured Home Park			S	
	Recreational Vehicle Park			S	
Mixed Uses					
	Mixed Use	S	P	S	P
Public/Institutional Uses					
Aviation	Airport/Landing Strip			S	
Cemeteries/ Graveyards	Cemetery/Graveyard		S	S	
Cultural Facilities	Library		P	S	
	Museum		S	S	
Day Care	Day Care Center		S	S	
	Day Care/Child Care Home		S	S	
Government Services	Government/Non-Profit Owned/ Operated Facilities & Services	P	P	S	
	Public Safety Station	P	P	S	
	Public Utility Facility	P	P	S	P
Hospitals	Hospital			S	
Park and Athletic Fields, Public Use	Athletic Field, Public			S	
	Community Garden	P	P	S	
	Neighborhood Recreation Center, Public	P	P	S	
	Outdoor Amphitheater, Public	S	S	S	
	Park, Public	P	P	S	P
	Resource Conservation Area	P	P	S	
Religious Uses	Religious Institution	S	P	S	P
Educational Uses	Preschool	S	S	S	
	School, K-12		S	S	
	School, Post-Secondary	S	S	S	
Non-Governmental Facilities	Transportation Facility	S		S	
	Utility Facility	S	S	S	P
	Utility Minor	P	P	S	P
Agricultural Uses	Agritourism			S	
	Aquaculture		S	S	
	Farming, General			S	
	Forestry			S	
	Produce Stand/Farmers' Market		S	S	P

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Table 8-8 Transitional Zoning District Table of Uses

Land Development Ordinance Uses		TCA	TR	PUD	CS-MU
Commercial Uses					
Animal Services	Kennel, Indoor Operation Only		S	S	
	Kennel, Indoor/Outdoor Operation			S	
Assembly	Club, Lodge, or Hall		P	S	
Financial Institutions	Financial Institution		S	S	P
Food and Beverage Services	Microbrewery			S	S
	Restaurant, with Drive-Thru Service	S		S	
	Restaurant, with Indoor Operation	S	P	S	P
	Restaurant, with Outdoor Operation	S		S	P
	Tavern/Bar/Pub with Indoor Operation	S	S	S	S
	Tavern/Bar/Pub with Outdoor Operation	S		S	
Offices	Office: Business, Professional, or Medical		P	S	P
	Office: Small Business				
Public Accommodations	Bed & Breakfast		P	S	
	Hotel or Motel	S	S	S	P
Indoor Recreation & Entertainment, Privately Owned	Adult Entertainment			S	
	Amusement Establishment			S	
	Commercial Indoor Recreation Facility		P	S	
	Neighborhood Recreation Center Indoor/ Outdoor, Private	P	P	S	
	Pool Hall or Billiard Hall			S	
	Theater, Large			S	
	Theater, Small	S		S	
Outdoor Recreation & Entertainment, Privately Owned	Athletic Field, Private			S	
	Commercial Outdoor Amphitheater			S	
	Commercial, Outdoor Recreation Facility			S	
	Golf Course, Privately-Owned		S	S	
	Golf Driving Range		S	S	
	Motor Vehicle Raceway			S	
Retail Sales and Services	Adult-Oriented Retail Establishment			S	
	Convenience Store			S	P
	Mortuary/Funeral Home/ Crematorium		P	S	
	Liquor Store			S	
	Personal Service Establishment	S	P	S	P
	Retail Store	S	S	S	P
Vehicle Storage Facilities	Dry Boat Storage			S	
	Marina	S	S	S	
	Parking Lot		S	S	
	Parking Structure			S	

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Table 8-8 Transitional Zoning District Table of Uses

Land Development Ordinance Uses		TCA	TR	PUD	CS-MU
Vehicles and Equipment Facilities	Boat Sales/Rental			S	
	Car Wash			S	
	Gas/Service Station			S	
	Heavy Equipment Sales/Rental			S	
	Heavy Vehicle Repair			S	
	Moped/Golf Cart Sales/Rental			S	
	Motor Vehicle Sales/Rental			S	
	Towing & Vehicle Storage			S	
Vehicle Service			S		
Industrial Uses					
Industrial Service Uses	General Industrial Service			S	
Manufacturing and Production Uses	Manufacturing, Heavy			S	
	Manufacturing, Light			S	
	Resource Extraction			S	
Telecommunications Facilities	Antenna Co-Location on Existing Tower	P	P	S	
	Concealed (Stealth) Antennae & Towers	P	S	S	
	Other Building-Mounted Antennae & Towers			S	
	Other Freestanding Towers		S	S	
Warehouse and Freight Movement Uses	Commercial Waterfront Facility			S	
	Hazardous Material Storage			S	
	Mini-Storage			S	
	Outdoor Storage			S	
	Warehousing and Distribution Establishment			S	
Wholesale Establishment			S		
Waste-Related Uses	Recycling & Salvage Operation			S	
Accessory Uses and Structures					
Accessory Uses	Carport	P	P	S	
	Dock	P	P	S	
	Garage, Private Detached	P	P	S	
	Home Occupation	P	P	S	
	Outdoor Retail Display/Sales			S	P
	Satellite Dish Antenna		S	S	
	Shed	P	P	S	
	Signs, Commercial Free- Standing	P	P	S	
	Swimming Pool (Personal Use)		P	S	
	Temporary Construction Trailer	P	P	S	
	Vehicle Charging Station	P	P	S	

Permitted Use

Special Use

SECTION 9 Nonresidential Zoning Districts

A) **H-BD Historic Business District.**

The intent of this zoning district is to allow land and structures which provide personal services, retailing, and business services compatible with the district’s historic character. This district should be limited to the Town’s Historic Overlay District and may be subject to additional requirements found within the “Design Guidelines for the Beaufort Historic District & Landmarks.” Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

- 1) Minimum Lot Size.
The H-BD district will not have a minimum lot size.
- 2) Minimum Lot Width.
No minimum lot width is required in the H-BD district at the minimum building line.
- 3) Building Setback and Building Height Requirements and Limitations.
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-1 Interior Lot Requirements for Residential Use

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
H-BD	25 feet	30 feet	8/0* feet	35 feet

*0 feet if it connects to a common wall.

Table 9-2 Corner Lot Requirements for Residential Use

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
H-BD	25 feet	25 feet	30 feet	8 feet	35 feet

Table 9-3 Corner Lot and Interior Lot Requirements for Commercial Use

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
H-BD	0 feet	0 feet	0 feet	0 feet	35 feet

- 4) Accessory Building Setback Requirements.
All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.
- 5) Permitted Uses.

Antenna Co-Location on Existing Tower	Boat Sales/Rentals
Bed & Breakfast	Club, Lodge, or Hall
	Commercial Indoor Recreation Facility

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- Community Garden
- Concealed (Stealth) Antennae & Towers
- Day Care Center
- Dock
- Dwelling, Single-Family
- Financial Institution
- Government/Non-Profit Owned/Operated Facilities & Services
- Hospital
- Hotel or Motel
- Library
- Mixed Use
- Moped/Golf Cart Sales, Rentals
- Mortuary/Funeral Home/ Crematorium
- Museum
- Neighborhood Recreation Center, Public
- Office: Business, Professional, or Medical
- Park, Public
- Parking Lot
- Parking Structure
- Personal Service Establishment
- Pool Hall or Billiard Hall
- Public Safety Station
- Public Utility Facility
- Resource Conservation Area
- Restaurant with Indoor Operation
- Retail Store
- Shed
- Swimming Pool (Personal Use)
- Signs, Commercial Free-Standing
- Tavern/Bar/Pub with Indoor Operation
- Temporary Construction Trailer
- Theater, Small
- Transportation Facility
- Utility Minor

6) **Special Uses** (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- Commercial Outdoor Amphitheater
- Commercial Waterfront Facility
- Convenience Store
- Gas/Service Station
- Golf Driving Range
- Marina
- Microbrewery
- Microdistillery
- Other Building-Mounted Antennae & Towers
- Other Freestanding Towers
- Outdoor Amphitheater, Public
- Preschool
- Produce Stand/Farmers' Market
- Restaurant with Outdoor Operation
- Satellite Dish Antenna
- School, K-12
- School, Post-Secondary
- Tavern/Bar/Pub with Outdoor Operation
- Theater, Large
- Utility Facility
- Vehicle Service

B) **H-WBD Historic Waterfront Business District.**

The function of this district is to protect the character of the commercial development along the historic waterfront of the Town. This district is also part of the Town's Historic Overlay District and may be subject to additional requirements found within the "Design Guidelines for the Beaufort Historic District & Landmarks."

- 1) **Minimum Lot Size.**
All lots in the H-WBD shall be a minimum of three thousand square feet (3,000 ft²).
- 2) **Minimum Lot Width.**
No minimum lot width is required in the H-WBD district at the minimum building line.
- 3) **Building Setback and Building Height Requirements and Limitations.**
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section.

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Table 9-4 Interior Lot Requirements

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
H-WBD	0 feet	0 feet	0 feet	35 feet

4) **Accessory Building Setback Requirements.**

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) **Permitted Uses.**

Antenna Co-Location on Existing Tower	Neighborhood Recreation Center, Public
Bed & Breakfast	Office: Business, Professional, or Medical
Club, Lodge, or Hall	Park, Public
Commercial Indoor Recreation Facility	Parking Lot
Community Garden	Parking Structure
Concealed (Stealth) Antennae & Towers	Personal Service Establishment
Day Care Center	Pool Hall or Billiard Hall
Dock	Public Safety Station
Financial Institutions	Public Utility Facility
Government/Non-Profit Owned/Operated Facilities & Services	Resource Conservation Area
Library	Restaurant with Indoor Operation
Mixed Use	Retail Store
Moped/Golf Cart Sales, Rentals	Tavern/Bar/Pub with Indoor Operation
Mortuary/Funeral Home/Crematorium	Temporary Construction Trailer
Museum	Theater, Small
	Transportation Facility
	Utility Minor

6) **Special Uses** (*Special Uses* requirements may be found in Section 20 of this Ordinance).

Aquaculture	Towers
Boat Sales/Rentals	Outdoor Amphitheater, Public
Commercial Outdoor Amphitheater	Preschool
Commercial Waterfront Facility	Restaurant with Outdoor Operation
Gas/Service Station	Satellite Dish Antenna
Hotel or Motel	School, K-12
Marina	School, Post-Secondary
Microbrewery	Tavern/Bar/Pub with Outdoor Operation
Microdistillery	Theater, Large
Other Building-Mounted Antennae &	Utility Facility

C) **B-1 General Business District.**

The General Business District is established as the zoning district in which a wide variety of sales and service facilities may be provided to the general public. This district will be located throughout the Town's planning and development regulation jurisdiction.

1) **Minimum Lot Size.**

All lots in the B-1 district shall be a minimum of five thousand square feet (5,000 ft²).

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2) Minimum Lot Width.

All lots in the B-1 district shall have a minimum lot width of sixty feet (60') at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-5 Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
B-1	30 feet	15 feet	15 feet	40 feet

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) Permitted Uses.

- | | |
|--|--|
| Amusement Establishment | Neighborhood Recreation Center, |
| Antenna Co-Location on Existing Tower | Public |
| Aquaculture | Nursing Home |
| Assisted Living | Office: Business, Professional, or Medical |
| Athletic Field, Public | Other Building-Mounted Antennae & |
| Bed & Breakfast | Towers |
| Boat Sales/Rentals | Outdoor Retail Display/Sales |
| Car Wash | Park, Public |
| Club, Lodge, or Hall | Parking Lot |
| Commercial Indoor Recreation Facility | Parking Structure |
| Community Garden | Personal Service Establishment |
| Concealed (Stealth) Antennae & Towers | Pool Hall or Billiard Hall |
| Convenience Store | Produce Stand/Farmers' Market |
| Day Care Center | Public Safety Station |
| Dock | Public Utility Facility |
| Dry Boat Storage | Religious Institution |
| Financial Institution | Resource Conservation Area |
| Government/Non-Profit Owned/
Operated Facilities & Services | Restaurant with Drive-Thru Service |
| Hospital | Restaurant with Indoor Operation |
| Hotel or Motel | Retail Store |
| Kennel, Indoor Operation Only | Satellite Dish Antenna |
| Library | Signs, Commercial Free-Standing |
| Liquor Store | Tavern/Bar/Pub with Indoor Operation |
| Moped/Golf Cart Sales/Rentals | Temporary Construction Trailer |
| Mortuary/Funeral Home/Crematorium | Theater, Small |
| Motor Vehicle Sales/Rentals | Transportation Facility |
| Museum | Utility Minor |
| | Vehicle Charging Station |
| | Vehicle Service |

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- 6) **Special Uses** (*Special Uses* requirements may be found in Section 20 of this Ordinance).
- | | |
|--|---------------------------------------|
| Adult-Oriented Retail Establishment | Mini-Storage |
| Commercial Outdoor Amphitheater | Mixed Use |
| Commercial Outdoor Recreation Facility | Outdoor Amphitheater, Public |
| Commercial Waterfront Facility | Outdoor Storage |
| Gas/Service Station | Preschool |
| Golf Driving Range | Restaurant with Outdoor Operation |
| Hazardous Material Storage | School, K-12 |
| Kennel, Indoor/Outdoor Operation | School, Post-Secondary |
| Manufacturing, Light | Tavern/Bar/Pub with Outdoor Operation |
| Marina | Theater, Large |
| Microbrewery | Utility Facility |
| Microdistillery | Wholesale Establishment |

D) **B-W Business Waterfront District.**

The objective of this zoning district shall be to protect the character of the commercial development along the waterfront of the Town.

- 1) **Minimum Lot Size.**
All lots in the B-W shall be a minimum of six thousand square feet (6,000 ft²).
- 2) **Minimum Lot Width.**
All lots in the B-W district shall have a minimum lot width of sixty feet (60') at the minimum building line.
- 3) **Building Setback and Building Height Requirements and Limitations.**
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this Section.

Table 9-6 Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
B-W	30 feet	15 feet	15 feet	40 feet

- 4) **Accessory Building Setback Requirements.**
All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.
- 5) **Permitted Uses.**

Amusement Establishment	Commercial Indoor Recreation Facility
Antenna Co-Location on Existing Tower	Community Garden
Aquaculture	Concealed (Stealth) Antennae & Towers
Assisted Living	Convenience Store
Bed & Breakfast	Day Care Center
Boat Sales/Rentals	Dock
Car Wash	Dry Boat Storage
Club, Lodge, or Hall	Financial Institution

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- | | |
|---|--------------------------------------|
| Government/Non-Profit Owned/ Operated Facilities & Services | Parking Structure |
| Hospital | Personal Service Establishment |
| Hotel or Motel | Pool Hall or Billiard Hall |
| Kennel, Indoor Operation Only | Produce Stand/Farmers' Market |
| Library | Public Safety Station |
| Liquor Store | Public Utility Facility |
| Mortuary/Funeral Home/Crematorium | Religious Institution |
| Motor Vehicle Sales/Rentals | Resource Conservation Area |
| Museum | Restaurant with Indoor Operation |
| Neighborhood Recreation Center, Public | Retail Store |
| Nursing Home | Satellite Dish Antenna |
| Office, Business, Professional, or Medical | Signs, Commercial Free-Standing |
| Other Building-Mounted Antennae & Towers | Tavern/Bar/Pub with Indoor Operation |
| Outdoor Retail Display/Sales | Temporary Construction Trailer |
| Park, Public | Theater, Small |
| Parking Lot | Transportation Facility |
| | Utility Minor |
| | Vehicle Charging Station |
| | Vehicle Service |

6) **Special Uses** (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- | | |
|--|---------------------------------------|
| Adult-Oriented Retail Establishment | Mixed Use |
| Athletic Field, Public | Outdoor Amphitheater, Public |
| Commercial Outdoor Amphitheater | Outdoor Storage |
| Commercial Outdoor Recreation Facility | Preschool |
| Commercial Waterfront Facility | Restaurant with Drive-Thru Service |
| Gas/Service Station | Restaurant with Outdoor Operation |
| Golf Driving Range | School, K-12 |
| Hazardous Material | School, Post-Secondary |
| Kennels, Outdoor Operation | Tavern/Bar/Pub with Outdoor Operation |
| Manufacturing, Light | Theater, Large |
| Marina | Utility Facility |
| Microbrewery | Wholesale Establishment |
| Microdistillery | |
| Mini-Storage | |

E) **L-I Light Industrial District.**

This zoning district is established to provide for the industries and for certain commercial establishments which in their normal operations have little or no adverse effect upon adjoining properties.

1) **Minimum Lot Size.**

All lots in the L-I district shall be a minimum of eight thousand square feet (8,000 ft²).

2) **Minimum Lot Width.**

All lots in the L-I district shall have a minimum lot width of eighty feet (80') at the minimum building line.

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3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-7 Lot Requirements

<i>Dist rict</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
L-1	20 feet	20 feet	15 feet	40 feet

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) Permitted Uses.

- | | |
|--|---|
| Antenna Co-Location on Existing Tower | Towers |
| Aquaculture | Outdoor Retail Display/Sales |
| Athletic Field, Public | Outdoor Storage |
| Boat Sale/Rentals | Park, Public |
| Car Wash | Parking Lot |
| Club, Lodge, or Hall | Parking Structure |
| Community Garden | Personal Service Establishment |
| Concealed (Stealth) Antennae & Towers | Public Safety Station |
| Dock | Public Utility Facility |
| Dry Boat Storage | Religious Institution |
| Farming, General | Resource Conservation Area |
| General Industrial Service | Satellite Dish Antenna |
| Government/Non-Profit Owned/
Operated Facilities & Services | Signs, Commercial Free-Standing |
| Heavy Equipment Sale/Rentals | Temporary Construction Trailer |
| Heavy Vehicle Repair | Towing & Vehicle Service |
| Kennel, Indoor Operation Only | Transportation Facility |
| Kennel, Indoor/Outdoor Operation | Utility Minor |
| Manufacturing, Light | Vehicle Charging Station |
| Mini-Storage | Vehicle Service |
| Motor Vehicle Sale/Rentals | Warehousing and Distribution
Establishment |
| Neighborhood Recreation Center, Public | Wholesale Establishment |
| Office: Business, Professional, or Medical | |
| Other Building Mounted Antennae & | |

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- 6) **Special Use** (*Special Uses* requirements may be found in Section 20 of this Ordinance).

Adult Entertainment	Microdistillery
Adult-Oriented Retail Establishment	Mixed Use
Commercial Indoor Recreation Facility	Other Freestanding Towers
Commercial Outdoor Amphitheater	School, Post-Secondary
Commercial Waterfront Facility	Tavern/Bar/Pub with Indoor Operation
Commercial, Outdoor Recreation Facility	Tavern/Bar/Pub with Outdoor
Gas/Service Station	Operation
Golf Driving Range	Theater, Large
Marina	Theater, Small
Microbrewery	Utility Facility

F) **I-W Industrial Warehouse District.**

This zoning district is established to provide for industries which generally require specially selected locations in the community. The requirements provide for adequate parking and for screening/buffering from adjacent residential districts to ensure reasonable standards of community safety and acceptability consistent with advanced industrial practices.

- 1) **Minimum Lot Size.**
All lots in the I-W district shall be a minimum of eight thousand square feet (8,000 ft²).
- 2) **Minimum Lot Width.**
All lots in the I-W district shall have a minimum lot width of eighty feet (80') at the minimum building line.
- 3) **Building Setback and Building Height Requirements and Limitations.**
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-8 Lot Requirements

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
I-W	20 feet	20 feet	15 feet	40 feet

- 4) **Accessory Building Setback Requirements.**
All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.
- 5) **Permitted Uses.**

Antenna Co-Location on Existing Towers	Dry Boat Storage
Aquaculture	Farming, General
Athletic Field, Public	General Industrial Service
Boat Sales/Rentals	Governmental/Non-Profit Owned/ Operated Facilities & Services
Car Wash	Heavy Equipment Sales/Rentals
Club, Lodge, or Hall	Heavy Vehicle Repair
Community Garden	Kennel, Indoor Operation Only
Concealed (Stealth) Antennae & Towers	Kennel, Indoor/Outdoor Operation
Dock	

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- Manufacturing, Light
- Mini-Storage
- Motor Vehicle Sales/Rentals
- Neighborhood Recreation Center, Public
- Office: Business, Professional, or Medical
- Other Building Mounted Antennae & Towers
- Outdoor Retail Display/Sales
- Outdoor Storage
- Park, Public
- Parking Lot
- Parking Structure
- Personal Service Establishment
- Public Safety Station
- Public Utility Facility
- Religious Institution
- Resource Conservation Area
- Satellite Dish Antenna
- Signs, Commercial Free-Standing
- Temporary Construction Trailer
- Towing & Vehicle Service
- Transportation Facility
- Utility Minor
- Vehicle Charging Station
- Vehicle Service
- Warehousing and Distribution Establishment
- Wholesale Establishment

6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- Adult Entertainment
- Adult-Oriented Retail Establishment
- Airport/Landing Strip
- Commercial Indoor Recreation Facility
- Commercial Outdoor Amphitheater
- Commercial Waterfront Facility
- Commercial, Outdoor Recreation Facility
- Gas/Service Station
- Golf Driving Range
- Hazardous Material Storage
- Other Freestanding Towers
- Recycling and Salvage Operation
- School, Post-Secondary
- Marina
- Microbrewery
- Microdistillery
- Tavern/Bar/Pub with Indoor Operation
- Tavern/Bar/Pub with Outdoor Operation
- Theater, Large
- Theater, Small
- Utility Facility

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Table 9-9 Nonresidential Zoning Districts Table of Uses

Land Development Ordinance Uses		H-BD	H-WBD	B-I	B-W	L-I	I-W
Residential Uses							
Group Living	Assisted Living			P	P		
	Dormitory						
	Group Home						
	Nursing Home			P	P		
Household Living	Accessory Dwelling Unit						
	Dwelling, Duplex/Townhome						
	Dwelling, Multi-Family						
	Dwelling, Single-Family	P					
	Manufactured Home						
	Manufactured Home Park						
	Recreational Vehicle Park						
Mixed Uses							
	Mixed Use	P	P	P	S	S	
Public/Institutional Uses							
Aviation	Airport/Landing Strip						S
Cemeteries/Graveyards	Cemetery/Graveyard						
Cultural Facilities	Library	P	P	P	P		
	Museum	P	P	P	P		
Day Care	Day Care Center	P	P	P	P		
	Day Care/Child Care Home						
Government Services	Government/Non-Profit Owned/ Operated Facilities & Services	P	P	P	P	P	P
	Public Safety Station	P	P	P	P	P	P
	Public Utility Facility	P	P	P	P	P	P
Hospitals	Hospital	P		P	P		
Park and Athletic Fields, Public Use	Athletic Field, Public			P	S	P	P
	Community Garden	P	P	P	P	P	P
	Neighborhood Recreation Center, Public	P	P	P	P	P	P
	Outdoor Amphitheater, Public	S	S	S	S		
	Park, Public	P	P	P	P	P	P
	Resource Conservation Area	P	P	P	P	P	P
Religious Uses	Religious Institution			P	P	P	P
Educational Uses	Preschool	S	S	S	S		
	School, K-12	S	S	S	S		
	School, Post-Secondary	S	S	S	S	S	S
Non-Governmental Facilities	Transportation Facility	P	P	P	P	P	P
	Utility Facility	S	S	S	S	S	S
	Utility Minor	P	P	P	P	P	P

Permitted Use

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Table 9-9 Nonresidential Zoning Districts Table of Uses

Land Development Ordinance Uses		H-BD	H-WBD	B-1	B-W	L-1	L-W
Agricultural	Agritourism						
	Aquaculture		S	P	P	P	P
	Farming, General					P	P
	Forestry						
	Produce Stand/Farmers' Market	S		P	P		
Commercial Uses							
Animal Services	Kennel, Indoor Operation Only			P	P	P	P
	Kennel, Indoor/Outdoor Operation			S	S	P	P
Assembly	Club, Lodge, or Hall	P	P	P	P	P	P
Financial Institutions	Financial Institution	P	P	P	P		
Food and Beverage Services	Microbrewery/Microdistillery	S	S	S	S	S	
	Restaurant, with Drive-Thru Service			P	S		
	Restaurant, with Indoor Operation	P	P	P	P		
	Restaurant, with Outdoor Operation	S	S	S	S		
	Tavern/Bar/Pub with Indoor Operation	P	P	P	P	S	S
	Tavern/Bar/Pub with Outdoor Operation	S	S	S	S	S	S
Offices	Office: Business, Professional, or Medical	P	P	P	P	P	P
	Office: Small Business						
Public Accommodations	Bed & Breakfast	P	P	P	P		
	Hotel or Motel	P	S	P	P		
Indoor Recreation & Entertainment, Privately Owned	Adult Entertainment					S	S
	Amusement Establishment			P	P		
	Commercial Indoor Recreation Facility	P	P	P	P	S	
	Neighborhood Recreation Center Indoor/Outdoor, Private						
	Pool Hall or Billiard Hall	P	P	P	P		
	Theater, Large	S	S	S	S	S	S
	Theater, Small	P	P	P	P	S	S
Outdoor Recreation & Entertainment, Privately Owned	Athletic Field, Private						
	Commercial Outdoor Amphitheater	S	S	S	S	S	S
	Commercial, Outdoor Recreation Facility			S	S	S	S
	Golf Course, Privately-Owned						
	Golf Driving Range			S	S	S	S
	Motor Vehicle Raceway						
Retail Sales and Services	Adult-Oriented Retail Establishment			S	S	S	S
	Convenience Store			P	P		
	Mortuary/Funeral Home/ Crematorium	P	P	P	P		
	Liquor Store			P	P		
	Personal Service Establishment	P	P	P	P	P	P
	Retail Store	P	P	P	P		

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Table 9-9 Nonresidential Zoning Districts Table of Uses

Land Development Ordinance Uses		H-BD	H-WBD	B-I	B-W	L-I	L-W
Vehicle Storage Facilities	Dry Boat Storage			P	P	P	P
	Marina	S	S	S	S	S	S
	Parking Lot	P	P	P	P	P	P
	Parking Structure	P	P	P	P	P	P
Vehicles and Equipment Facilities	Boat Sales/Rentals	P	S	P	P	P	P
	Car Wash			P	P	P	P
	Gas/Service Station	S	S	S	S	S	S
	Heavy Equipment Sales/ Rentals					P	P
	Heavy Vehicle Repair					P	P
	Moped/Golf Cart Sales/Rentals	P	P	P			
	Motor Vehicle Sales/Rentals			P	P	P	P
	Towing & Vehicle Storage					P	P
	Vehicle Service	S		P	P	P	P
Industrial Uses							
Industrial Service Uses	General Industrial Service					P	P
Manufacturing and Production Uses	Manufacturing, Heavy						
	Manufacturing, Light			S	S	S	
	Resource Extraction						
Telecommunications Facilities	Antenna Co-Location on Existing Tower	P	P	P	P	P	P
	Concealed (Stealth) Antennae & Towers	P	P	P	P	P	P
	Other Building-Mounted Antennae & Towers	S	S	P	P	P	P
	Other Freestanding Towers	S				S	S
Warehouse and Freight Movement Uses	Commercial Waterfront Facility	S	S	S	S	S	S
	Hazardous Material Storage			S	S		S
	Mini-Storage			S	S	P	P
	Outdoor Storage			S	S	P	P
	Warehousing and Distribution Establishment					P	P
	Wholesale Establishment			S	S	P	P
Waste-Related Uses	Recycling & Salvage Operation						S
Accessory Uses and Structures							
Accessory Uses	Carport						
	Dock	P	P	P	P	P	P
	Garage, Private Detached						
	Home Occupation						
	Outdoor Retail Display/Sales			P	P	P	P
	Satellite Dish Antenna	S	S	P	P	P	P
	Shed	P					
	Signs, Commercial Free-Standing			P	P	P	P
	Swimming Pool (Personal Use)	P					
	Temporary Construction Trailer	P	P	P	P	P	P
Vehicle Charging Station			P	P	P	P	

Permitted Use

Special Use

SECTION 10 Overlay/Conservation/Companion Zoning Districts

A) OS Open Space District.

The Open Space District is established as a zoning district where the land is predominately reserved for flood control, public recreation, natural or man-made bodies of water, forests, and other similar open space use. In promoting the general purposes of this Ordinance, the specific intent of this section is:

- To discourage investing in improvements which may be subject to flooding or located on land unsuitable for urban development due to natural conditions.
- To avoid the possibility of having to spend public funds to protect threatened private investments.
- To encourage the preservation of and continued use of the land for conservation purposes.

There shall be no residential structures of any type including homes, manufactured homes, townhomes, apartments, duplexes, motels, hotels, etc., and there shall be no commercial or industrial uses permitted in any area designated as open space.

1) Permitted Uses.

- | | |
|-------------------------|----------------------------|
| Athletic Fields, Public | Park, Public |
| Community Gardens | Resource Conservation Area |

2) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).

- Dock

B) H-L Historic-Local District.

The function of the historic district regulations is to promote the education, culture, and general welfare of the public through the preservation and protection of historical buildings, places, and areas and to maintain such lands as examples of past architectural styles. The H-L District shall consist of areas which are deemed to be especially significant in terms of their history, architecture, and/or culture; and possess integrity of design, setting, materials, feeling, and association. This district may be subject to additional requirements found within the "Design Guidelines for the Beaufort Historic District & Landmarks." The requirements, restrictions, and conditions in this Ordinance pertaining to historic preservation are in addition to those provided for the underlying district.

C) H-N Historic-National District. The National Register is the nation's official list of buildings and districts worthy of preservation and recognition because of their architectural and/or historical significance. The National Register is a federal program administered by the National Parks Service. Properties within the Town's Historic National District are subject to review by the Beaufort Historic Preservation Commission (BHPC) only if they are also within the Historic Local District boundaries or if they are designated as a local landmark.

D) EC Entry Corridor Overlay District.

There is a need to enhance the entryways into the Town to maintain the historical context and aesthetics of the community. There are three main entry corridors points providing access to the Town which in turn will be the core of the Entry Overlay Corridor District. These overlay districts will enhance the arrival experience and create a sense of identity utilizing streetscape, landscape, and transportation strategies which can be implemented within roadway rights-of-way.

Land Development Ordinance for the Town of Beaufort

E) A-ED Airport Environmental District.

1) Purpose.

The objective of the Airport Environmental District (A-ED) is to establish noise mitigation measures and to provide mechanisms for the notification of property owners around the airport of potential noise and vibration impacts from the Michael J. Smith Field.

2) Applicability.

The A-ED applies to designated property in the vicinity of the Michael J. Smith Field.

- a) The district regulations are imposed in addition to those of the underlying zoning district(s) regulations.
- b) None of the provisions of the A-ED regarding noise and vibration reduction shall be construed to prohibit the continuance, expansion, or reestablishment of any existing land use. The noise level reduction design standards only apply to new development of land and not to the expansion of or to structural additions of existing properties or existing uses within this district.
- c) Nothing in this district is intended to state that objectionable levels of noise from overhead aircraft will be confined to the limits of this district.

3) A-ED Boundary.

The Increased Noise Potential Zone boundary extends outward of 1,200 feet from the centerline of each of the current and future airport runways as shown on the Federal Aviation Administration’s (FAA) Official Map.

4) A-ED Requirements.

The following are required for all new properties and for all property transfers located within the increased noise potential zone.

- a) Noise Abatement Building Requirements: New construction of structures intended for residential occupancy shall be designed to achieve an outside to inside noise reduction level of at least 30 decibels (dB). This performance measure may be achieved by any suitable combination of building design, building materials, and construction standards so as to reduce the interior noise levels from potential overhead aircraft flights. Prior to the issuance of a residential use building permit in the A-ED Zone, construction methods and materials being used to construct the residential use will be reviewed to make sure they achieve at least a 30 dB noise reduction.

See page 121, for the A-ED and A-RE map.

F) A-RE Airport Runway Exclusion District.

1) Purpose.

The intent of the Airport Runway Exclusion District (A-RE) is to reduce high density development in zones with high aircraft possibilities and where a crash could result in catastrophic loss of life, structure, and property. It is also to encourage development which is compatible to the airport use characteristics within the intent and purpose of the zoning. The intent is to also provide public notice on the Carteret County land records indicating the properties which could be subjected to an airport crash.

- 2) Applicability. The A-RE applies to designated property in the vicinity of the Michael J. Smith Field. These district regulations are imposed in addition to those of the underlying zoning district(s).

Land Development Ordinance for the Town of Beaufort

3) A-RE Boundaries.

For runways labeled 8-26, 14-32, and 3-21, the runway protection zone (RPZ) shall be described as follows: a 500-foot line parallel to and 200 feet from the end of each runway, two line extending 1,000 feet away from the airport from each end of the line parallel to the end of the runway, and a fourth line 700 feet long and parallel to the 500 foot line which connects both of the 1,000 foot lines. For all of the runways, current and future, the end of the runway shall be determined by the Airport Authority and the center line of the trapezoid protection zone shall be in line with the centerline of the runway. The A-RE District is shown on the Federal Aviation Administration’s (FAA) Official Map and a copy is retained at Town Hall in Beaufort, N.C.

4) A-RE Requirements.

- a) Require any new construction not to exceed a height of 25 feet and if required, to file a Form 7460-1 to the FAA indicating construction activities will be occurring at certain times and what types of equipment may be used. An example of Form 7460-1 can be found on page 119 herein.
- b) Notwithstanding the permitted uses listed within the zoning regulations, the following uses are not permitted within the RPZ: fuel storage, multifamily residential, schools or day care facilities, churches, hospitals or medical clinics, office and professional buildings exceeding 10,000 cumulative square feet of heated space per acre, commercial retail buildings exceeding 10,000 cumulative square feet of heated space per acre, public safety, public cultural uses, and public recreation.
- c) Lighting and electronics signals that interfere with air traffic, communications, or navigational aids are prohibited as determined by the FAA.

5) A-RE Existing Nonconforming Exception.

When an existing nonconforming structure and/or use is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored to its pre-event dimensions on the pre-event footprint provided the structure meets all applicable building codes.

However if a nonconforming structure and/or use is discontinued for any reason for a continuous period of one hundred eighty (180) days or superseded at any time by a permitted use, any subsequent use of the land shall conform fully to this Ordinance.

See page 121, for the A-ED and A-RE map.

G) CZ Companion District – Conditional Zoning.

The Companion Conditional Zoning Districts set forth herein are authorized by N.C. Gen. Stat. §703(b). Companion Conditional Zoning Districts are districts which parallel general zoning districts outlined in this Ordinance. Companion Districts-Conditional Zoning are identical to their corresponding general zoning district in all respects except that only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the conditional zoning regulations.

Land Development Ordinance for the Town of Beaufort

Table 10-1 Overlay/Conservation Zoning Districts Table of Uses

Land Development Ordinance Uses		OS	H-L	H-N	EC	A-ED	A-RE	CZ
Residential Uses								
Group Living	Assisted Living						N	
	Dormitory						N	
	Group Home						N	
	Nursing Home						N	
Household Living	Accessory Dwelling Unit						N	
	Dwelling, Duplex/Townhome						N	
	Dwelling, Multi-Family						N	
	Dwelling, Single-Family						P	
	Manufactured Home						P	
	Manufactured Home Park						N	
	Recreational Vehicle Park						N	
Mixed Uses								
	Mixed Use						S	
Public/Institutional Uses								
Aviation	Airport/Landing Strip						P	
Cemeteries/ Graveyards	Cemetery/Graveyard						P	
Cultural Facilities	Library						S	
	Museum						S	
Day Care	Day Care Center						N	
	Day Care/Child Care Home							
Government Services	Government/Non-Profit Owned/Operated Facilities & Services							
	Public Safety Station						S	
	Public Utility Facility							
Hospitals	Hospital						N	
Park and Athletic Fields, Public Use	Athletic Field, Public	P					S	
	Community Garden	P						
	Neighborhood Recreation Center, Public							
	Outdoor Amphitheater, Public						S	
	Park, Public						P	
	Resource Conservation Area	P						
Religious Uses	Religious Institution						N	
Educational Uses	Preschool						N	
	School, K-12						N	
	School, Post-Secondary						N	
Non-Governmental Facilities	Transportation Facility						S	
	Utility Facility						S	
	Utility Minor						S	
Agricultural Uses	Agritourism							
	Aquaculture							
	Farming, General						P	
	Forestry						P	
	Produce Stand/Farmers' Market							

Non-Permitted

Permitted Use

Special Use

Land Development Ordinance for the Town of Beaufort
Table 10-1 Overlay/Conservation Zoning Districts Table of Uses

Land Development Ordinance Uses		OS	H-L	H-N	EC	A-ED	A-RE	CZ
Commercial Uses								
Animal Services	Kennel, Indoor Operation Only							
	Kennel, Indoor/Outdoor Operation							
Assembly	Club, Lodge, or Hall						N	
Financial Institutions	Financial Institution						S	
Food and Beverage Services	Microbrewery						S	
	Restaurant, with Drive-Thru Service						N	
	Restaurant, with Indoor Operation						N	
	Restaurant, with Outdoor Operation						N	
	Tavern/Bar/Pub with Indoor Operation						N	
	Tavern/Bar/Pub with Outdoor Operation						N	
Offices	Office: Business, Professional, or Medical						S	
	Office: Small Business							
Public Accommodations	Bed & Breakfast						N	
	Hotel or Motel						N	
Indoor Recreation & Entertainment Privately Owned	Adult Entertainment						N	
	Amusement Establishment						N	
	Commercial Indoor Recreation Facility						N	
	Neighborhood Recreation Center Indoor/Outdoor, Private						N	
	Pool Hall or Billiard Hall						N	
	Theater, Large						N	
	Theater, Small						N	
Outdoor Recreation & Entertainment, Privately Owned	Athletic Field, Private							
	Commercial Outdoor Amphitheater						N	
	Commercial, Outdoor Recreation Facility						S	
	Golf Course, Privately-Owned							
	Golf Driving Range							
Retail Sales and Services	Motor Vehicle Raceway						N	
	Adult-Oriented Retail Establishment						N	
	Convenience Store						N	
	Mortuary/Funeral Home/Crematorium						N	
	Liquor Store						N	
	Personal Service Establishment						N	
Vehicle Storage Facilities	Retail Store						N	
	Dry Boat Storage						S	
	Marina						S	
	Parking Lot						S	
Vehicles and Equipment Facilities	Parking Structure						S	
	Boat Sales/Rentals						S	
	Car Wash						S	
	Gas/Service Station						N	
	Heavy Equipment Sales/Rentals						S	
	Heavy Vehicle Repair						S	
	Moped/Golf Cart Sales/Rentals						S	
	Motor Vehicle Sales/Rentals						S	
	Towing & Vehicle Storage						S	
Vehicle Services						S		

Non-Permitted

Permitted Use

Special Use

Land Development Ordinance for the Town of Beaufort
Table 10-1 Overlay/Conservation Zoning Districts Table of Uses

Land Development Ordinance Uses		OS	H-L	H-N	EC	A-ED	A-RE	CZ
Industrial Uses								
Industrial Service Uses	General Industrial Service						S	
Manufacturing and Production Uses	Manufacturing, Heavy						S	
	Manufacturing, Light						S	
	Resource Extraction							
Telecommunications Facilities	Antenna Co-Location on Existing Tower						N	
	Concealed (Stealth) Antennae & Towers							
	Other Building-Mounted Antennae & Towers							
	Other Freestanding Towers						N	
Warehouse and Freight Movement Uses	Commercial Waterfront Facility						S	
	Hazardous Material Storage							
	Mini-Storage						P	
	Outdoor Storage							
	Warehousing and Distribution Establishment							
Waste-Related Uses	Wholesale Establishment							
	Recycling and Salvage Operation							
Accessory Uses and Structures								
Accessory Uses	Carport							
	Dock	S						
	Garage, Private Detached							
	Home Occupation							
	Outdoor Retail Display/Sales							
	Satellite Dish Antenna							
	Shed							
	Signs, Commercial Free-Standing							
	Swimming Pool (Personal Use)							
	Temporary Construction Trailer							
Vehicle Charging Station								

Non-Permitted

Permitted Use

Special Use

Land Development Ordinance for the Town of Beaufort

Airport Overlay District Form and Maps

NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION

§ 77.7 Form and time of notice.

If you are required to file notice under §77.9, you must submit to the FAA a completed FAA Form 7460-1, Notice of Proposed Construction or Alteration. FAA Form 7460-1 is available at FAA regional offices and on the Internet.

You must submit this form at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest.

If you propose construction or alteration that is also subject to the licensing requirements of the Federal Communications Commission (FCC), you must submit notice to the FAA on or before the date that the application is filed with the FCC.

If you propose construction or alteration to an existing structure that exceeds 2,000 ft. in height above ground level (AGL), the FAA presumes it to be a hazard to air navigation that results in an inefficient use of airspace. You must include details explaining both why the proposal would not constitute a hazard to air navigation and why it would not cause an inefficient use of airspace.

The 45-day advance notice requirement is waived if immediate construction or alteration is required because of an emergency involving essential public services, public health, or public safety. You may provide notice to the FAA by any available, expeditious means. You must file a completed FAA Form 7460-1 within 5 days of the initial notice to the FAA. Outside normal business hours, the nearest flight service station will accept emergency notices.

§ 77.9 Construction or alteration requiring notice.

If requested by the FAA, or if you propose any of the following types of construction or alteration, you must file notice with the FAA of:

Any construction or alteration that is more than 200 ft. AGL at its site.

Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:

100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.

50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.

25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.

Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.

Any construction or alteration on any of the following airports and heliports:

A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications;

A military airport under construction, or an airport under construction that will be available for public use;

An airport operated by a Federal agency or the DOD.

An airport or heliport with at least one FAA-approved instrument approach procedure.

You do not need to file notice for construction or alteration of:

Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in the congested area of a city, Town, or settlement where the shielded structure will not adversely affect safety in air navigation;

Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA- approved siting criteria or an appropriate military service siting criteria on military airports, the location and height of which are fixed by its functional purpose;

Any construction or alteration for which notice is required by any other FAA regulation.

Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.

Mail Processing Center Federal
Aviation Administration Southwest
Regional Office Obstruction
Evaluation Group 2601 Meacham
Boulevard
Fort Worth, TX 76193 Fax:
(817) 321-7765
Phone: (817) 321-7750

Website: <https://oeaaa.faa.gov>

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INSTRUCTIONS FOR COMPLETING FAA FORM 7460-1

PLEASE TYPE OR PRINT

ITEM #1. Please include the name, address and phone number of a personal contact point as well as the company name. ITEM #2. Please include the name, address and phone number of a personal contact point as well as the company name. ITEM #3. New Construction would be a structure that has not yet been built.

Alteration is a change to an existing structure such as the addition of a side mounted antenna, a change to the marking and lighting, a change to power and/or frequency, or a change to the height. The nature of the alteration shall be included in ITEM #21 "Complete Description of Proposal".

Existing would be a correction to the latitude and/or longitude, a correction to the height, or if filing on an existing structure which has never been studied by the FAA. The reason for the notice shall be included in ITEM #21 "Complete Description of Proposal".

ITEM #4. If Permanent, so indicate. If Temporary, such as a crane or drilling derrick, enters the estimated length of time the temporary structure will be up.

ITEM #5. Enter the date that construction is expected to start and the date that construction should be completed. ITEM #6. Please indicate the type of structure. DO NOT LEAVE BLANK.

ITEM #7. In the event that obstruction marking and lighting is required, please indicate type desired. If no preference, check "other" and indicate "no preference" DO NOT LEAVE BLANK. NOTE: High Intensity lighting shall be used only for structures over 500' AGL. In the absence of high intensity lighting for structures over 500' AGL, marking is also required.

ITEM #8. If this is an existing tower that has been registered with the FCC, enter the FCC Antenna Structure Registration number here.

ITEM #9 and #10. Latitude and longitude must be geographic coordinates, accurate to within the nearest second or to the nearest hundredth of a second if known. Latitude and longitude derived solely from a hand-held G P S instrument is NOT acceptable. A hand-held GPS is only accurate to within 100 meters (328 feet) 95 percent of the time. This data, when plotted, should match the site depiction submitted under ITEM #20.

ITEM #11. NAD 83 is preferred; however, latitude and longitude may be submitted in NAD 27. Also, in some geographic areas where NAD 27 and NAD 83 are not available other datum may be used. It is important to know which datum is used. DO NOT LEAVE BLANK.

ITEM #12. Enter the name of the nearest city and state to the site. If the structure is or will be in a city, enter the name of that city and state. ITEM #13. Enter the full name of the nearest public-use (not private-use) airport or heliport or military airport or heliport to the site.

ITEM #14. Enter the distance from the airport or heliport listed in #13 to the structure. ITEM #15. Enter the direction from the airport or heliport listed in #13 to the structure.

ITEM #16. Enter the site elevation above mean sea level and expressed in whole feet rounded to the nearest foot (e.g. 17'3" rounds to 17', 17'6" rounds to 18'). This data should match the ground contour elevations for site depiction submitted under ITEM #20.

ITEM #17. Enter the total structure height above ground level in whole feet rounded to the next highest foot (e.g. 17'3" rounds to 18'). The total structure height shall include anything mounted on top of the structure, such as antennas, obstruction lights, lightning rods, etc.

ITEM #18. Enter the overall height above mean sea level and expressed in whole feet. This will be the total of ITEM #16 + ITEM #17. ITEM #19. If an FAA aeronautical study was previously conducted, enter the previous study number.

ITEM #20. Enter the relationship of the structure to roads, airports, prominent terrain, existing structures, etc. Attach an 8-1/2" x 11" non-reduced copy of the appropriate 7.5 minute U.S. Geological Survey (USGS) Quadrangle Map MARKED WITH A PRECISE INDICATION OF THE SITE LOCATION. To obtain maps, contact USGS at 1-888-275-8747 or via internet at "http://store.usgs.gov". If available, attach a copy of a documented site survey with the surveyor's certification stating the amount of vertical and horizontal accuracy in feet.

ITEM #21.

For transmitting stations, include maximum effective radiated power (ERP) and all frequencies.

For antennas, include the type of antenna and center of radiation (Attach the antenna pattern, if available).

For microwave, include azimuth relative to true north.

For overhead wires or transmission lines, include size and configuration of wires and their supporting structures (Attach depiction).

For each pole/support, include coordinates, site elevation, and structure height above ground level or water.

For buildings, include site orientation, coordinates of each corner, dimensions, and construction materials.

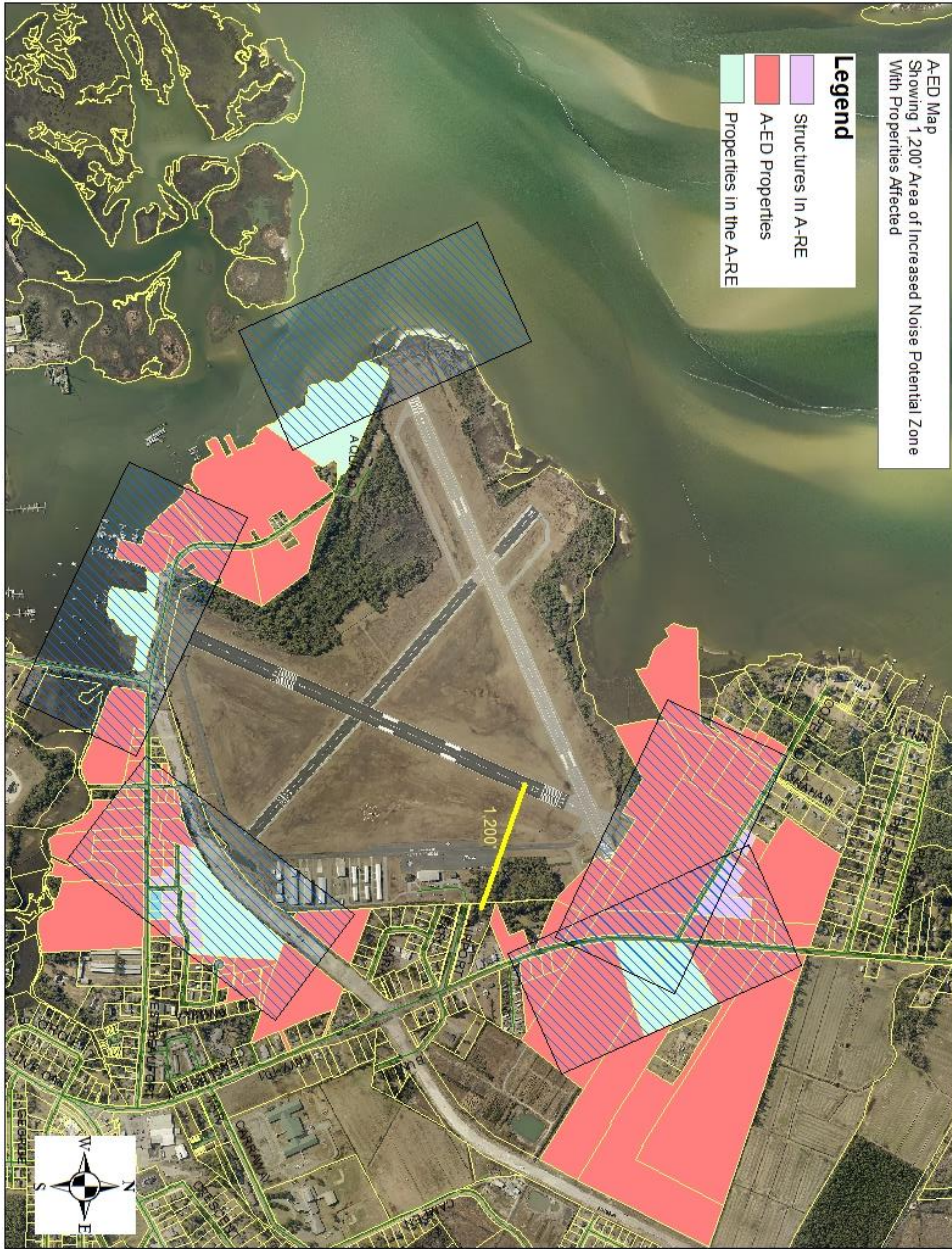
For alterations, explain the alteration thoroughly.

For existing structures, thoroughly explain the reason for notifying the FAA (e.g. corrections, no record or previous study, etc.).

Filing this information with the FAA does not relieve the sponsor of this construction or alteration from complying with any other federal, state or local rules or regulations. If you are not sure what other rules or regulations apply to your proposal, contact local/state aviation's and zoning authorities.

Paperwork Reduction Work Act Statement: This information is collected to evaluate the effect of proposed construction or alteration on air navigation and is not confidential. Providing this information is mandatory or anyone proposing construction or alteration that meets or exceeds the criteria contained in 14 CFR, part 77. We estimate that the burden of this collection is an average 19 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB control number associated with this collection is 2120-0001. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES-200.

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SECTION 11 Nonconformities

A) Intent.

Nonconforming situations may continue subject to certain limitations until they are removed, discontinued, or made conforming. Nonconforming situations shall not be enlarged, expanded, extended, enhanced, or used as grounds for adding other prohibited structures or prohibited uses. Nonconforming uses are declared to be incompatible with permitted uses within the various zoning districts.

B) Application.

This Ordinance shall affect all land, structures, and uses of land and structures and shall apply as follows:

1) New Uses and Construction.

After the effective date of this Ordinance, all new uses, structures, and development shall comply with this Ordinance, including their specific zoning district regulations.

2) Conforming Uses and Structures.

Land, structures, and uses of land or structures which comply with this Ordinance including the zoning district regulations, may be continued provided any structural changes, additions, or changes in use must conform fully to this Ordinance.

3) Nonconforming Uses and Structures.

Nonconforming situations may be continued only subject to the limitations stated herein and should eventually be discontinued under the provisions of this Ordinance.

C) Continued Use of Nonconforming Property.

Nonconforming properties may be continued in use as set forth below:

1) Nonconforming Lots of Record.

In any zoning district permitting residential dwellings by right, a residential dwelling and customary accessory building may be erected on any single nonconforming lot lawfully recorded before the adoption of this Ordinance or amendment hereto provided this single lot is not adjacent to another lot of record under the same ownership and, if combined, would allow for the meeting of all area and setback requirements established within this Ordinance. This provision shall apply if the single lot fails to meet the minimum lot size or width requirement of the zoning district. Yard space and other dimensional requirements of the zoning district shall continue to apply; however, variances of such requirements shall be obtained by action of the BOA except no petition for a variance is necessary if other yard spaces are met and the following setbacks are met:

Table 11-1 Minimum Nonconforming Lot Requirements

<i>Width – Lot of Record</i>	<i>Side Setback</i>	<i>Front Setback</i>
30-49 feet	5 feet	15 feet
50-59 feet	6 feet	15 feet
60-69 feet	7 feet	20 feet

2) Adjoining Lots.

Land Development Ordinance for the Town of Beaufort

When two or more lots with continuous frontage are in single ownership at any time after the adoption of this Ordinance and such lots are individually less than the minimum area or width required in a district, such lots shall be considered as a single lot or several lots of required area and width (if sufficient land exists) and shall be combined to the extent necessary to achieve a lot or lots of the area and width required in the district. Such lots shall comply with all yard space and other dimensional requirements of the district.

D) *Nonconforming Structure.*

A lawful structure which existed at the time of adoption or amendment of this Ordinance, or was grandfathered under the previous zoning ordinance, but which does not comply with this Ordinance by other restrictions relating to the structure, may be continued so long as it remains otherwise lawful, subject to the following limitations:

1) Enlargements, Alterations.

Nonconforming structures shall not be enlarged and shall not be altered in any way which increases their nonconformity, but may be altered to minimize their nonconformity.

2) Moving.

If nonconforming structures are moved off the lot or moved within the lot for any reason, they shall thereafter conform to the regulations of the Ordinance.

3) Repairs and Maintenance.

Ordinary maintenance, repairs, and alterations of a nonconforming structure are permitted provided they do not increase the area or the nonconformity. Normal maintenance, repairs, and alterations shall be considered work not exceeding fifty percent (50%) of the structure's replacement cost within any twelve-month consecutive period.

4) Deteriorated and Dilapidated Structures.

If any nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by an authorized official to be unsafe or unlawful by reason of its physical condition, the structure shall not be restored, repaired, or rebuilt except in conformity with this Ordinance. This shall not prevent strengthening or restoring to a basically safe condition of any unsafe building or part thereof directed by the authorized official charged with protecting public health or safety.

5) Substantially Damaged Structures.

If a nonconforming structure or nonconforming portion of a structure is damaged or destroyed by any means to an extent greater than fifty percent (50%) of its replacement cost at the time of the damage, it may be reconstructed only in conformity with this Ordinance.

6) Residential Exception.

When a single-family residential nonconforming structure is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored to its pre-event dimensions on the pre-event footprint provided the structure meets all applicable building codes.

E) *Nonconforming Uses.*

A use of land and/or structure which was lawful prior to the adoption of this Ordinance but which does not comply with the use regulations of this Ordinance, may be continued so long as it remains otherwise subject to the following provisions:

1) Extensions, Enlargements.

No nonconforming use of land or structures shall be enlarged, expanded, increased, or extended beyond the floor space and land area occupied or be carried on in a more intensive manner than

Land Development Ordinance for the Town of Beaufort

existed at the time of the adoption of this Ordinance, except a nonconforming use may be extended within a structure to any parts already clearly arranged and designed for such use.

2) Relocation on Lot.

No nonconforming use of land shall be relocated or significantly rearranged in whole or in part on the same lot unless it thereafter conforms to this Ordinance.

3) Discontinuance.

If active operation of a nonconforming use is discontinued for any reason for a continuous period of one hundred eighty days or superseded at any time by a permitted use, any subsequent use of the land shall conform fully to this Ordinance.

4) Changes of Use.

A nonconforming use of land (only) shall not be changed to any use other than a use permitted in the zoning district. A nonconforming use of a structure and premises may be changed to another nonconforming use if:

- a) No significant structural alterations are made; and,
- b) The approved new use is more in character with the uses normally permitted in the zoning district than the previous nonconforming use.

5) Deteriorated and Dilapidated Structures.

If a structure or part thereof occupied by a nonconforming use is damaged, destroyed, or becomes deteriorated to an extent greater than fifty percent (50%) of its replacement cost at the time of damage or discovery of deterioration, the structure may not be repaired for or to a nonconforming use.

6) Uses Permitted as Special Uses.

Any use which is permitted as a special use in a district shall not be considered a nonconforming use but shall, without the necessity of further action, be considered a conforming use. This provision shall not diminish the right of the Board of Commissioners (BOC) to impose conditions on such use in a proceeding initiated by any interested part and considered in the manner of a special use.

7) Residential Exceptions.

Nonconforming single-family detached residential uses shall comply with all requirements of this section. However, an existing nonconforming single-family detached residential use may be enlarged, expanded, and/or altered provided no enlargement, expansion, or alteration will:

- a) Result in the structure exceeding building height limits in the zoning district;
- b) Reduce the building site area required in the zoning district; and,
- c) Encroach into any required front yard, side yard, and rear yard setback areas. If approved, such use shall be considered a special use, and may be accompanied by appropriate conditions and safeguards as required by this Ordinance.

SECTION 12 Home Occupations

A) **Intent and Purpose.**

The Town recognizes the desire and/or need for some citizens to use their residence for limited nonresidential activities. However, the Town believes the need to protect the integrity of residential areas is of paramount concern. A "home occupation" zoning provision, therefore, should protect residential areas from adverse impacts resulting from activities associated with home occupations. It is important to allow but to also to regulate some nonresidential activities in the Town's residential districts. In essence, a "home occupation" is a limited commercial-type activity in a residential area to an extent no neighbors or passersby will be aware, by outward appearance, of the activity. In practice, a "home occupation" gives the resident the legal right to use one's residence for limited business activities but not to the extent significant pedestrian and vehicular traffic is generated.

B) **Performance Criteria.**

A home occupation shall meet the following minimum conditions:

- 1) The activity shall not be inconsistent with the use of the premises as dwelling.
- 2) Only residents of the dwelling unit shall work there.
- 3) There shall be no exterior evidence of the conduct of a home occupation, except as specified in Section 12(C). Thus, there may be no display of products visible in any manner from the outside of the home.
- 4) A home occupation shall be conducted in an enclosed area of a primary or accessory structure. It shall not occupy over twenty-five percent (25%) of the combined floor space of the primary and accessory structures. No portion of a home occupation shall be conducted outside the primary residence or accessory structure.
- 5) Electrical or mechanical equipment which creates electromagnetic interference or causes fluctuations in line voltage outside the dwelling unit or creates noise not normally associated with residential uses shall be prohibited.
- 6) On-site sale of goods or services not produced on the premises shall be prohibited.
- 7) A home occupation shall not create a significant increase, as determined by the Zoning Administrator, in vehicular or pedestrian traffic to the residence.
- 8) A home occupation shall not require additional off-street parking spaces for clients or customers of the home occupation.
- 9) No home occupation shall result in garbage disposal exceeding standard residential use.
- 10) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.

C) **Permitted Signs.**

More information on signs can be found in Section 16 of this Ordinance. An indirectly lighted name plate or professional sign not over one square foot (1 ft²) in area and attached flat against the building shall be permitted in connection with an incidental home occupation.

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D) Inspections.

The Town shall have the right at any time, upon reasonable request and with the consent of the property owner, to enter and inspect the premises for safety and compliance purposes. The Town shall also have all the remedies set forth in Section 28, Enforcement, herein to address any violations of this section.

SECTION 13 Parking Requirements

A) **Intent.**

These regulations are intended to provide off-street parking, stacking, and loading facilities in proportion to the need created by each use. These regulations are intended to provide for accommodation vehicles in a functionally and aesthetically satisfactory manner and to minimize external effects on adjacent land uses.

B) **Number of Parking Spaces Required.**

1) Limitations.

All developments in all zoning districts other than the Historic Business District and the Historic Waterfront Business District (H-BD & H-WBD) shall provide a sufficient number of parking spaces to accommodate the number of vehicles which ordinarily are likely to be attracted to the development in question. For any mixed-use development created after the adoption of this Ordinance which cannot meet the residential off-street parking requirement for their proposed development, the owner/developer shall be required to contribute \$10,000 per parking space needed into a parking fund which will be used by the Town to acquire property as it becomes available for off-street parking for these residential purposes.

2) Presumptions.

The presumptions established by this section are established in all other zoning districts:

- a) A development must comply with the parking standards set forth in subsection 13(B)(4) of this section to satisfy the requirement stated in Section 13(B)(1); and,
- b) Any development which meets these standards is in compliance. However, Table 13-1 of this section is only intended to establish a presumption of parking demand and should be flexibly administered, as provided in Section 13(C).

3) Standards.

Standards set forth in Table 13-1 of this section are indicated by the respective land uses associated within the development. When a determination of the number of parking spaces required by this table results in a fractional parking space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one additional parking space.

4) Table of Parking Requirements.

Table 13-1 of this section shall prescribe the number of parking spaces required for the respective uses when the existing or proposed development is less than twenty-five thousand square feet (25,000 ft²). For all existing, proposed, or combination thereof of development which is twenty-five thousand square feet (25,000 ft²) or more, there shall be a corresponding twenty percent (20%) decrease in the number of parking spaces required for this actual use. Table 13-1 of this section cannot and does not cover every possible situation which may arise. Therefore, in cases not specifically covered, the Zoning Administrator is authorized to determine the parking requirements using the following table as a guide.

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Table 13-1 Table of Parking Requirements

General Uses		
1.00	<i>Use</i>	<i>Off-Street Parking</i>
1.01	Single-family detached, one dwelling unit/lot	2 spaces/dwelling unit + one space/room rented out.
	Single-family detached, more than one dwelling unit/lot	
1.02	Two-family residences	2 spaces/ each dwelling unit, except one-bedroom units require only one space.
1.03	Home occupations	No additional spaces allowed.
1.04	Homes emphasizing special services, treatment, or supervision such as homes for the handicapped, nursing homes, and halfway houses	1 space/each 3 patient beds and 1 space/ every 2 staff members at the peak period.
1.05	Bed and Breakfasts and other temporary residences renting by the day or week.	1 space/each room to be rented + additional space (in accordance with other sections of this table) for restaurant, office, or other facilities.
1.06	Hotels, motels, and similar businesses providing overnight accommodations	1 space/every guest room + 5.
1.07	Multi-family	2 parking spaces for each individual dwelling unit with up to 3 bedrooms and 1 additional space per unit for each bedroom over 3.
1.08	Elderly housing, assisted living, independent living	0.6/dwelling unit.

Sales and Rentals of Goods, Merchandise, and Equipment Uses		
2.00	<i>Use</i>	<i>Off-Street Parking</i>
2.01	Automobile sales	1 space/every 600 ft ² of sales floor area.
2.02	Manufactured/modular home sales	1 space/every 400 ft ² of gross floor area.
2.03	Roadside stands any other types of outdoor sales including open air markets.	1 space/1,000 ft ² of gross sales lot area.
2.04	Grocery stores, music stores, art stores, gift shops, sporting goods stores, hobby stores, bookstores, pet shops, pawn shops, pharmacies, department stores, variety stores, alcoholic beverage stores, package and retail sales, and similar retail establishments.	1 space/300 ft ² of gross floor area.
2.05	Furniture stores, hardware stores, appliance stores, builder's supply and equipment sales, lumber yards, machine shops, and similar retail establishments.	1 space/600 ft ² of gross floor area.
2.06	Wholesale commercial sales	1 space/every 1,000 ft ² of gross floor area.
2.07	Shopping centers and malls	1 space/each 250 ft ² of gross floor area.

Office, Clerical, Research, Educational Institutions, and Services Not Primarily Related to Goods or Merchandise Uses		
3.00	<i>Use</i>	<i>Off-Street Parking</i>
3.01	Offices of attorneys, physicians, other professionals, insurance and stockbrokers, travel agents, government office buildings, etc.	1 space/250 ft ² of gross floor area.

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Office, Clerical, Research, Educational Institutions, and Services Not Primarily Related to Goods or Merchandise Uses		
3.00	<i>Use</i>	<i>Off-Street Parking</i>
3.02	Studios for artists, designers, photographers and other similar activities	1 space/400 ft ² of gross floor area.
3.03	Financial institutions	1 space/200 ft ² of gross floor area.
	Financial institutions with drive through windows	1 space/250 ft ² of gross floor area within main building + reservoir land capacity equal to 2 spaces/drive-thru lane.
3.04	Schools, public and private	1½ spaces/classroom in elementary/middle schools; 5 spaces/classroom in high schools/colleges.
3.05	Libraries, public and private	1 space/250 ft ² of gross floor area.
3.06	Social, fraternal clubs and lodges, union halls, and similar uses	1 space/300 ft ² of gross floor area.
3.07	Churches, synagogues, and other religious uses and their associated uses (not including schools)	1 space/every 4 seats in the main assembly area + 1 space/200 ft ² of gross floor area designed to be used neither for residential nor for assembly.

Service Uses		
4.00	<i>Use</i>	<i>Off-Street Parking</i>
4.01	Bakeries, florists, beauty/barber shops, etc.	1 space/300 ft ² of gross floor area.
4.02	Laundromats and dry-cleaning	1 space/300 ft ² of gross floor area.
4.03	Automotive repair, service stations, tire sales and service, and similar uses	1 space/every service bay or 1 space/250 ft ² of gross floor area, whichever is greater.
4.04	Car wash	<i>Conveyor operation</i> – 1 space/every 3 employees on the maximum shift + reservoir capacity equal to 2 times the capacity of the washing operation.
		<i>Self-service operation</i> – 1 space for drying and cleaning purposes/stall + 1 reservoir space in front of each stall.
4.05	Service shops, such as electronic and electrical equipment repair, shoe repair	1 space/300 ft ² of gross floor area.
4.06	Printing and reproduction services	1 space/250 ft ² of gross floor area.
4.07	Funeral homes and mortuaries	1 space/each 4 seats in the chapel.
4.08	Crematorium	1 space/300 ft ² of gross floor area.
4.09	Marinas	1 space/every 3 dry slips + 1 space/every 3 wet slips.
4.10	Community docking facility (major/minor)	No parking shall be required.

Industrial and Manufacturing Uses		
5.00	<i>Use</i>	<i>Off-Street Parking</i>
5.01	Manufacturing plants, bottling, cold storage, petroleum bulk, light processing, and jobbing plants, furniture manufacturing, recycling centers	1 space/1,000 ft ² of gross floor area.

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Recreation, Amusement, and Entertainment Uses		
6.00	<i>Use</i>	<i>Off-Street Parking</i>
6.01	Indoor recreation such as bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities, and similar uses	1 space/every 4 persons the facilities are designed to accommodate when fully utilized + 1 space/250 ft ² of gross floor area used in manner not susceptible to such calculation.
6.02	Movie theaters; theater, live performance	1 space/every 4 seats (a shared parking plan is strongly recommended for this use).
6.03	Publicly or privately owned outdoor recreational facilities (including golf courses, country clubs, swimming or tennis clubs, athletic fields, golf courses, tennis courts, baseball fields, swimming pools, etc.) not constructed pursuant to a residential development permit	1 space/250 ft ² of area within enclosed buildings, + 1 space/every 4 persons which the outdoor facilities are designed to accommodate when used to the maximum capacity.
6.04	Miniature golf courses, skateboard parks, water slides, and similar uses	1 space/600 ft ² of area + 1 space/200 ft ² of building gross floor area.
6.05	Golf driving ranges not accessory to golf courses, and par 3 golf courses	1 space/tee + 1 space/250 ft ² of building gross floor area.
6.06	Horseback riding; non-residential stables	1 space/2 horses which could be kept at the stable when occupied to maximum capacity.
6.07	Dance halls/discotheques/night clubs, taverns, bars, restaurants	1 space/every 4 persons where the facilities are designed to accommodate when fully utilized.
6.08	Museums and art galleries	1 space/300 ft ² of gross floor area.

Institutional Residential Care or Confinement Facilities Uses		
7.00	<i>Use</i>	<i>Off-Street Parking</i>
7.01	Hospitals, clinics, other medical (including mental health) facilities	1 space/every 2 beds and 1/every 3 employees on maximum shift.
7.02	Nursing care institutions, intermediate care institutions, handicapped or infirmed institutions, childcare institutions	2 spaces/every 5 beds and 1/every 3 employees on maximum shift.
7.03	Family care homes, group homes	2 spaces/dwelling + 1 space for every 5 beds.

Other Uses		
8.00	<i>Use</i>	<i>Off-Street Parking</i>
8.01	Day care centers, nurseries, and preschools	1 space/1 employee on maximum shift + reservoir land designed for drop-off and pick-up.
8.02	Airports, general aviation	1 space/every 150 ft ² of lobby area + 1 space/every 3 employees on maximum shift.
8.03	Post offices	1 space/175 ft ² of gross floor area.
8.04	Kennel, veterinarian	1 space/250ft ² of gross floor area.
8.05	Emergency services such as police, fire, rescue squad, EMS, ambulance services	1 space/250 ft ² of gross floor area.
8.06	Retail greenhouses or nurseries	1 space/300 ft ² of gross floor area.

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C) Flexibility in Administration Required.

1) Inadequate or Excessive Spaces.

The BOC recognizes, due to the particularities of any given development, the inflexible application of the parking standards set forth in Table 13-1 of this section may result in a development either with inadequate parking space or parking space far in excess of its needs. Having too few parking spaces may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby parking lots. Having too many parking spaces can waste money as well as space which could be used for valuable development or environmentally useful open space. Therefore, as suggested in Section 13(B)(1) deviations may be allowed from the presumptive requirements of Table 13-1 of this section and may require more parking or allow less parking whenever the BOC finds such deviations are more likely to satisfy the standards set forth in Table 13-1 of this section.

2) Deviations Allowed.

- a) Without limiting the generality of the foregoing, the BOC may allow deviations from the parking requirements set forth in Table 13-1 of this section when it finds:
 - i) A residential development is irrevocably oriented toward the elderly; and,
 - ii) A business is primarily oriented to walk-in trade.
- b) Whenever the Zoning Administrator allows or requires a deviation from the presumptive parking requirements set forth in Table 13-1 of this section, he/she shall enter on the face of the permit, the parking requirements which the Zoning Administrator imposes and the reasons for allowing or requiring the deviation.

3) Erroneous Calculations.

If the Zoning Administrator concludes, based upon information it receives in the consideration of a specific developmental proposal, the presumption established by Table 13-1 of this section for a particular classification is erroneous, the Zoning Administrator shall initiate a request for an amendment to the table in accordance with the procedures set forth in Section 3 of this Ordinance.

D) Dimensional Standards for Parking Spaces and Aisles.

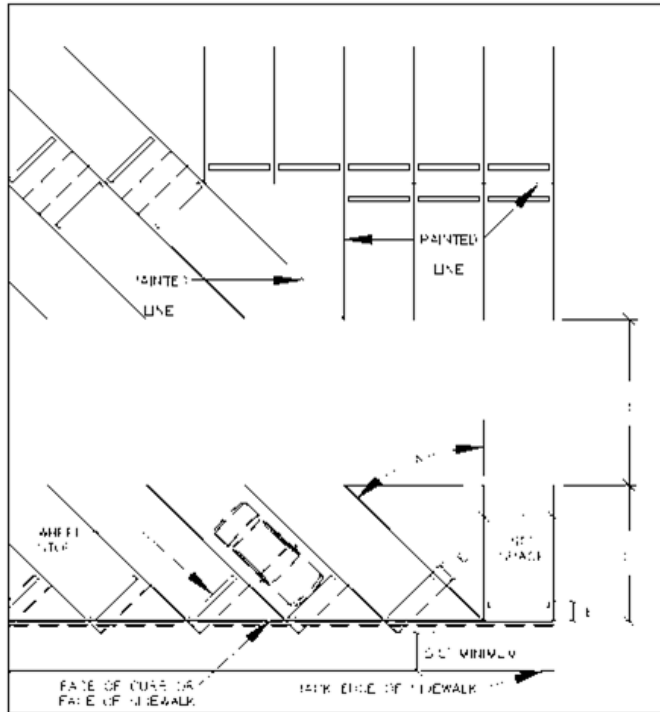
Parking aisle widths shall conform to the following table:

Table 13-2 Minimum Dimensional Standards for Parking Spaces and Aisles

A – Parking Angle	B – Stall Width	C – Stall Depth/Length	D – Aisle Width for Two-Way Traffic ¹
2 0°	8'	8'	22'
45°	9'	18'	22'
60°	9'	18'	22'
90°	9'	18'	24'
Compact spaces ³	8'	16'	22'
E – Wheel Stop Placement: the face of the wheel stop should be located 2½' away from the front of the space.			
¹ May be reduced by ½ for aisles proposed for one-way traffic except for 90° parking stalls.			
² Length of space = 22'.			
³ In parking areas containing ten or more parking spaces, up to 25% of the spaces provided can be for compact vehicles. Compact spaces shall be conspicuously designated with signage or pavement markings.			

Handicapped parking spaces shall comply with the minimum standards established by the North Carolina State Building Codes. In the event a dimension is not specified, it shall meet the minimum requirement(s) of a standard parking space established within this section.

Table 13-3 Measurement Points of Dimensional Standards



- 1) Driveways shall not be less than ten feet (10') in width for one-way traffic and eighteen feet (18') in width for two-way traffic, except ten feet (10') wide driveways are permissible for two-way traffic when all the following conditions are satisfied:
 - a) The driveway provides access to not more than four spaces; and,
 - b) Sufficient turning space is provided so vehicles need not back into a public street.
- 2) Driveways which provide access to service areas and unmanned public or private utilities, such as power, water, or communication facilities, are not intended to be used by the general public and can be served by a ten foot (10') wide, two-way driveway provided:
 - a) The driveway provides access to not more than one parking space;
 - b) Sufficient turning space is provided so a vehicle need not back into a public street; and,
 - c) The North Carolina Fire Code does not require additional widths.

E) **General Design Requirements.**

- 1) Unless no other practicable alternative is available, vehicle accommodation areas (VAAs) shall be designed without resorting to extraordinary movements, so vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways which serve one or two-family dwelling units, although backing onto arterial streets is discouraged.

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- 2) VAAs of all developments shall be designed so sanitation, emergency, fire, and other public service vehicles can provide service to such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- 3) Every VAA shall be designed so vehicles cannot extend beyond the perimeter of such area onto adjacent properties, designated landscaping areas, or public rights-of-way. Such areas shall also be designed so vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction. Where a strip pavement roadway is funded in a transportation program for improvement which would impact improvements required herein, the BOC may grant flexibility in considering a variance for the required protection of the public rights-of-way.
- 4) Circulation areas shall be designed so vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas. This includes the provision for stop, yield, speed limit, do not enter, and other traffic signs at their appropriate location.
- 5) VAAs of all developments which provide parking for thirty or more vehicles in one area shall be designed so all vehicles are channelized to travel in parking aisles only. The possibility of vehicles traversing diagonally across the parking lot shall be minimized by providing appropriate landscaping islands or other physical barriers at regular intervals.

F) Vehicle Accommodation Area Surfaces.

- 1) VAAs which (i) include lanes for drive-in windows, or, (ii) contain parking areas which accommodate more than ten parking spaces used regularly at least five days per week, shall be graded and surfaced with asphalt, concrete or other such material which provides equivalent protection against potholes, erosion, and dust.
- 2) VAAs which are not provided with the type of surface specified in Section 13(F)(1) shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface which is stable and will help to reduce dust and erosion. In addition, whenever such VAA abuts a paved street, the driveway leading from the street to such area (or if there is no driveway, the portion of the VAA which opens onto such streets) shall be paved as provided in Section 13(F)(1) for a distance of fifteen feet (15') back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences or other uses which are required to have only one or two parking spaces.
- 3) Parking spaces in areas surfaced in accordance with Section 13(F)(1) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Section 13(F)(1) shall be demarcated with appropriate wheel stops or other parking stall indicators.
- 4) VAAs shall be properly maintained in all respects. In particular, VAA surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- 5) All repaving, restriping, or demarcation of parking spaces in VAAs shall be approved by the Zoning Administrator before it is undertaken in order to ensure the requirements of this section are met to the extent possible and to ensure an existing parking nonconformity is not exacerbated.

G) **Joint Use of Required Parking Spaces.**

- 1) One parking area may contain required spaces for several different uses. However, except as otherwise provided in this section, the required spaces allocated for one use may not be credited to any other use.
- 2) To the extent developments wish to make joint use of the same parking spaces and who operate at different times of the day or week, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building Monday through Friday during regular business hours but is generally ninety percent (90%) vacant on weekends and another development which operates primarily on the weekends would use the business parking lot the secondary development could be credited with the ninety percent (90%) of the spaces on such lot for weekend use. Or if a place of worship's parking lot is generally occupied at fifty percent (50%) or less capacity only on days other than the days of worship, another development could make use of the unused fifty percent (50%) of the lots spaces of the place of worship on days other than those used as days of worship.
- 3) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, the provisions of Section 13(H) are also applicable.

H) **Satellite Parking.**

- 1) If the number of off-street parking spaces required by this section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site parking spaces are referred to in this section as satellite parking spaces.
- 2) All such satellite parking spaces (except spaces intended for employee use) must be located within four hundred feet (400') of the public entrance of a principal building housing the use associated with such parking, or within four hundred feet (400') of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance.
- 3) A developer wishing to take advantage of the provisions of this section must present satisfactory written evidence stating he/she has permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment stating the continuing validity of his/her occupancy permit depends upon his continuing ability to provide the requisite number of parking spaces.
- 4) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring the satellite parking areas satisfy the design requirements of this section.
- 5) Satellite parking areas must be accessible by sidewalk or other equivalent walkway.

I) **Special Provisions for Lots with Existing Buildings.**

Notwithstanding any other provisions of this section, whenever (i) there exists a lot with one or more structures on it, constructed and occupied prior to the effective date of this Ordinance, and, (ii) a change in use which does not involve any enlargement of such structures is proposed, and, (iii) the parking requirements of Table 13-1 of this section which will be applicable as a result of the proposed use change cannot be satisfied on such lot because there is not sufficient area available on the lot which can practicably be used for parking, then the developer is allowed to comply with

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the requirements of Table 13-1 of this section by use of all potential parking spaces practicably available on the lot where the development is located, and the use of satellite parking as provided in. Section 13(H) However, if satellite parking subsequently becomes unavailable, the occupancy permit authorizing the use on such lot shall be revoked and the owner or operator of the use shall discontinue the use until sufficient parking under this Ordinance is provided.

J) **Loading and Unloading Areas.**

1) Objective.

Subject to Section 13(J)(5), whenever the normal operation of any development requires routine deliveries or shipments of goods, merchandise, or equipment to or from such development, a sufficient off-street loading and unloading area shall be provided in accordance with this section to accommodate such delivery or shipment operations in a safe and convenient manner.

2) Loading Space Requirements.

The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles which are likely to use this area given the nature of the development in question. The following table indicates the number and size of spaces which, presumptively, satisfy the standard set forth in this subsection. However, the Zoning Administrator may require more or less loading and unloading area if reasonably necessary to satisfy the standard established in the table below.

Table 13-4 Loading Space Requirements

Gross Leasable Area of Building	Number of Loading Spaces
1,000 ft ² – 19,999 ft ²	1
20,000 ft ² – 79,999 ft ²	2
80,000 ft ² – 127,999 ft ²	3
128,000 ft ² – 191,999 ft ²	4
192,000 ft ² – 255,999 ft ²	5
256,000 ft ² – 319,999 ft ²	6
320,000 ft ² – 391,999 ft ²	7

Minimum dimensions of twelve feet by twenty-five feet (12' x 25') and overhead clearance of fourteen feet (14') from street grade required.

3) Location and Design.

Loading and unloading areas shall be located and designed so the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way, any parking space, or any parking lot aisle.

4) Off-Street Requirements.

No area allocated as loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

5) Change in Use Requirements.

Whenever (i) there exists a lot with one or more structures on it constructed and occupied prior to the effective date of this Ordinance, and, (ii) a change in use which does not involve any enlargement of a structure is proposed for such lot, and, (iii) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot which can practicably be used for loading and unloading, the developer need only comply with this section to the extent reasonably possible.

SECTION 14 Planting and Preservation Standards for Trees and Landscaping

A) **Purpose and Intent.**

The purpose of this section is to promote the proper planting and preservation of trees in the Town. The BOC has determined the planting and preservation of trees within the Town is not only desirable but essential to the present and future health, safety, and welfare of all the citizens. It is the intent of this section to enhance the Town by:

- Regulating the preservation of protected and exceptional trees.
- Regulating the planting of street trees.
- Providing standards for trees, shrubs and their planting.
- Providing a list of native trees, shrubs and their characteristics.

Encouraging the preservation and planting of trees is in the best interest of the health, safety and welfare of present and future citizens. This also helps the Town comply with EPA storm water Phase II rules for small municipal separate storm sewer systems. These rules govern storm water runoff, aquifer recharge, and other environmental concerns.

B) **Tree Preservation.**

It shall be unlawful to cut down any protected or exceptional specimen tree or to cut down any tree in the public right-of-way without the written approval of the Zoning Administrator.

1) **Applicability.**

This subsection applies to all trees within the Town’s planning and development regulation jurisdiction meeting the standards of a protected or exceptional tree.

2) **Exceptions.**

The provisions of this Ordinance shall have the following exemptions:

- a) All lots dedicated as a school site or a playing field or other similar non-wooded recreational areas.
- b) Any public utility, cable television company, or other such utility which clears, moves, cuts down, or destroys any trees for the purpose of erecting, installing, moving, removing, altering, or maintaining any structures or fixtures necessary for the supply of electricity, communication, network, or cable television services upon any privately owned lands in which it has acquired an easement or right-of-way.
- c) Any utility which trims trees around electrical lines and fixtures in public street rights-of-way, and other public rights-of-way, according to state or federal requirements, but only to the extent necessary for minimum compliance with state or federal requirements.
- d) Upon the advice of the Town’s Public Works Department, and in accordance with commonly accepted forestry practices, the Town may authorize the removal of trees to prevent the transmission of disease or infestation, to prevent danger of falling limbs and trees, or to prevent potential injury to life and/or property.
- e) In an emergency such as a hurricane, ice storm, fire, or other such disaster, the requirements of this Ordinance may be waived by the Town during the emergency period.
- f) Where practical difficulties or unnecessary hardships inconsistent with the purposes of this Ordinance resulting from its literal interpretation or enforcement, the Board of Adjustment

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(BOA) may vary these provisions in accordance with Section 21(I) herein upon written request by the developer or the property owner.

3) Credit for Required Landscaping.

The preservation of existing trees may be used as credit towards required landscaping as detailed in Section 15(F) of this Ordinance.

4) Private/Public Protected Tree Qualification Standards.

Protected tree includes all of the following:

- a) *Public protected tree* means any tree native to North Carolina with an eight inch (8”) or more DBH (diameter breast height), located on lands owned by the Town or other governmental agencies or authorities, or on any land upon which easements are imposed for the benefit of the Town or other governmental agencies or authorities, or upon which other ownership control may be exerted by the Town or other governmental agencies or authorities, including rights-of-way, parks, public areas, and easements for drainage, sewer, water, and other such utilities.
- b) *Private protected tree* means any tree native to North Carolina with a DBH of eight inches or more.

5) Exceptional Trees.

Exceptional specimen tree means any tree which is determined by the Town to be of unique and intrinsic value to the general public because of any of exceptional size, age, unique location, historic association, or ecological value. This includes any tree designated a Carteret County Champion by the Carteret County Tree Awareness Group.

6) Right to Appeal.

Any person may appeal any ruling or order of the Zoning Administrator or their designee(s) to the BOA who may hear the matter and make a final decision in accordance with the provisions of Section 32 herein.

7) Damaged Tree Replacement Calculations.

This includes any damage or destruction caused by willful action, negligence, or neglect. If a tree is destroyed or damaged to such an extent it is no longer viable and must be removed, the owner of the property shall be liable to replace it. The number of replacement trees shall be double the number of trees removed and the replacement trees must be eight inches (8”) DBH at time of replacement.

In addition:

- a) At least one replacement tree will be planted as near as possible to the site of the removed tree.
- b) If the required number of replacement trees cannot all be planted within the same property, the Town may designate alternate planting locations as street trees.

C) Street Tree Ordinance.

This subsection regulates trees planted in or to be planted in the public right-of-way.

1) Tree Species Allowed.

No species other than those included in Tables A-1 through A-5 of this section may be planted as street trees without written permission by the BOC or their designee(s).

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2) Spacing of Street Trees.

The spacing of street trees will be in accordance with the three species size listed below and no closer together than the following:

Table 14-1 Spacing of Street Trees

<i>Size</i>	<i>Spacing Between Trees</i>
Small Trees, 10'-20' Tall (see Appendix A, Table A-3)	Thirty feet (30')
Medium Trees, 20'-50' Tall (see Appendix A, Table A-4)	Forty feet (40')
Large Trees, 50' or Taller (see Appendix A, Table A-5)	Fifty feet (50') *

*Except in special plantings designed or approved by a landscape architect.

3) Rights of the Town.

- a) The Town shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the road right-of-way lines of all streets, alleys, avenues, lanes, squares, sidewalks, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- b) The Town may remove or order to be removed any tree or part thereof which is in an unsafe condition or, by reason of its nature, is potentially injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing the selection and location of said trees is in accordance with this subsection.
- c) The Town shall have the right to require the removal of any dead or diseased trees on private property within the Town when such tree constitutes a hazard to life and/or other property or harbors insects or disease which constitutes a potential threat to other trees within the Town. The Town will notify, in writing, the owners of such trees. Removal shall be completed by said owner at their own expense within sixty days after notification of the letter to the owner has been served. In the event of failure of said owner to comply with this provision, the Town shall have the authority to remove such trees and charge and collect the cost of the removal pursuant to N.C. Gen. Stat. §160A-193. Notwithstanding the provisions hereof, if a dead or diseased tree constitutes a threat of immediate harm to persons or property, the Town Manager is authorized to use the summary abatement provisions of N.C. Gen. Stat. §160A-193 to remove or abate such tree and to recover the costs of such removal or abatement.

4) Topping of Trees.

It shall be unlawful, as a normal practice, for any person, firm, or Town department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, certain trees located under utility wires or other obstructions, or other trees where pruning practices are impractical may be exempted from this Ordinance at the determination of the Zoning Administrator.

5) Responsibilities of Owners.

The owner of any tree or shrub shall prune the branches overhanging any street or right-of-way within the Town so such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection. There shall be a clear space of eight feet (8') above the surface of the street or sidewalk from such trees or shrubs. Such owner shall remove all dead, diseased, broken or decayed limbs, or dangerous trees or shrubs which constitute a menace to

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the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, interferes with visibility of any traffic control device or sign, or impedes upon the flow of traffic on the sidewalk.

6) Stumps.

All stumps of street and park trees shall be removed below the surface of the ground so the top of the stump shall not project above the surface of the ground.

7) Unlawful to Interfere.

It shall be unlawful for any person to prevent, delay, or interfere with the Town while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removal of any street trees, park trees, or other trees on public grounds, as authorized in this Ordinance.

D) **Standards for Planting Trees and Shrubs.**

1) Applicability.

Trees and shrubs planted in compliance with Section 14 or with Section 15 of this Ordinance shall meet or exceed the requirements of this subsection. In all other cases this subsection provides guidelines.

2) Standards for Trees.

Trees planted are encouraged to have most or all of the following qualities or shall be the best combination of these characteristics:

- Hardy;
- Resistant to extreme temperatures;
- Resistant to drought;
- Resistant to storm damage;
- Resistant to salt water when planted in low lying areas or near saltwater areas;
- Able to survive physical damage from human activity;
- Tend to branch high above the ground;
- Wide spreading growth pattern.

New trees and shrubs may be evergreen or deciduous and shall conform to the American Standard for Nursery Stock published by the American Association of Nurserymen.

3) Tree Size Measurement.

Measurements of the diameter of a tree shall be determined at DBH. In the case of multiple stems, only the largest shall be measured.

4) Minimum Installed Tree Dimensions.

When planting is required, trees shall have the following minimum dimensions unless otherwise provided in this Ordinance:

Table 14-2 Minimum Installed Tree Dimensions

<i>Tree Size Category (all trees at maturity size)</i>	<i>Minimum DBH</i>	<i>Minimum Height (at planting)</i>
Small Trees, 10'-20' Tall (see Appendix A)	1"	4'
Medium Trees, 20'-50' Tall (see Appendix A)	1.5"	6'
Large Trees, 50' or Taller (see Appendix A)	2"	8'

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5) Planting Distance from Curb, Curb Line, or Sidewalk.

The distance trees may be planted from any curb, curb line, or sidewalk will be in accordance with the three species size classes listed below and no trees may be planted closer to any curb, curb line, or sidewalk than the following:

Table 14-3 Tree Planting Distance from Curb, Curb Line, or Sidewalk

<i>Size</i>	<i>Distance from Curb, Curb Line, or Sidewalk</i>
Small Trees, 10'-20' Tall (see Appendix A)	Two feet (2')
Medium Trees, 20'-50' Tall (see Appendix A)	Three feet (3')
Large Trees, 50' or Taller (see Appendix A)	Four feet (4')

6) Distance from Street Corner and Driveways.

- a) No tree shall be planted closer than thirty-five feet (35') from any street corner except when the intersection contains a stop sign in every direction in which case no tree shall be planted within twenty feet (20') of the corner, measured from the point of the nearest intersecting curbs or curb line.
- b) No trees shall be planted in the sight triangle(s) of driveways and streets without approval from the Town's Planning and Inspections Department. On state-maintained roads, both NCDOT and Town standards shall apply.

7) Distance from Overhead Electrical Wires.

- a) No street trees other than those species designated as small trees in Section 14(E) of this Ordinance may be planted under or within ten lateral feet of any overhead electrical distribution wire.
- b) No street trees other than those species designated as small or medium trees in Section 14(E) of this section may be planted under or within fifteen lateral feet of any overhead electrical high-voltage transmission wire.

8) Distance from Underground Utilities.

- a) No trees shall be planted within five lateral feet of any underground water line, sewer line, transmission line, or other utility line.
- b) All tree plantings within the public right-of-way require a written statement from the Public Works Department determining the location where the tree is to be planted will not impact any underground municipal utilities. Applicants should call the 811 service for information on other buried utility lines.
- c) No street tree shall be planted closer than ten feet (10') of any fire hydrant.

9) Shrubs Size.

Shrubs are required to satisfy requirements as follows:

Table 14-4 Shrub Size at Time of Planting

<i>Size of Shrub in Height or Spread at the Time of Planting</i>	<i>Requirement Fulfilled</i>
18"	The parking lot interior
24"	The parking lot street frontage
*18"	The foundation
**36"	The loading dock screening

* Shrubs should be planted immediately adjacent to the building.

** Shrubs shall be evergreen and shall reach a minimum height of 6' in three years.

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10) Minimum Planter Width.

All planters will have a minimum width corresponding with the size tree planted within.

Table 14-5 Minimum Planter Width

<i>Tree Size at Maturity</i>	<i>Minimum Planter Width</i>
Small Trees, 10'-20' Tall (see Appendix A, Table A-3)	Four feet (4')
Medium Trees, 20'-50' Tall (see Appendix A, Table A-4)	Four feet (4')
Large Trees, 50' or Taller (see Appendix A, Table A-5)	Six feet (6')

11) Required Tree Variety.

Trees shall be of a native variety including but not limited to those species listed in Section 14(E) of this Ordinance (palm trees do not conform as trees to the intent of this section; however, they may be planted in addition to those required by this section). In no case should any tree or plant be planted which is on the NCSU's list of invasive exotic plants. When planting multiple trees, more than one variety may be required.

Table 14-6 Required Tree Variety

<i>Number of Required Trees</i>	<i>Varieties</i>
More than 10 trees required	Two or more types
20-40 trees required	No more than 50% of one type
40+ trees required	No more than 25% of one type

The Town encourages at least 20% of large trees planted to be live oak trees.

E) *Native Shrubs and Trees of Carteret County*

1) Applicability.

When not required, the planting of trees and shrubs native to eastern North Carolina and/or adaptable to coastal conditions and climate, is strongly encouraged. A list of desirable trees and shrubs, in three classes based on size, is listed below.

Table A-1 Special Characteristics Key

<i>Code</i>	<i>Special Characteristics Key</i>	<i>Code</i>	<i>Special Characteristics Key</i>
AuF	Autumn flowering	S	Stately
AW	Attracts wildlife	SF	Spring flowering
D	Drought tolerant	ST	Salt tolerant
E	Evergreen	SuF	Summer flowering
F	Fragrant	TW	Tolerates wet areas
FC	Fall color	W	Resistant to wind damage
LL	Long-lived	WI	Winter interest
LM	Low maintenance	WK	Weak wood
S	Stately	YLI	Year-long interest

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2) Native Shrubs.

Shrubs may reach up to ten feet (10') high at maturity.

Table A-2 Native Shrubs

<i>Common Name</i>	<i>Botanical Name</i>	<i>Special Characteristics*</i>
American beauty berry	<i>Callicarpa Americana</i>	FC, SF-white, fuchsia berries in fall, AW
Bear grass	<i>Yucca filamentosa</i>	E, SF-white, ST, AW
Cabbage palmetto**	<i>Sabal palmetto</i>	E, ST, W
Carolina allspice	<i>Lindera benzoin</i>	FC, SF-white, berries, AW, F
Coastal, dwarf azalea	<i>Rhododendron atlanticum</i>	SF-white, F, TW
Dahoon (Holly)	<i>Ilex cassine</i>	E, SF-white, red berries, AW
Dwarf Yaupon Holly	<i>Ilex vomitoria</i>	E, SF-white, red berries, AW, culinary leaves (tea)
Fetterbush, leucothoe	<i>Leucothoe axillaris</i>	E, SF-white, AW
Fringe tree, old man's beard	<i>Chionanthus virginicus</i>	FC, SF-white
Groundsel tree	<i>Baccharis halimifolia</i>	E, FC-white
Heart's-a-bustin'	<i>Euonymus americanus</i>	SF-white, striking fruit, WI
High bush blueberry	<i>Vaccinium corymbosum</i>	FC, very early SF-white, AW
Hydrangea	<i>Hydrangea sp.</i>	SuF-white, WI, ST
Inkberry holly	<i>Ilex glabra</i>	E, SF-white, berries, AW
Lyonia, fetterbush	<i>Lyonia lucida</i>	E, SF-pink, AW
New Jersey tea	<i>Ceanothus americanus</i>	SF-white, TW, AW
Red chokeberry	<i>Sorbus arbutifolia</i>	FC, SF-white/pink, AW, F
Smooth sumac**	<i>Rhus glabra</i>	FA, SuF-white, AW
Spanish dagger	<i>Yucca aloifolia</i>	E, SuF-white, ST, AW
St. John's wort	<i>Hypericum perforatum</i>	SuF-yellow
Swamp honeysuckle	<i>Rhododendron viscosum</i>	SF-white, TW
Swamp rose	<i>Rosa palustris</i>	SuF-pink, winter red hips, AW, TW
Sweet pepper bush	<i>Clethra alnifolia</i>	FC, SuF-white, AW, ST
Sweet shrub**	<i>Calycanthus floridus</i>	SF-maroon, F
Virginia sweet spire	<i>Itea virginica</i>	FC, SF-white, AW, F
Wax myrtle (myrtle)	<i>Myrica cerifera</i>	E, ST, AW, leaves fragrant
Wild azalea	<i>Rhododendron nudiflorum</i>	SF & SuF-white/pink, TW
Winter berry, black elder	<i>Ilex verticillata</i>	Red berries, AW, TW
Witch alder	<i>Fothergill gardenia</i>	FC, SF-white
Zenobia	<i>Zenobia pulverulenta</i>	SF, SuF-white, TW

*All special characteristics are found in Table A-1.

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3) Small Native Trees.

Small trees will typically reach ten to twenty feet (10’–20’) tall at maturity.

Table A-3 Small Native Trees

<i>Common Name</i>	<i>Botanical Name</i>	<i>Special Characteristics*</i>
Georgia fever tree (rare)	<i>Pinckneya bracteata</i>	SuF-pink, YLI
Loblolly bay	<i>Gordonia lasianthus</i>	SuF-white, TW,F, semi-E
Persimmon	<i>Diospyros virginiana</i>	SF-white, edible fruit
Possum haw	<i>Ilex deciduas</i>	SF-white, AW, WI
Red buckeye	<i>Aesculus Pavia</i>	SuF-Red
Redbud	<i>Cercis Canadensis</i>	FC, FC-deep pink
Serviceberry	<i>Amelanchier Canadensis</i>	Early SF-pink/white
Tea olive	<i>Osmanthus americanus</i>	E, SF-white, ST,F
Titi, leatherwood	<i>Cyrilla racemiflora</i>	FC, SuF-white
Wax myrtle	<i>Myrica cerifera</i>	E, fast growing, AW, fragrant leaves
Witch hazel	<i>Hamamelis virginiana</i>	FC, early SF-orange/yellow
Yaupon holly	<i>Ilex vomitoria</i>	E, WI-red berries, SF-white, culinary leaves (tea), dwarf varieties up to 10’

*All special characteristics are found in Table A-1.

4) Medium Native Trees.

Trees in this category will typically reach twenty to fifty feet (20’-50’) tall at maturity.

Table A-4 Medium Native Trees

<i>Common Name</i>	<i>Botanical Name</i>	<i>Special Characteristics*</i>
Black cherry	<i>Prunus serotina</i>	SF-white, AW
Carolina cherry laurel	<i>Prunus caroliniana</i>	E, SF-white
Dogwood	<i>Cornus florida</i>	SF-white, YLI
Eastern red cedar	<i>Juniperus virginiana</i>	E, LM
Margaretta or Post oak	<i>Quercus margaretta</i>	AW
Pawpaw	<i>Asimina triloba</i>	SF-maroon, edible fruit
Red bay	<i>Persea borbonia</i>	E, fragrant culinary leaves
Sassafras	<i>Sassafras albidum</i>	FC, SF-yellow, culinary
Sourwood	<i>Oxydendrum arboreum</i>	FC, SuF-white, YLI
Sweet Bay magnolia	<i>Magnolia virginiana</i>	SF-white, F, semi-E

*All special characteristics shall be found in Table A-1.

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5) Large Native Trees.

Trees in this category will typically reach over fifty feet (50') tall at maturity.

Table A-5 Large Native Trees

<i>Common Name</i>	<i>Botanical Name</i>	<i>Special Characteristics*</i>
American holly	<i>Ilex opaca</i>	E, SF-white, YLI
Bald cypress	<i>Taxodium distichum</i>	FC, LL, TW
Laurel oak	<i>Quercus laurifolia</i>	E, LL, S, AW
Live oak	<i>Quercus virginiana</i>	E, LL, S, AW
Longleaf pine	<i>Pinus palustris</i>	E, large attractive pinecones
Pond Cypress	<i>Taxodium ascendens</i>	FC, LL, TW
Red Maple	<i>Acer rubrum</i>	FC, SF-red
Southern magnolia	<i>Magnolia grandiflora</i>	E, late SF-white, F
Southern red oak	<i>Quercus falcata</i>	AW, TW
Sweet gum	<i>Liquidambar styraciflua</i>	FC, fruitless variety available
Sycamore	<i>Platanus occidentalis</i>	Exfoliating bark
Tulip poplar	<i>Liriodendron tulipifera</i>	Late SF-yellow
Tupelo, black gum	<i>Nyssa sylvatica</i>	FC, M, TW, used in decoys
Water oak	<i>Quercus nigra</i>	AW

*All special characteristics are found in Table A-1.

**Native to North Carolina, but not to Carteret County.

***Use as under story plants or at woodland edges.

The Town would like to acknowledge the use of the charts used in this Section which come from the Carteret County Master Gardener Volunteers, Sharon Bailey and Carolyn Hoss (1999); Carolyn Hoss and Claire Honodel (2006).

SECTION 15 Landscaping and Vehicle Accommodation Area Requirements

A) **Purpose and Intent.**

The purpose of this section is to regulate and provide guidelines for landscaping of certain types of development within the Town. The BOC finds trees and landscaping:

- 1) Provide visual buffering and enhance the beautification of the Town;
- 2) Safeguard and enhance property values;
- 3) Conserve energy;
- 4) Enhance groundwater recharge;
- 5) Abate storm water runoff and soil erosion; and,
- 6) Reduce noise, glare, and heat.

B) **Vehicle Accommodation Area (VAA) Exemptions**

The following are exemptions from the landscaping provisions of this Section for VAAs:

- 1) Single-family and two-family residential parking areas;
- 2) Truck loading areas in front of overhead doors;
- 3) Truck maneuvering and parking areas unconnected to and exclusive of any vehicle parking;
- 4) Surfaced areas not to be used for vehicle parking, driving, or maneuvering, provided they are made inaccessible to vehicles by a barrier such as bollards, curbs, or fencing;
- 5) Vehicle displays, sales, service, and storage areas (parking facilities for these uses are subject to shading requirements); and,
- 6) Parking areas under covered stalls and in public garages.

C) **Landscaping Plan Required.**

All proposed developments and expansions of existing development which result in high or moderately high impervious surface ratio (hereinafter referred to as "ISR") intensity, as defined herein, shall submit a landscaping plan for review containing the following information:

1) **Landscaping Plan Requirements.**

When required, Section 15 and Section 18 of this Ordinance shall work collectively to form the site plan needed for such development. A landscaping plan shall contain the following items:

- a) General location, type, and quantity of plant material;
- b) Existing, protected, or exceptional trees as defined in Section 14(B) of this Ordinance;
- c) Existing plant material and areas to be left in their natural state;
- d) Location, size and labels for all proposed plants;
- e) Plant lists with common name, quantity, spacing, and size of all proposed landscaping material at the time of planting;
- f) Location and description of other landscape improvements such as islands, earth berms, walls, fences, buffer yards, sculptures, fountains, street furniture, lights, courtyards, or paved areas;

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- g) Planting and installation details;
 - h) Location of proposed building(s);
 - i) Location of VAAs and internal traffic patterns;
 - j) Location of overhead and underground utilities;
 - k) The landscaping plan shall be drawn to scale, include a North arrow, necessary legends; and,
 - l) The location and description of any barriers to be erected to protect any vegetation from damage both during and after construction.
- 2) **Applicability.**
 Except for those properties and developments to which Section 15(c)(3) applies, a landscaping plan is required when:
- a) A new principal building, new use, or open use of land is constructed, reconstructed, or established after the effective date of this Ordinance;
 - b) Any development which changes the amount of impervious surface by more than fifteen percent (15%). The extent which these standards apply is determined by the table below. These expansions shall include change of use, expansions of buildings, parking areas, open uses of land, or combinations thereof.

Table 15-1 Expansion of Impervious Surface

<i>Expansions (% of original ISR)</i>	<i>Application of Landscaping Requirements</i>
0 - 15 %	Exempt
16 - 45 %	Applies to expanded areas only
45 % and more	Applies to the whole lot(s)

- 3) **Exemptions.**
 The following are exempt from this subsection:
- a) Developments of less than eight thousand square feet (8000 ft²);
 - b) Single-family residential lots;
 - c) Expansions of less than fifteen percent (15%) of the ISR as defined in Table 15-1 of this section;
 - d) Lots in the Historic Waterfront Business District (H-WBD) and the Historic Business District (H-BD) which do not provide off-street parking; and,
 - e) Landscaping requirements of this section shall be applied equally to all similarly situated properties. Modifications to these standards may be granted in writing by the Zoning Administrator if the Zoning Administrator finds any of the following circumstances exist on the proposed building site or surrounding properties:
 - i) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section;
 - ii) Innovative landscaping or architectural design is employed on the building site which would achieve an equivalent shading, aesthetic, and buffering effect;
 - iii) The required landscaping would be ineffective at maturity due to the proposed topography of the site and/or the location of the improvements on the site; and,
 - iv) No landscaping shall be required in areas where the Technical Review Committee (TRC), as determined in Section 34, finds it would interfere with traffic safety.

D) **Impervious Surface Intensity (ISI).**

VAA's and impervious surface areas shall be categorized according to their impervious surface ratios as specified in Table 15-2.

Table 15-2 Impervious Surface Intensity Classification

<i>Impervious Surface Ratio (ISR)</i>	<i>Impervious Surface Intensity (ISI)</i>
0.86-1.0	High
0.70-0.85	Moderately High
0.41-0.69	Moderate
0.40 and below	Low

1) **Requirements.**

The following are requirements for VAA's:

a) **Layout.**

Landscaping areas shall be provided in VAA's and impervious surfaces to provide visual relief from broad expanses of pavement and to channelize and define areas for pedestrian and vehicular circulation. All new and expansions of existing VAA's with the exception of development which qualifies as an exemption according to Section 15 (C)(2), shall be landscaped.

b) **Planting Strip Required.**

When any parking spaces are to be placed within fifty feet (50') of a public or private right-of-way, a minimum width of eight feet (8') of lawn is required parallel to the street right-of-way on the applicant's property. This section applies to all the public and private streets which the property fronts. This area shall not be used for parking, but may include sidewalks and/or trails and shall be maintained as a planting strip for grass, trees, and/or shrubs.

c) **Area of Landscaping Required.**

VAA's shall be designed so that a minimum of twelve percent (12%) of the impervious surface area (hereinafter referred to as "ISA"), excluding building areas, is dedicated to vegetative landscaping. However, vegetative fences which screen the VAA's from adjacent properties and all adjacent street rights-of-way may be applied to meet the requirements of this section. A minimum of fifty percent (50%) of the required vegetative landscaping area shall be located in the interior of the VAA as landscaping islands at the end of parking bays, inside medians, or between parking spaces.

d) **Landscaping standards in VAA's.**

VAA's shall be shaded by large deciduous trees which have (or will have when fully mature,) a trunk of at least twelve (12) inches in diameter. When large trees are planted by the developer to satisfy the requirements of this section, the developer shall follow the guidelines set forth in Section 14 and Section 15 of this Ordinance. In providing landscaping to satisfy the requirements of this section, Table 15-3 shall provide the amount of landscaping required. When the number of trees and/or shrubs determined by Table 15-3 results in a fractional tree or shrub any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one additional tree and/or shrub.

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Table 15-3 Required Trees & Shrubs

Impervious Surface Intensity (ISI)	Large Deciduous Trees Required per every 1000 sq. ft. VAA	Large Shrubs Required per every 1000 sq. ft. VAA	Small Shrubs Required per every 1000 sq. ft. VAA
High	0.33	1.2	1.8
Moderately-High	0.25	0.8	1.2
Moderate	0.20	0.4	0.6
Low	0.16	0.2	0.3

- e) All plantings shall be evenly distributed throughout the VAA so at least forty percent (40%) of the required trees and shrubs shall be provided in the interior of the VAAS as landscaping islands at the end of parking bays, inside medians, or between parking spaces.
 - f) Those trees and shrubs planted in required buffer yards not immediately adjacent to the VAAs may not be subject to meet the requirements of this section. However, the vegetated buffer areas shall not account for more than fifty percent (50%) of the required trees and shrubs.
 - g) In all VAAs which have more parking spaces than required by Section 13, the required landscaping shall be **increased by ten percent (10%)**.
- 2) ISI Limited Exceptions.
 The owner may be eligible for cumulative reduction in landscaping requirements if more than one of the characteristics below is applied to the proposed development. These characteristics are:
- a) The required landscaping shall be **reduced by five percent (5%)** in VAAs which:
 - i) Provide at least thirty percent (30%) of the required parking spaces along the side or rear of the lot; or
 - ii) Are designed in such a manner so the VAAs are distinctly divided into smaller units (each less than 25,000 ft²) by structures, substantial landscaping islands or berms; or,
 - iii) Incorporate the required storm water detention area into a unified landscaping design together with trees, shrubs, berms, lawns, walkways, and other water features; or,
 - iv) Provide shared parking as per Table 13-1 of this Ordinance; or,
 - v) Incorporate alternative paving methods such as paving grids which allow grass to grow a minimum of twenty percent (20%) of the total VAA (peak hour parking spaces).
 - b) The required landscaping shall be **reduced by ten percent (10%)** if:
 - i) Evergreen shrubs are planted as a screen along all the VAAs which are visible from any street right-of-way or adjacent property;
 - ii) Adequate provision is made for pedestrian and bicycle traffic by installing walkways, bikeways, bicycle parking, and similar facilities within VAAs.
- 3) General Standards for Landscaping.
- a) Barriers such as curbs or wheel stops shall be provided between VAAs and landscaped areas to protect all plantings.
 - b) Each interior planting island shall contain a minimum of two hundred square feet (200 ft²) in area and shall be a minimum of eight feet (8') in width.
 - c) Every large deciduous tree as required by this Ordinance may be substituted by two medium trees from Table A-4 in Section 14(E) of this Ordinance however no more than

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fifty percent (50%) of the required large deciduous trees may be substituted. Small trees may not be used towards VAA requirements.

- d) When large and small shrubs are planted by the developer to satisfy the requirements of this subsection, the developer shall follow guidelines set forth in Section 14(D) of this Ordinance. A minimum of eighty percent (80%) of all the required shrubs shall be evergreen shrubs.
- e) Required landscaping, including the eight-foot (8') lawn space, shall be located outside existing and proposed street rights-of-way. The proposed landscaping plan shall comply with any planning documents adopted and amended by the BOC. Required trees and shrubs may be located in utility easements by approval of the TRC. No trees or shrubs greater than twelve inches (12") shall be planted in sight triangle(s) of driveways and streets without approval from the BOC or their designee(s). On state-maintained roads, both NCDOT and Town standards shall apply.
- f) Lighting and sign locations shall not conflict with required tree locations or expected growth.
- g) Trees required by this section shall not count towards general requirements but the square footage of the VAA may be subtracted from the total property area.

4) Maintenance.

The developer or property owner shall be responsible for maintaining all vegetation required by this section in a healthy condition. The Town shall inspect property for any dead, unhealthy, or missing vegetation and the required vegetation shall be replaced upon written notice of noncompliance from the Zoning Administrator. Replacement shall occur at the earliest suitable planting season as determined by the Town's Planning and Inspections Department.

E) **Standards for Retention/Detention Ponds.**

1) Intent.

It is the intent of this section to provide safety, landscaping, and fencing standards for all storm water retention/detention ponds required by the State of North Carolina in an effort to mitigate any safety, incompatibility, or aesthetic issues they may cause. Fencing of ponds is not generally desirable, but may be required by the Town to mitigate safety hazards. A preferred method is to manage the contours of the pond to eliminate drop-offs and any other hazards. The landscaping required by this section shall not be counted towards the total landscaping required by any other subsection.

2) Safety Requirements.

New retention/detention ponds should be designed with safety in mind so a person or child in the water could easily exit the pond. The following standards are ~~suggested~~ **required** and failure to meet them will require the use of alternate safety measures.

- a) It is recommended side slopes to the pond shall not exceed a 3:1 slope and shall terminate on a safety bench which extends inward from the toe of the pond side slope to the normal water edge and into the pond to a depth of no more than eighteen inches (18").
- b) The pond beyond the bench may be of any depth.
- c) The safety bench should be designed to facilitate the egress of the pond.
- d) The safety bench may be landscaped to prevent access to the pond.

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3) Fencing Requirements.

Where required, fencing around ponds shall be four feet (4') in height. Fencing shall be made of steel or aluminum chain link with black or green vinyl coating. All fences shall provide securable entrances/exits to all of the sides of the fence to allow access for maintenance personnel and equipment and to provide for the safety of citizens. In instances where the entire property or a portion of the property on which a pond is located is surrounded by a fence which is at least six feet (6') in height, an additional fence around the pond shall not be required.

4) Landscaping Requirements.

a) Shrubs Required.

Except for fence entrances, shrubs shall be provided around the perimeter of the required fence to screen fifty percent (50%) of the fence at maturity. The required shrubs shall be maintained at a height of four feet (4'). The particular variety of shrub(s) to be used to satisfy this requirement should come from those listed as tolerant of wet conditions in Table A-2 in Section 14(E) of this Ordinance or should otherwise be approved in writing by the Town. In those instances where there are circumstances outside of the developer's control which make it impractical to fully meet this requirement, it may be modified by the Town.

b) Trees Required.

Large or medium trees shall be placed outside the required fencing at a rate of one per fifty linear feet of fencing around the pond. The particular variety of large or medium tree(s) to be used to satisfy this requirement should come from those listed as tolerant of wet conditions in Table A-4 and Table A-5 in Section 14(E) of this Ordinance, or should otherwise be approved in writing by the Town. In those instances where there are circumstances outside of the developer's control which make it impractical to fully meet this requirement, it may be modified by the Town.

F) ***Tree Retention Credit.***

The retention of existing deciduous trees is desirable and credit will be given towards the landscaping requirements for each tree retained. The diameter of a retained tree shall be determined by measuring the tree's diameter breast height ("DBH"). In the case of multiple stems, only the largest shall be measured. The developer shall take all necessary precautions during construction to ensure the survival of retained trees. Barriers shall be erected to protect tree's root zone from excavating, trenching, construction storage, dumping, driving, or other vehicle traffic and placement of any debris above the roots. When digging near retained trees, tunneling shall be used rather than trenching.

1) Applicability.

Trees may be retained and credit may be given when:

- a) The trees are healthy and in good condition;
- b) The trees are located upon the lot being developed and within the areas of the site where tree planning is required; and
- c) Trees to be retained for credit are approved by the BOC or their designee(s).

2) Minimum Size.

Retained tree must be at least two inches (2") DBH to qualify for credit.

3) Calculation of Credit.

Divide DBH by 1.5 and round up to the nearest whole number. Multiply by 1000 to get the square footage credit. For example, a 6" retained tree would provide 4000 ft² of credit.

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4) **Survival of Retained Trees.**

Should retained trees die or the crown at least fifty percent (50%) dead within three years from the date of the certificate of occupancy, replacement trees shall be planted equal to the number of trees required for the credit given. If there is no room for all of the replacement trees, the BOC may designate an alternative location in the public right-of-way where the extra trees shall be planted as street trees.

G) ***Plant Substitutions.***

Within the landscaping plan plants may be substituted if desired type is unavailable at the time of planting with similar plants only upon written request by the property owner or developer and written approval from the BOC or their designee(s).

H) ***Time for Installation of Required Landscaping.***

1) **Time Limit.**

All landscaping, including mulching and seeding shall be completed in accordance with the approved site plan prior to the issuance of a certificate of occupancy or a certificate of compliance for the site and shall follow the guidelines set forth in Section 18 of this Ordinance.

2) **Extensions and Exceptions.**

Extensions may be granted by the Zoning Administrator for time limit installations due to unusual environmental conditions such as drought, hurricanes, over-saturated soil, or inappropriate planting season for the plant species provided. If an extension is granted, the developer or property owner shall provide the Town with a performance guarantee ensuring the installation of the remaining landscaping in accordance with the provisions of Section 34 herein.

3) **Bond for Delayed Performance.**

Requests for a delay in complying with this section due to poor weather conditions for planting, for delay in obtaining planting material, or other circumstances beyond the control of the owner or developer, will be considered following a written request directed to the Town's Planning and Inspections Department. A temporary certificate of occupancy will be issued upon approval of a written request for planting delay and a performance guarantee issued in accordance with the provisions of Section 34 herein. In any case, planting shall be completed within the twelve month period following the issuance of the temporary certificate of occupancy.

I) ***Maintenance.***

The developer or property owner shall be responsible for the continued proper maintenance, repair, and replacement of all landscaping material in accordance with the approved landscaping plan and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris at all times. All unhealthy (50% or more dead) or completely dead plants shall be replaced as directed by the Town or their designee(s). All landscaping areas should be provided with a readily available water supply. Maintenance should include weeding, cultivating, mulching, tightening, repairing of guys and stakes, removal of guys and stakes after six to twelve months, and resetting plants to proper grades or upright positions, restoration of the planting saucer, fertilizing, pruning, and other necessary operations. Maintenance should begin immediately following the last operation of installation for each portion of the lawn and for each plant or tree. The Town may periodically inspect the project and indicate whether or not the landscaping continues to meet the minimum requirements of this Ordinance. Any violations will be noted and the developer or property owner will have ninety days within which to correct all violations. In cases when planting material

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replacement should be delayed because of seasonal factors until the next planting season, written approval is required by the Town. Failure of the developer or property owner to provide maintenance as described in this section shall constitute a violation of this Ordinance subject to the enforcement provisions of Section 28 herein.

J) **Vehicle Accommodation Area (VAA) Calculations.**

1) **Required Landscaping Area of VAAs.**

The following is an elementary formula for determining the number of shade trees required in and around parking lots in order to presumptively satisfy the landscaping requirements of this section.

Table B-1 VAA Landscaping Calculations

1. Including parking spaces, driveways, loading areas, parking isles, and other circulation areas and not including building area or any area which will remain completely undeveloped, calculate square footage of the VAA.	_____ sq. ft.
2. Required landscaping percentage.	12%
3. For required landscaping area, multiply line 1 by line 2.	_____ sq. ft.
4. Interior landscaping percentage.	50 %
5. For the required landscaping in the interior of the VAA, multiply line 3 and line 4.	_____ sq. ft.
6. Existing landscaping area, if any, to be retained in and around the VAA.	_____ sq. ft.
7. Subtract line 3 from line 6. This is the landscape area required.	_____ sq. ft.

2) **Impervious Surface Ratio (ISR).**

The ISR is a measure of the amount of impervious surface relative to the total development area.

Table B-2 ISR Calculations

8. Total amount of impervious surface area on the lot including building area, parking spaces, driveways, loading areas, parking aisles, and other circulation areas and not including any area which will remain completely undeveloped.	_____sq. ft.
9. Total development impact area (do not include areas in wetlands or flood plains)	_____sq. ft.
10. For Impervious Surface Ratio (ISR), divide line 1 by line 2:	_____ %
11. Including parking spaces, driveways, loading areas, parking aisles, and other circulation areas and not including building area or any area which will remain completely undeveloped, calculate the square footage of the VAA.	_____sq. ft.

3) **Impervious Surface Intensity (ISI).**

The ISI categorizes intensity based upon the ISR.

Table B-3 ISI Categories

<i>Impervious Surface Ratio (ISR)</i>	<i>Impervious Surface Intensity (ISI)</i>
0.86 - 1.0%	High
0.70 - 0.85%	Moderately High
0.41 - 0.69%	Moderate
0.40% and below	Low

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4) Required VAA Landscaping Calculations.

The following calculations determine required tree and shrub landscaping.

Table B-4 Required VAA Landscaping Calculations

12. Deciduous trees needed (use ISR from line 11 above to determine ISI ratio): For High ISR , enter 0.0003: For Moderately High ISR , enter 0.00025: For Moderate ISR , enter 0.00020: For Low ISR , enter 0.00016:	_____ Trees	
13. Shrubs needed (use ISR from line 11 above to determine ISI ratio): For High ISR , enter 0.0030: For Moderately High ISR , enter 0.0020: For Moderate ISR , enter 0.0010: For Low ISR , enter 0.0003:	_____ Shrubs	
14. Is the amount of parking more than what is prescribed in Section 13	If YES go to line 15	If NO stop here.
15. For extra trees required, multiply line 12 by 0.05:	_____ Trees	
16. For extra shrubs required, multiply line 13 by 0.05:	_____ Shrubs	
17. Subtotal (deciduous trees) add line 12 & line 15:	_____ Trees	
18. Subtotal (shrubs) add line 13 & line 16:	_____ Shrubs	
Exceptions to Landscaping. Check all boxes which apply in lines 19-22.		
19. A minimum of 30% of the parking is provided in the side or rear of the building.		
20. VAAs are distinctly divided into smaller units. (each less than 25,000 ft. ²).		
21. Storm water detention pond is incorporated with the landscaping elements.		
22. A minimum of 20% of the total VAAs are paved using paving grids.		
23. Total number of boxes checked in lines 19 through 22: _____		
24. Reduction multiplier: Multiply line 23 by 0.05 (5% reduction in required landscaping)	_____ %	
Additional Exemptions. Check all boxes which apply in lines 25-27.		
25. Street trees planted at a rate of 1 per 30' of street.		
26. Evergreen shrubs screen VAAs from adjacent lots and street rights-of-way.		
27. Adequate provisions have been made for pedestrian and bike traffic by installing walkways, bikeways, bicycle parking, and other similar facilities within the VAAs.		
28. Total number of boxes checked in lines 25 – 27: _____		
29. Reduction in landscaping: Multiply line 28 by 0.1 (10% reduction in required landscaping)	_____ %	
30. Total Exemptions – add line 24 & line 29:	_____ %	

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Reduction in Landscaping.	
31. For the reduction in the number of deciduous trees required, multiply line 17 and line 30:	_____ Trees
32. For the reduction in the number of shrubs required, multiply line 18 and line 30:	_____ Shrubs
TOTAL LANDSCAPING REQUIRED	
33. Deciduous Trees: Subtract line 31 from line 17:	_____ Trees
34. Shrubs: Subtract line 32 from line 18:	_____ Shrubs

When the determination of the number of trees and shrubs required by this table results in a total of a fractional tree or shrub, any fraction up to and including one-half should be rounded down; any fraction in excess of one-half shall be counted as one additional tree or shrub.

SECTION 16 Sign Regulations

A) Purpose.

Signs are herein regulated in the interest of promoting traffic safety, safeguarding public health, facilitating police and fire protection, preventing adverse community appearance, and preventing the overuse of signs, and protecting and promoting the character of the area in which they are located. In general, it is intended signs of a general commercial nature be prohibited in areas where commercial activities are prohibited; and signs in less restrictive business and industrial areas be regulated to the full extent necessary to protect or improve the character of the area and to preserve property values. Further, because aesthetic value of the total environment does affect economic values of the community, and the unrestricted proliferation of signs can and does detract from the economic value of the community, it is the intent of this chapter to provide limiting controls where necessary, to preserve or improve and upgrade community scenic, economic, and aesthetic values.

These sign regulations shall apply in all districts. With the exception of legal notices, identification, informational, directional, or regulatory signs erected or required by government bodies or otherwise specifically accepted herein, no exterior sign may be erected, painted, repainted, posted, reposted, placed, replaced, or hung in any district except in compliance with these regulations.

A) Definition.

Signs are defined and listed in Section 4 of this Ordinance (under “Signs”).

C) Permit Required for Signs.

- 1) Sign permits are required for the following signs:
 - a) Signs which will be used for future subdivision development. If plans submitted for a zoning permit or special use permit include sign plans in sufficient detail and the Zoning Administrator can determine whether the proposed sign or signs comply with the provisions of this section, then issuance of the requested zoning or special use permit shall constitute approval of the proposed sign or signs.
 - b) Any type of sign which replaces an existing sign and will be larger than the original sign.
 - c) A replacement of one type of sign (free-standing) to another type of sign (flush mounted).
 - d) Signs for a new business, office, religious institution, club, gym, financial institution, grocery store, etc.
 - e) Additional signs for a property.
- 2) Signs exempted under the provisions referenced in Section 16(D) or not approved as provided in this subsection may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the Town’s Planning and Inspections Department.
 - a) Sign permit applications and sign permits shall be governed by the provisions of this section.
 - b) In the case of a lot occupied or intended to be occupied by multiple business enterprises (i.e., shopping centers), sign permits shall be issued in the name of the property owner (or his agent) rather than the name of the individual entrepreneur requesting the particular sign. The Town may assist the property owner by suggesting a formula whereby the maximum

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square footage of sign area is allowed on the property and may be allocated equitably among its tenants; however, the Town is responsible for enforcing the provisions of this section and not the provisions for any allocation formula, lease, or other private restrictions.

D) Sign Exemptions.

The following signs are exempt from regulation under this section except for those described in Section 16(N).

- 1) A sign not exceeding two square feet (2 ft²) in total area which is customarily associated with residential use and is not of a commercial nature such as a sign giving property identification names or numbers or names of occupants.
- 2) Signs erected by, on behalf of, or pursuant to the authorization of a government body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- 3) Official signs of a noncommercial nature erected by public utilities.
- 4) Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion, or as an advertising device.
- 5) Decorative or architectural features of buildings or works of art, as long as such features or works do not contain letters, numbers, trademarks, moving parts, or lights.
- 6) Signs directing and guiding traffic, signs warning the public against trespassing, or signs warning the public of the danger of animals on private property which do not exceed two square feet (2 ft²) each.
- 7) Religious institutional bulletin boards, identification signs, and directional signs which do not exceed one per abutting street and fifteen square feet (15 ft²) in total area and are not illuminated.
- 8) Signs painted on or otherwise permanently attached to currently licensed motor vehicles which are not primarily used as advertising signs.
- 9) Signs proclaiming religious, political, or other noncommercial messages (other than those regulated by this subsection) which do not exceed one per abutting street and fifteen square feet (15 ft²) in total area and are not illuminated.

E) Temporary Signs: Permit Exemptions and Additional Regulations.

- 1) The following temporary signs are permitted without a zoning permit, special use permit, or sign permit. However, such signs shall conform to the requirements set forth in this Ordinance and as stated below as well as all other applicable requirements of this section except for the requirements contained in Section 16(F) and Section 16(G).

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Table 16-1 Temporary Sign Exemptions and Regulations

<i>Type of Sign</i>	<i>Maximum Residential Size</i>	<i>Maximum Non-Residential Size</i>	<i>Removal Requirements</i>
Real Estate Signs¹	3 ft ²	10 ft ²	Must be removed 30 days after the closing, leasing, or renting of a property
Temporary Construction Site ID Signs²	10 ft ²		May be displayed upon the issuance of a building permit and must be removed prior to the completion of the project or issuance of a certificate of occupancy or certificate of compliance.
Interior Window Signs, Posters, or Decals	May not cover more than 75% of the transparent portion of the window or door.		No regulation on removal except to remove when the sign, poster, or decal is no longer viable.
Election/Political Signs	4 ft ²		Must be removed within three days following the certification of the election or the conclusion of the campaign, whichever is applicable.
Special Event Signs³	Temporary sign permit required		Remove three days after the conclusion of the event.
Banner/Balloons⁴	Two signs and/or balloons (inflatables) per lot and shall not be displayed for more than three consecutive days in one calendar year.		
Flags⁵	May be displayed indefinitely as long as they remain in good physical condition and do not interfere with pedestrian traffic.		

¹Signs in residential and non-residential districts shall be removed before a certificate of occupancy is issued for the subject structure. For lots with less than five acres, one single sign on each street front may be displayed. Lots which have five acres or more in area and have a street frontage in excess of four hundred feet may display a second sign.

² Temporary construction identification signs may be displayed for the purpose of recognizing the project, owner or developer, architect, engineer, contractor, sub-contractor, funding sources, and related information including but not limited to sale or leasing information.

³ Special events can be any of the following: festivals, special events, and fund-raising campaigns for civic clubs and other bona-fide non-profit organizations.

⁴ Including the special events listed above, events can be any of the following: a fair, carnival, circus, grand opening, or similar event. The sign can be posted on the property where the event is to be located.

⁵ Flags, other than those described in this section, may be displayed provided they remain in good physical condition and are not tattered, torn, or otherwise deteriorated to the point which they become aesthetically detrimental by virtue of their poor physical condition. In no case may such flags encroach upon public rights-of-way or interfere with pedestrian traffic.

- 2) Other temporary signs not listed in Table 16-1 of this section shall be regarded and treated in all respects as permanent signs, except, as provided in Section 16(G). Temporary signs shall not be included in calculating the total amount of permitted sign area.

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F) Determining the Number of Signs.

The number of signs allowed will depend on the actual sign area allowed on the property. The subsections below demonstrate the way to calculate the allowable sign area and determine the total number of signs allowed:

- 1) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered as a single sign.
- 2) Two-sided or multi-sided signs shall be regarded as one sign as long as:
 - a) With respect to a V-type sign, the two sides are at no point separated by a distance which exceeds thirty degrees (30°) and at no point does the distance between the backs of such signs exceed five feet (5’); and,
 - b) With respect to double-face (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet (3’).

G) Computation of Sign Area.

- 1) The sign area shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof which will encompass the entire sign including lattice work, wall work, frame, or supports incidental to its decoration. When signs are painted or attached to walls or fences, only the area covered by the sign shall be included in the computation.
- 2) The area of a sign shall be calculated by the square footage of the sign itself and shall not include the structure it is to be displayed upon or any supporting framework or bracing for the sign. Frames and structural members shall not bear any advertising matter, shall not be lit, and shall not be included in the computation of the total sign area. The framework or bracing of the sign shall not be designed to increase the surface area of the sign.
- 3) If the sign consists of more than one section or module, all of the area, including between sections or modules, shall be included in the computation of the sign area.
- 4) With respect to two-sided, multi-sided, or three-dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information which can be seen at any time from one vantage point without otherwise limiting the generality of the forgoing:
 - a) The sign surface area of a double-faced, back to back sign shall be calculated by using the area of only one side of such sign, as long as the distance between the backs of such sign does not exceed three feet (3’).
 - b) The sign surface area of a double-faced sign constructed in the form of a “V” shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), as long as the angle of the “V” does not exceed thirty degrees (30°) and at no point does the distance between the backs of such sides exceed five feet (5’).

H) Total Sign Surface Area.

- 1) Unless otherwise provided in this section, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in this calculation.
- 2) The maximum sign surface area permitted on any lot in any residential district, except as provided in Sections 16(D) and 16(E), is six square feet (6 ft²).

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- 3) Subject to the other provisions of this section, the maximum sign surface area permitted on any lot in a non-residential district shall be not more than two square feet (2 ft²) of sign surface area per linear foot of lot street frontage.
- 4) If a lot has frontage on more than one street, the total sign surface area permitted on the lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total sign surface area which is oriented toward a particular street may not exceed the portion of the lot's total sign surface area allocation derived from frontage on the street.
- 5) Whenever a lot is situated where it has no street frontage on any boundary and an applicant desires to install a sign which is oriented toward a street, the total sign surface area permitted on the lot shall be the sign surface area which would be allowed if the lot boundary closest to the street toward which such sign is to be oriented. The applicant shall be restricted to using only one street and the closest lot boundary to this street for the determining the total permitted sign surface area. However, the applicant shall be given the opportunity to determine the one street used in the calculation.
- 6) The sign surface area of any sign located on a wall of a structure may not exceed fifty percent (50%) of the total surface area of the wall on which the sign is located. Electronic messaging boards are not permitted as wall signs.

I) *Freestanding Sign Surface Area.*

- 1) For the purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 16(G). For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back), although four-sided and other multi-sided signs are also common.
- 2) A single side of a freestanding sign may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. In addition, the maximum total surface area for a single side of a freestanding sign shall not exceed eighty square feet (80 ft²). Maximum percentage of the total sign area for an electronic messaging board shall not exceed thirty percent (30%).
- 3) With respect to freestanding signs which have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed for a single side of a freestanding sign.

J) *Number of Freestanding Signs.*

- 1) Except as authorized by this section, no development shall have more than one freestanding sign.
- 2) If a development is located on a lot which is bordered by two public streets which do not intersect at the lot's boundaries (double frontage), then the development may not have more than one freestanding sign on each side of the development bordered by such streets.
- 3) For developments which have more than four hundred feet (400') of frontage, a maximum of two freestanding signs may be established. Multiple freestanding signs established in the same development must be separated by a minimum of two hundred feet (200'). The total amount of area for all freestanding signs erected for a single development may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. In no case may any such freestanding sign exceed eighty square feet (80 ft²) in size.

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- 4) Freestanding signs are prohibited in all residential neighborhoods except as permitted in Section 16(D) and Section 16(E).

K) *Development Entrance Signs.*

At any entrance of a residential subdivision, multifamily development, office park, or industrial park there may be no more than two signs at each entrance identifying such subdivision or development. A single side of any such sign may not exceed thirty-two square feet (32 ft²), nor may the total surface area of all such signs located at a single entrance exceed sixty-four square feet (64 ft²). In addition, no part of such development entrance sign(s) shall be of a height greater than six feet (6') as measured from ground level at the base of the sign structure. All such development entrance signs located near street intersections shall be situated to provide a minimum of ten feet by seventy feet (10' x 70') vehicular sight triangles for the purpose of ensuring traffic safety.

L) *Location and Height Requirements.*

- 1) No part of any freestanding sign shall be established closer than five feet (5') from a property line, existing right-of-way boundary, or future right-of-way boundary, ~~as depicted on the Town's official street map.~~
- 2) No sign attached to a building may project more than eighteen inches (18") from the building wall.
- 3) No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the Town.
- 4) No part of a freestanding sign may exceed a height of thirty-five feet (35'), measured from ground level at the base of the sign, in districts B-1, L-I and I-W, and fifteen feet (15') in all other districts where they are allowed.

M) *Sign Illumination and Signs Containing Lights.*

- 1) Unless otherwise prohibited by this section, signs may be illuminated if such illumination is in accordance with this subsection.
- 2) No sign within one hundred fifty feet (150') of a residential zoning district may be illuminated between the hours of midnight and 6:00 a.m. unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.
- 3) Lighting directed toward a sign shall be shielded so it illuminates only the face of the sign and does not shine directly into a public right-of-way or any residential premises.
- 4) Except as herein provided, (i) internally illuminated signs are not permissible in any residential zoning district, and, (ii) where permissible, internally illuminated freestanding signs may not be illuminated during hours the business or enterprise advertised by such sign is not open for business or operation. This subsection shall not apply to the following types of signs:
 - a) Signs which constitute an integral part of a vending machine, telephone booth, device indicating only the time, date, or current weather conditions, or other such similar device whose principal function is not to convey an advertising message.
 - b) Signs which do not exceed two square feet (2 ft²) in area and convey a certain message such as a business enterprise is open or closed, or a place of lodging does or does not have a vacancy.

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- 5) Subject to Section 16(M)(7), illuminated tubes or strings of lights which outline property lines, sales areas, roof lines, doors windows, or similar areas are prohibited.
- 6) Subject to Section 16(M)(7), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, or weather conditions.
- 7) Subject to Sections 16(M)(5) and 16(M)(6), these subsections do not apply to temporary signs erected in connection with the observance of holidays.

N) *Miscellaneous Restrictions and Prohibitions.*

Where applicable, all signs shall be constructed in accordance with the requirements of the North Carolina State Building Code, as amended. The following signs and situations are specifically prohibited within the Town’s planning and development regulation jurisdiction:

- 1) No sign may be located so it substantially interferes with the view or vision necessary for motorists to proceed safely through intersections or to enter onto or exit from streets or private roads.
- 2) Signs which revolve, are animated, or utilize movement or apparent movement to attract the attention of the public are prohibited. Signs which move only occasionally because of the wind are not prohibited if their movement (i) is not a primary design feature of the sign, and, (ii) it is not intended to attract attention to the sign. The restriction of this subsection shall not apply to flag-type signs as specified in Section 16(D) or to signs indicating the time, date, or weather conditions.
- 3) No sign may be erected by its location, color, size, shape, nature, or message which would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.
- 4) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so there is virtually no danger of the sign or the supportive structure being moved by the wind or other forces of nature and causing injury to persons or property otherwise, such unsecured freestanding signs are prohibited.
- 5) Portable signs are prohibited (except in the H-BD & H-WBD Districts) when used as sandwich boards. They shall not be displayed on Town property or public rights-of-way and may be displayed daily only during regular business hours.
- 6) Flashing signs are prohibited.
- 7) Painted-on building signs are prohibited.
- 8) Signs located within public rights-of-way (except governmental and informational signs as exempted per Section 16(D)) are prohibited.
- 9) Signs posted on any utility pole or any trees within the public rights-of-way are prohibited and may be removed by the Town.
- 10) Signs which obstruct ingress or egress to any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any room or building as required by law are prohibited.
- 11) Strings of lights, pennants, and similar devices are prohibited.

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O) Maintenance of Signs.

- 1) All signs and components thereof including without limitations, supports, braces, and anchors shall be maintained in a state of good repair. No sign shall be continued which has become structurally unsafe or endangers the safety of the public or property. The Zoning Administrator upon discovering or having brought to its attention evidence of an unsafe sign, shall order such sign be made safe or be removed. A period of thirty days following receipt of said notice by the person, firm, or corporation owning or using the sign shall be allowed for compliance except if the sign creates unsafe conditions.
- 2) If the message portion of a sign is removed leaving only the supporting “shell,” supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located shall either replace the entire message portion of the sign or remove the remaining components of the sign within thirty days from when the message portion of the sign is removed. This subsection shall not be construed to alter the effect of Section 16(Q)(3) which prohibits the replacement of a nonconforming sign nor shall this subsection be construed to prevent the changing of the message of a sign.
- 3) The area within ten feet (10’) in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than eight inches (8”) in height. This requirement shall not apply to well-maintained landscaping which may include decorative shrubs, trees, bushes, flowering plants, and other managed type of flora.

P) Unlawful Cutting of Trees or Shrubs.

No person, for the purpose of increasing or enhancing the visibility of any sign, may damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- 1) Within the rights-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town; and/or,
- 2) On property which is not under the ownership or control of the person doing or responsible for such work, unless the work is pursuant to the express written authorization of the person owning the property where such trees or shrubs to be removed are located; and/or,
- 3) In any area where such trees or shrubs are required to remain under a specific permit issued under this Ordinance.

Q) Nonconforming Signs.

- 1) Subject to the remaining restrictions of this section, nonconforming signs which were otherwise lawful on the effective date of this Ordinance may be continued until such time as they may be removed or destroyed, as provided under the nonconforming provisions stipulated in Section 16(Q)(4).
- 2) No person may engage in any activity which causes an increase in the extent of the nonconforming condition of an existing sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Illumination of any kind shall not be added to any nonconforming sign.
- 3) An existing nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this section.
- 4) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this section, and the

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remnants of the former sign shall be cleared from the land. For the purpose of this section, a nonconforming sign is “destroyed” if damaged to an extent of the cost to repair the sign to its former stature or replacing it with an equivalent sign equals or exceeds seventy-five percent (75%) of the replacement value of the sign so damaged.

- 5) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated as long as the cost of such work does not exceed seventy-five percent (75%) of the replacement value of such sign within any twelve-month period.
- 6) Only the message of a nonconforming sign may be changed as long as this does not add to or create any new nonconforming condition.
- 7) The Zoning Administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

R) ***Applicability.***

The regulations stipulated in this section shall apply to all signs which are constructed, erected, moved, enlarged, illuminated, substantially altered or otherwise maintained within the Town’s planning and development regulation jurisdiction except for signs expressly or implicitly regulated elsewhere in this Ordinance.

SECTION 17 Bicycle and Pedestrian Facilities

A) Intent.

These regulations are intended to promote walking, safe routes to school, and other forms of non-motorized transportation to allow citizens to reap significant social, environmental, and health benefits which are not often available in auto-oriented places. This will be achieved by ensuring safe, convenient, and comfortable trails, sidewalks, and pathways which provide opportunities for exercise, help people meet and socialize, and give children and others who do not drive mobility options.

B) Applicability.

Bicycle and pedestrian facilities shall be installed prior to the issuance of a certificate of occupancy permit unless an owner or developer is eligible for an agreement or is exempted by Sections 17(D) and 17(E). All new residential and commercial developments within the Town’s planning and development regulation jurisdiction limits shall comply with the following:

- 1) All the applicable requirements of the Town’s *Manual for Design and Construction of Streets*;
- 2) Carteret County’s *Comprehensive Transportation Plan*;
- 3) *The Town of Beaufort, NC Comprehensive Bicycle Plan*;
- 4) *AASHTO Bicycle and Pedestrian Guidelines*;
- 5) NCDOT guidelines;
- 6) The standards of this Ordinance; and
- 7) Any/all other adopted Town ordinances, policies and plans.

C) Configuration.

Bicycle and pedestrian facilities shall be configured using all of the following standards:

- 1) Bicycle facilities shall be at least eight feet (8’) wide and shall be constructed of concrete, asphalt, brick, textured pavers, or a combination of these materials.
- 2) Pedestrian facility street crossings at all intersections may be raised above adjacent street levels as a traffic calming measure. When used, pedestrian crossings may be raised above the pavement and shall be of a different contrasting material or be striped for safety.
- 3) Bicycle and pedestrian facilities shall connect with existing or planned facilities at property boundaries.
- 4) New nonresidential mixed use and multi-family developments shall provide at least one improved on-site connection between the new development and the existing adjacent public bicycle and pedestrian system.
- 5) Except in areas where asphalt, brick, or pavers are used, all public bicycle and pedestrian facilities shall maintain a brushed concrete finish for safety.

D) Flexibility in Administration Required.

The BOC recognizes as a result of the particularities of any given development, the inflexible application of Section 17(C) may result in a development with either insufficient facilities or one who cannot reasonably comply with the standards herein. In addition, there may be other suitable construction methods or materials available as technology advances. Therefore, the Planning Director, after consultation with the Director of the Town’s Public Works Department, may accept

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or require alternate designs, construction methods, and materials not specifically prescribed herein. Whenever such flexibility is utilized, the reasons and specific conditions which are imposed shall be documented. In addition, the Planning Director may impose specific conditions when granting flexibility.

E) **Exemptions.**

Bicycle facilities shall not be required when:

- 1) The Planning Director determines an existing adjacent greenway or multi-purpose trail provides a superior level of pedestrian connectivity; and/or,
- 2) Construction of a lot which was a part of a subdivision previously approved by Carteret County prior to expansion of the ETJ and which was not designed to accommodate bicycle facilities due to road ditches or other such situations.

SECTION 18 Site Plan Standards for Commercial and Residential Structures with over 5,000 square feet

A) Purpose.

It is the intent of this section to promote the public health, safety, and welfare of the community by reviewing development proposals.

B) Site Plan Review Required.

1) Staff Review.

Submission of a site plan shall be required for the following developments:

In all zoning districts, any use or combination of uses which:

- a) Involves the new construction or placement of a residential building or structure of five thousand square feet (5,000 ft²) or more in gross floor area; or
- b) Entails a twenty percent (20%) or greater increase in gross floor area and results in a building or combination of buildings of five thousand square feet (5,000 ft²) or more in gross floor area.

2) Planning Board and Board of Commissioners Review.

Submission of a site plan to be reviewed by the Planning Board and the Board of Commissioners (BOC) shall be required for the following types of developments:

- a) Any special use as may be required in this Ordinance.
- b) Any commercial use which results in a structure or building of five thousand square feet (5,000 ft²) or more in gross floor area.
- c) Any commercial use involving the construction, reconstruction, replacement, or re-development of a commercial dock, or a pending application for a major CAMA permit.

C) Site Plan Submission.

Plans and applications shall be submitted for review along with a reasonable fee as set in the fee schedule adopted by the BOC. The completed *Site Plan Standards* application shall be submitted to the Town’s Planning and Inspections Department with the specific material necessary as outlined on the application, fifteen working days prior to review by the Planning Board.

All plans must be prepared by a land surveyor, engineer, landscape architect, design professional, or architect registered to practice in the State of North Carolina. If a recent survey and site plan (within five years) is available and the applicant can certify the information is true and accurate, the site plan may be used with all proposed changes drawn in and highlighted. Additionally, when an expansion or site modification is proposed for an existing site of two acres or more, a sketch overview of the entire site with a detailed plan of only the portion with the proposed additions/changes may be accepted.

All plans shall be submitted to the Zoning Administrator digitally and on bond paper having an outside boundary of eleven inches by seventeen inches (11” x 17”), eighteen inches by twenty-four inches (18” x 24”), or twenty-four inches by thirty-six inches (24” x 36”), shall include a north arrow, shall be at a scale not smaller than 1” = 100’, and shall include the following:

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- 1) Vicinity Map.
A vicinity map indicating the location of the site and showing the site and its relationship to at least two public streets nearest to the property, a north arrow, and the vicinity map scale shall be included on the map/plat.
- 2) Title Block.
The title block shall contain the following information on the map/plat:
 - a) Development plan name.
 - b) Name, mailing address, and telephone number of site developer, property owner, and map preparer.
 - c) Signed seal of the map preparer; date survey was made and any/all revision dates; and graphic scale bar.
- 3) Legend.
The legend shall identify all symbols used on the map/plat.
- 4) Survey of the Site.
A survey of the site, prepared by a registered surveyor licensed to practice in North Carolina as required by state law, shall be submitted with the map/plat.
- 5) Site Data Block of Features.
All of the following information is to be included in one block on the map/plat:
 - a) Proposed use(s), square footage of proposed and existing building(s);
 - b) Site zoning; total acreage; acreage of land to be disturbed and exposed;
 - c) Acreage in active recreation space, acreage in open space with note stating whether dedicated land will be public or private, where required;
 - d) Number of lots, minimum lot size, average lot size;
 - e) Number of units (dwelling, commercial), ownership status (rental, condominiums, etc.), type of units, and density;
 - f) Number of parking spaces required, number of parking spaces proposed and existing which can be found in Section 13 of this Ordinance;
 - g) Calculation of vehicular surface areas (VSAs), existing and proposed which can be found in Section 13 of this Ordinance;
 - h) Calculation of required landscaped area which can be found in Sections 14 and 15 of this Ordinance; and,
 - i) The map book and page number and deed book and page number in which the lot is recorded in the Carteret County Register of Deeds; and the parcel identification number (PIN).
- 6) Existing Features Map.
The existing features map/plat shall be at a scale no smaller than 1" = 100'. Plan view shall include:
 - a) North arrow (true/grid/magnetic);
 - b) Property boundaries, with metes and bounds labeled, control corner noted, survey tied to state or federal marker, intersection of adjoining property lines;
 - c) Topography (minimum 2' contour intervals) and spot grades, where appropriate; wooded areas; water impoundments; water courses; other natural features; and floodway,

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floodplain, and Area of Environmental Concern (AEC), boundaries or a statement the lot is not affected by a floodway, floodplain, or AEC;

- d) All buildings, buffers, easements, drainage facilities (topography, storm water, manholes), utilities above and below ground, two nearest manholes to site with invert elevations and pipe sizes, valve boxes with depth to operating nut, and all other man-made features within fifty feet (50') from the site;
- e) All dimensions of streets, roads, rights-of-way, pavement widths, driveways, curb cuts, bicycle and/or pedestrian facilities, and sidewalks on both sides of the street, within two hundred and fifty feet (250') from the site boundaries, and the distance to the closest street intersection from the site;
- f) Existing use of the property indicating the number of units, percentage of site devoted to open space (vegetated areas); and the zoning of the property; and,
- g) Existing trees with eight-inch (8") DBH.

D) Proposed Features.

Plan view (scale no smaller than 1" = 100') shall include:

- 1) North arrow;
- 2) Streets, curb cuts, accesses, and turning lanes on existing streets rights-of-way (location, widths, radii, public/private, street names);
- 3) Sidewalks, walkways, bikeways (location, widths);
- 4) Driveways (location, widths, type of surfacing, radii);
- 5) Parking layout (location, dimensions of typical space and aisles, delineation of all spaces, type of surfacing, curbing, setbacks);
- 6) Fire lanes (location, dimensions, type of surfacing);
- 7) Handicapped parking (location, delineation, dimensions), ramp(s) (location, dimensions, slope) building access;
- 8) Loading/unloading area (location, dimensions, type of surfacing);
- 9) Traffic flow patterns and stop conditions;
- 10) Structures (including accessory) showing location, access points, number of stories, square footage, finish floor elevations, construction materials, and setbacks;
- 11) Refuse collection area (location, type of surface, screening/buffering, setbacks, and the pad detail);
- 12) Utility layouts & connections to existing systems; pipe profiles, both water and sewer, and service laterals (if critical);
- 13) Storm drainage facilities (including swales, culverts, curb inlets, pipes, curbs & gutters, retention/detention facilities, & the sizes and locations of each facility), storm water calculations (method) based on Chapter 34 of this Ordinance;
- 14) Easements (locations, width, purpose, public/private);
- 15) Distance between buildings;
- 16) Location and type of exterior lighting, fencing, privacy walls, free-standing signs, and exterior walls, including proposed materials for each;
- 17) Proposed topography (minimum 2' contour intervals or spot grades, where appropriate);

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- 18) Natural features to be left undisturbed including trees, ponds, wetlands with their location and size;
- 19) Proposed buffering plan (location, size at installation, quantity and species of all trees, shrubs, ground cover, and other related materials), where required;
- 20) Open space and/or recreation areas (locations, acreage, approximate dimensions, facilities, public/private status), where required;
- 21) Proposed corner markers, and other reference points (concrete monuments, stakes, etc.);
- 22) Proposed landscaped areas (location, dimensions, quantity and species of all trees, shrubs, ground cover, and other related materials), where required;
- 23) Any other information needed to adequately review the proposal.

E) Design Standards.

The following design standards must be adhered to before approval can be granted:

- 1) The proposed use/structure complies with all zoning district requirements (i.e., driveway locations, parking requirements, signage, area regulations, etc.);
- 2) All drainage and utility easements, rights-of-way, and facilities be dedicated and recorded at the Carteret County Register of Deeds as required by the Town’s Public Works and Public Utilities Departments;
- 3) The water and sewer system to be utilized by the site and all improvements relating to the connection to such system shall meet all the requirements of the Town’s Public Utilities Department;
- 4) The fire flow demand will not exceed available water supply and the fire hydrant locations will conform to ISO standards and other standards as indicated in Appendixes C & D of the 2012 North Carolina Fire Code;
- 5) The site has been legally subdivided or its creation pre-dates its inclusion into the Town’s planning and development regulation jurisdiction;
- 6) Public sidewalks be constructed, as per Town standards, in accordance with the Town’s adopted *Manual for Design and Construction of Streets, Water and Wastewater Systems*;
- 7) The drainage system to be utilized by the site and all improvements relating to the connection to the system meets all requirements of the Town’s Public Works Department and the Town’s adopted *Stormwater Ordinance*;
- 8) The proposed improvements conform to *The Flood Damage Prevention Ordinance* by the Town and/or State of North Carolina;
- 9) Traffic patterns be designed or constructed so accessibility for solid waste removal, emergency vehicle access, and traffic generated by and at the site and on adjoining public streets can be accommodated in a safe, efficient, and orderly manner and separated access is provided when more than fifty dwelling units or more than twenty thousand square feet (20,000 ft²) of office/commercial space are being served;
- 10) The storage of any hazardous materials conforms to applicable local, state, and federal standards and a listing of such hazardous materials will be submitted to the local fire marshal; and
- 11) A proposed use or structure will not impede or interfere with the efficient extension of public streets, public utilities, or public recreational facilities.

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F) Landscaping Standards.

Landscape standards should adhere to Sections 14 and 15 of the Ordinance and the following:

1) Landscape Plans.

- a) Single-family residential lots are exempt from submitting a landscape plan.
- b) All developments and common areas with a square footage greater than eight thousand square feet (8,000 ft²) shall include a landscape plan. Such plans shall include an inventory of all existing trees with a trunk diameter of eight inch (8”) DBH and all new trees to be planted by the owner, developer, or applicant. The plan shall include all buffer plantings, street trees, and any other landscaping required by Sections 14 and 15 of this Ordinance.

2) Tree Protection.

For properties subject to this section, no person shall cut down or destroy any existing trees over eight inch (8”) DBH until such cutting or destruction is permitted in the approval of the *Site Plan Review* application and landscape plan by the Town. All existing trees required by the approved landscape plan shall be clearly marked with tape or with non-permanent spray paint to protect them from damage during construction.

The owner, developer, applicant shall be responsible for replacing any such existing trees which are severely damaged and any newly planted trees which do not survive at least two years after planting. The guidelines for landscape plans and tree protection may be found in Sections 14 and 15 of this Ordinance.

3) Permits.

All permits for new construction shall adhere to this section however single-family residential lots do not have to have a landscape plan.

4) Building Renovations.

The following shall apply, excluding single-family residential lots:

- a) Tree preservation is required per Section 18(F).
- b) Tree planting is not required when renovating, however it is optional and desirable.

5) Exceptions.

Exceptions include:

- a) All single-family residential lots in all residential zoning districts.
- b) The Transitional District (TR) is exempt only when the use is for single-family residential uses.

6) Compliance in TR District.

For TR District uses requiring a building permit or a zoning permit other than a single-family residential use, the code enforcement officer shall inform the applicant compliance with this section of the Ordinance is a prerequisite to issuance of the certificate of occupancy or certificate of compliance.

G) Review Procedure for Sites to be Approved by Staff.

1) Approval Timeline.

Within thirty working days of the submittal date, Town staff shall review the plans and make a determination to approve or disapprove plans based on design standards.

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2) Staff Approved Plans.

Staff approved plans shall be immediately reported to the BOC. Approval shall become final unless further review is requested by two BOC members within five working days from the date submitted to the BOC.

3) Additional Information or Changes Needed.

If it is determined more information is needed or a significant number of changes must be made before the plan can be approved, the applicant may withdraw the plans; make the necessary changes; and resubmit the plans. All resubmissions shall contain a list of the changes made. A new fifteen-day review period will begin on the date of the resubmission.

4) Final Approval/Denial Procedures.

- a) Once the approval becomes final, the Town’s planning staff shall notify, in writing, the applicant in compliance with the requirements of Section 31 herein, and the Town’s Public Utilities, Public Works, Fire and Police Departments. Certified copies of the approved site plan shall be delivered to the applicant and shall be retained in the permanent files of the Town.
- b) If plan approval is denied, the reason for this action shall be communicated to the applicant in writing in accordance with the provisions of Section 31 herein. A revised plan may then be resubmitted in the manner of a new application or the applicant may appeal Town staff’s decision to the Planning Board, from which the decision may be appealed to the BOC.
- c) Building permits may be issued once the plan is approved.

H) ***Review Procedure for Sites to be Approved by the BOC.***

1) Planning Board Review.

The plan shall first be reviewed by the Planning Board and shall be forwarded, with comments and/or recommendations, to the BOC for consideration.

2) Board of Commissioners Review.

The plan shall be reviewed by the BOC and shall be approved if all objective design standards set forth in this section are met. ~~The BOC will utilize the -pursuant to the~~ procedures outlined in Section 32 if a discretionary review is necessary.

3) Plan Approval Procedures.

- a) In approving the development, the BOC may specify such conditions as it may deem necessary to execute the intent of the Ordinance and ensure maintenance of the conditions in the above findings. Any such conditions shall be entered in the BOC minutes and entered upon the plans, and such conditions shall run with the land, and remain binding to the original applicants, their heirs, successors, and assigns.
- b) If the plan is approved, this fact shall be entered in the BOC minutes and appropriately certified copies of the approved site plan shall be delivered to the applicant and Town’s Planning and Inspections Department to be retained in the permanent files of the Town.

4) Plan Denial Procedure.

If plan approval is denied, the reasons for this action shall be entered in the BOC minutes and communicated to the applicant. A revised plan may then be resubmitted in the manner of a new application with resulting applicable fees.

5) The quasi-judicial procedures outlined in Section 32 herein shall be utilized by the BOC in considering an application for a special use permit, or in considering any decision herein that requires the use of discretion.

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- 6) The Town shall also follow the procedures outlined in Section 20 herein when considering an application for a special use permit.

I) *Compliance.*

1) Failure to Comply with an Approved Site Plan.

In the event of failure to comply with an approved site plan or condition related thereto, the Town shall have all enforcement remedies outlined in Section 28 herein.

2) Work Completion Timeline.

At least one-half of the plan improvements shown on the site plan shall be completed within eighteen months from the plan approval date. The remaining half must be completed within three years of the plan approval date. Failure to complete construction as required herein shall automatically void the approved plan unless the BOC, following a recommendation of the Zoning Administrator, finds:

- a) A request for an extension has been made to the Town prior to the expiration period; and,
- b) Unobstructed portions of the plan have been updated, if required, to conform to all ordinances, laws, and Town policies in effect at the time of the requested extension.

3) Minor Revisions of Approved Plans.

If there are minor revisions of approved plans:

- a) The Zoning Administrator may, upon consultation with affected Town departments, approve minor revisions to previously approved site plans. Any revisions approved by the Zoning Administrator shall be communicated in writing to the applicant and the affected Town departments.
- b) Applications for revision of previously approved site plans shall be referred to and reviewed by the Zoning Administrator in the following circumstances:
 - i) If the applicant or the Zoning Administrator determines the revision(s) requested are major or significant; or,
 - ii) If the applicant desires to appeal a modification review decision made by the Zoning Administrator. The BOC may, at its option, refer modification request to the Planning Board for comment before completing its review.

4) Approval of Final Plans.

At such time as development for which a site or other plan has been approved under this section has been completed, the Director of Planning and Inspections will confirm the development has been completed according to the plans as approved and upon such confirmation, the Director is authorized to give a certification to permit the plan to be recorded at the Carteret County Register of Deeds Office.

J) *Appeals.*

An applicant may appeal any decision of the Town staff or the Town Manager to the BOA and then to superior court in accordance with the provisions of Section 31 herein.

SECTION 19 Screening, Fencing, and Buffer Yard Standards and Requirements

A) Purpose.

The purpose of screening and buffering requirements is to add to the beautification of the Town, to protect neighboring property values, and to improve vehicular safety by reducing the impact of visual clutter. Guidelines are established herein for the use of screens/buffer yards in the Town’s planning and development regulation jurisdiction.

B) Benefits of Buffer Yards.

- 1) Buffer yards can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the buffer yard.
- 2) Vegetation produces oxygen and reduces the carbon dioxide content of the air; transpires considerable amounts of water each day; and helps to clean storm water passing from the surface to groundwater tables.
- 3) Vegetation, through root systems, stabilizes groundwater tables, conserves soil, prevents erosion, and helps control flooding.
- 4) Vegetation makes urban life more comfortable by providing shade and cooling the air and land.
- 5) Buffer yards encourage the preservation of existing vegetation and protect the value of surrounding property.

C) Types of Screens/Buffer Yards.

1) “Type A”.

This screen/buffer yard is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. “Type A” screening/buffering shall consist of a screen/buffer yard which is opaque from ground level to a height of at least six feet (6’), with a lesser amount of up to thirty feet (30’) above ground surface. Such a screen/buffer yard may be composed of various combinations of wall, fence, planted vegetation, and existing vegetation. A list of desirable trees and shrubs may be found in Section 14(B) of this Ordinance.

Table 19-1 “Type A” Screen/Buffer Yard
MINIMUM PLANTS PER 100 LINEAR FEET

SCREENING/BUFFERING MATERIAL	BUFFER YARD WIDTH OPTIONS	
	10-19 ft.	20 ft. or more
Large trees (evergreen)	4	4
Small trees (evergreen)	6	6
Large Shrubs (evergreen only)	0	25
Built opaque fence or wall (6’ height minimum) covering entire length of buffer yard	Required	Optional
MINIMUM AMOUNT OF REQUIRED SCREENING/BUFFERING MATERIAL PER 100 LINEAR FEET TOTAL	10 trees plus fence or wall	10 trees plus 25 large shrubs

2) “Type B”.

This type is intended to partly block visual contact between uses and to create a strong impression of spatial separation. “Type B” screening/buffering shall consist of a screen which is opaque from ground level to a height of at least three feet (3’), with intermittent visual

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obstructions from three feet (3') up to thirty feet (30') above ground surface. Such a screen/buffer yard may be composed of various combinations of wall, fence, planted vegetation, and existing vegetation. A list of desirable trees and shrubs may be found in Section 14(E) of this Ordinance.

Table 19-2 "Type" B" Screen/Buffer Yard
MINIMUM PLANTS PER 100 LINEAR FEET

SCREENING/BUFFERING MATERIAL	BUFFER YARD WIDTH OPTIONS	
	10-19 ft.	20 ft. or more
Large trees (evergreen)	2	2
Small trees (evergreen)	3	3
Small Shrubs (evergreen only)	0	25
Built opaque fence or wall (3' height minimum) covering entire length of buffer yard	Required	Optional
MINIMUM AMOUNT OF REQUIRED SCREENING/BUFFERING MATERIAL PER 100 LINEAR FEET TOTAL	5 trees plus fence or wall	5 trees plus 25 small shrubs

- 3) "Type" C".
 - a) Opaque Fence.

The "type" C" screening/buffering shall consist of a fence which is opaque from ground level. The height of such fence shall be between six feet (6') and eight feet (8'). The material stored behind such fence shall not be higher than the fence.
 - b) *Vegetation.

Vegetation is required between the fence and right-of-way to accent the required opaque fence. The "type" C" screening/buffering shall consist of twenty-five small and three large evergreen shrubs (no tree substitutes permitted) per 100 linear feet of screen required. An alternative design may be submitted in lieu of the specific requirements stated herein for approval by the Director of Planning and Inspections. Landscaping is not required in front of an entrance gate.

*When the fence or wall is to be located more than fifty feet (50') from the street right-of-way only one-half of the vegetation is required.
 - c) Additional Requirements.

The following are additional requirements for the "type" C" screen:

 - i) Tarpaulins, tents, or other temporary screens are not acceptable screening/buffering materials.
 - ii) The fence shall be set back from the road or street right-of-way a distance of five feet (5') but may be no closer than ten feet (10') from the edge of pavement. No part of any screen shall impede the visibility at driveways.
 - iii) Junk or other materials required to be screened shall not be used to support the screening/buffering materials or comprise part of the screen itself.
- 4) Exceptions.
 - a) Option to Build Fence.

For both "type" A" and "type" B" screens/buffer yards if the option to build an opaque fence within a twenty-foot (20') or greater buffer yard is selected, the planting requirements become the same as for a ten- to nineteen-foot (10-19') buffer yard.

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b) Alternative Designs.

Where proposed by the developing use or recommended by the Town’s Planning and Inspections Department and where such proposal or recommendation is acceptable to both parties, alternative designs may be provided in lieu of the specific requirements stated herein. Alternative designs may include:

- i) Natural buffers of a width and density which, during all seasons, ensures the screening/buffering intents herein.
- ii) Drainage corridors with vegetated banks and adjacent areas which meet the screening/buffering intents herein.
- iii) Other alternative designs which will ensure the screening/buffering intentions of these standards will be acceptable.

c) Driveways and Street Intersections.

- i) To ensure landscape materials do not constitute a driving hazard a sight distance, as depicted in Section 19(E)(3), will be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, no landscape material, fencing, or berm exceeding thirty inches (30”) above the adjacent street shall be permitted.
- ii) Non-concurrence of any proposed alternative design, as determined by the Planning and Inspections Department, will mean automatic rejection unless otherwise approved through the appeals process.

D) Required Screening/Buffering Types Between Adjacent Land Uses.

The type of screen required is determined by the category of land uses adjacent to the proposed use.

Table 19-3 Categories of Land Uses Symbol

Line	Proposed Land Use	Zoning District
1	Low and moderate density residential uses less than 6 units/acre which excludes mobile home parks	Residential
2	High density residential, 6 or more units/acre, group housing, and mobile home parks	Townhome, Condominium, and Apartment (TCA)
3	Public recreational and public institutional, including schools and churches	Transitional (TR)
4	Commercial, industrial including retail, office, wholesale, manufacturing, storage, and utilities uses	Nonresidential

1) Type of Screening/Buffering Required Between Adjacent Land Uses.

Table 19-4 Type of Screening/Buffering Required Between Adjacent Land Uses

Abutted/Abutting	Residential	TCA	Transitional	Nonresidential
Residential	None	A	B	A
TCA	A	None	B	A
Transitional	B	B	None	B
Nonresidential	A	A	B	None

2) Adjacent Vacant Lot.

When developing a use directly adjacent to a vacant lot or parcel, the property owner or developer shall not be required to install a buffer yard. At the time such vacant lot is developed,

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the owner or developer of said lot shall provide all screening/buffering and buffer yard requirements between the two uses.

E) Fences and Walls.

- 1) In all residential zones, fences and walls not over four feet (4') high may project into or may enclose any front yard. In no case shall a fence or wall over four feet (4') high be extended closer to the street right-of-way line or easement which parallels the front property line, than the front corner of the main building situated on the lot or twenty-five feet (25') from said street right-of-way or easement. No fence may be constructed on or into a public street right-of-way or easement. Side and rear yards may be enclosed by fences or walls six feet (6') high. Unless otherwise specified, metal fences shall not exceed four feet (4') in height and shall have a mesh smaller than five inches (5"). Wooden or other privacy-type fences may not exceed six feet (6') in height. All fences in the Historic District must be approved by the BHPC.
- 2) Only conforming nonresidential land uses, with the exception of the TR District, may have a solid or open fence or wall erected to a maximum height of ten feet (10') except as required by this Ordinance. An open fence or wall is one which has openings throughout and where clear vision is possible from one side to the other on a horizontal plane and such openings occupy fifty percent (50%) or more of the area of the fence or wall. A fence or wall which does not qualify as an open fence or open wall shall maintain a setback at entrances and exits of the site to provide an adequate sight distance easement as depicted in Section 19(E)(3).
- 3) A fence or wall which does not qualify as an open fence or open wall shall maintain a setback at entrances and exits of the site to provide an adequate sight distance easement. Such easement shall be established as an isosceles triangle having legs thirty-five feet (35') in length on each corner side of the entrance or exit. The same sight distance easement shall be applied to the corners of nonresidential lots which are typified by a street intersection.
- 4) The setback and yard requirements of this Ordinance shall not apply to a retaining wall not more than five feet (5') high, as measured from the lowest ground elevation to the top of the wall. The BOA may permit, by variance, a retaining wall greater than five feet (5') high due to the topography of the lot if such wall is necessary.

F) Screening/Buffering of Open Storage Areas.

Any open storage area not enclosed within the confines of a building, such as boxes, crates, trash piles, machinery, and merchandise with open display (windows) which result from the commercial operation it is associated with, shall be enclosed or hidden from view along any property lines adjacent to a residential zone by a wall, fence, and/or screening/buffering in a manner acceptable to the Zoning Administrator. This provision shall apply in any nonresidential use adjacent to a residential zone and all properties affected by this provision shall comply within three years after adoption of this Ordinance. In the TR and General Business (B-1) districts, there shall be no open storage as an accessory or other use.

G) Location of Buffer Yards.

Buffer yards should be located on the outer perimeter of a lot or parcel, extending to the lot's boundary line. Buffer yards may be located in whole or in part within any side yard, and rear yard setbacks. Buffer yards shall not be located on any portion of a public or private road right-of-way and/or utility easement unless written approval is obtained by the Town's Public Works Department and/or the easement holder.

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H) Responsibility for Development of a Buffer Yard.

- 1) The owner or developer of the permitted use of land shall be responsible for submitting a buffer yard plan to the Planning and Inspections Department as mandated in Section 19(M). The owner or developer is also responsible for providing and maintaining the required buffer yard and screening. If the replacement of screening material becomes necessary to continue its effectiveness, the owner or developer is responsible for such replacement.
- 2) When screening for outdoor storage is required, the owner, developer, tenant, or occupant shall be required to submit a buffer yard plan to the Planning and Inspections Department and to install and maintain the required buffer yard and screening.
- 3) The owner of a subdivision or PUD may either submit a buffer yard plan for each lot or one for the entire subdivision or PUD. Should one plan be submitted for the entire subdivision or PUD, the owner or developer may either install the entire buffer yard at once or install the buffer yard for each phase of construction in conjunction with the building permit issuance for the phase.

I) Maintenance of a Buffer Yard.

- 1) Vegetation.
The property owner, developer, tenant, and occupant shall be jointly and severally responsible for maintaining all vegetation required by this section in a healthy condition and as set forth in section N of this section.
- 2) Fencing.
No fence shall have more than twenty percent (20%) of its surface area covered with disfigured, racked or missing materials, or peeling paint. No fence shall be allowed to remain with bent or broken supports or be allowed to stand more than fifteen degrees (15°) away from the perpendicular. Support structures of the fence/wall, other than those used to enhance its appearance, shall be seen, if at all, by the use responsible for building and maintaining the buffer and not by the adjacent use. Replacement or repair of fencing shall occur upon written notification from the Zoning Administrator in accordance with the provisions of Section 28 herein.
- 3) Pruning.
Pruning shall follow the guidelines set in Section 14 of this Ordinance and shall not compromise the minimum height requirements at the time of the original planting.

J) Requirements for Refuse Collection Areas.

- 1) Screening/buffering is required for all refuse collection areas designed for commercial use. A location for refuse collection shall be shown on all site plans. An area specifically designated for recycling is strongly recommended and in some cases required by the North Carolina General Statutes.
- 2) If a refuse collection area is provided for unmanned uses (e.g. cemeteries or public or private utilities such as power, water, or communication facilities) which do not generate a lot of refuse, the requirements of this section shall apply.
- 3) Refuse collection areas shall be screened on three sides by an opaque fence or wall so it is not visible from any surrounding properties or streets. In rare circumstances where site conditions support the refuse collection area(s) facing a right of way, the fourth side would require

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screening/buffering in the form of an opaque gate (chain link fencing is prohibited). Collection areas shall be designed so waste removal trucks can easily access the waste containers.

- 4) Refuse collection areas shall be set back at least five feet (5') from the side and rear property line and shall not be closer to any street right of way than the wall(s) of the primary structure.
- 5) Refuse collection areas shall be constructed to Town standards. If more than one container is needed, the collection area shall be based on the detail multiplied by the number of containers needed.
- 6) Refuse collection areas which serve restaurants or other such uses as determined necessary, shall drain into the sanitary sewer through a grease trap or other approved method as deemed appropriate by the Town's Public Works Department.
- 7) Any modifications to existing refuse collection areas shall comply with the requirements of this section.

Due to the particularities of any given development, the BOC recognizes the inflexible application of this section may result in a development which is unable to fully comply with the standards set forth herein. Therefore, the Town may grant flexibility when an existing development has insufficient land available, an unsafe condition would be created, or other extenuating circumstances exist in considering a variance under the provisions of Section 21(I) herein.

K) *Plant Materials Used in Buffer Yards.*

Trees and planting material shall follow the standards in Section 14 of this Ordinance. A list of recommended shrubs and trees may be found in Section 14(E) of this Ordinance. Recommendations for buffer yard material, other than those listed in Section 14(E), may be obtained from the Town Planner.

L) *Further Buffer Yard Requirements.*

The following requirements shall be followed as well as the standards and requirements found in section 14 of this Ordinance:

- 1) Seeding.
All buffer yard areas which are not landscaped shall be seeded or sodded with lawn or planted with ground cover unless the lawn or ground cover is already established.
- 2) Encroachment.
Among other things, buffer yards may not be encroached upon by vehicular areas (except common access drives), buildings, exterior storage, dumpsters, or mechanical equipment unless otherwise provided. Encroachment by storm water detention ponds may occur subject to the approval of the Town. Any plant materials placed within storm water storage areas shall be of a variety which will survive periodic flooding.
- 3) "Type C" Screening/Buffering for Outdoor Storage.
Prior to the installation of a "type C" screen/buffer yard for outdoor storage (requirements for "type C" are in Section 19(C)(3)), a buffer yard plan to include the area of the storage area(s) and the specific type of fence and plantings shall be submitted to the Zoning Administrator for approval. Plans submitted shall follow the guidelines set in Section 19(M).
No certificate of compliance for any new construction or new renovation shall be approved by the Town's Planning and Inspections Department until the required screening/buffering is installed in accordance with the approved plan.

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4) Recreational Use.

A buffer yard may be used for passive recreation; it may contain pedestrian or bike trails, provided:

- a) No plant material is eliminated;
- b) The total width of the buffer yard is maintained; and
- c) All other regulations of this Ordinance are met. In no event shall active recreational uses such as playing fields, swimming pools, or tennis courts be permitted in buffer yards.

5) Easement.

No vegetative screening/buffering or barrier required by this section shall be planted on property subject to utility or drainage easements without the consent of the Public Works Department and the easement holder.

6) Future Rights-of-Way Expansion.

Required landscaping materials, fencing, and berms shall not encroach within projected future thoroughfare rights-of-way.

7) Solid Wall.

A stand-alone wall of solid construction (wood, masonry, etc.) which is without openings, accesses, protrusions, lighting, mechanical equipment, etc., may be used to satisfy the fencing requirements of this section along those areas where the building exists. There shall be no breaks or separations between fencing and building walls along property lines where a combination of fencing and building walls are used to satisfy the requirements of this section.

M) Buffer Yard Plan.

- 1) A buffer yard plan shall be required if an expansion involves new construction of five thousand square feet (5000 ft²) or more in gross floor area; or entails a twenty percent (20%) or greater increase in existing gross floor area and results in a building or combination of buildings of five thousand square feet (5000 ft²) or more in gross floor area.
- 2) Prior to the issuance of a building permit, an applicant must propose and receive approval for a buffer yard plan. Buffer yard plans shall require approval by the Planning and Inspections Department and recommendations on the proposed buffer yard material may be obtained from the Town Planner.

A screening/buffering plan may be prepared by the applicant but does not have to be prepared by a licensed surveyor, landscape architect, etc. The purpose of the plan is to avoid any misunderstanding or misinterpretation of the requirements before the applicant spends any time or money on the installation of the buffer yard. The buffer yard plan must be drawn to scale and shall indicate the following information:

- a) Screening/buffering required as outlined in Section 19(C);
- b) Existing and proposed buildings, drives, parking areas, exterior storage areas, dumpsters, storm water detention areas (if applicable), accessory structures (if applicable), and private and public utility easements;
- c) Location of existing and proposed planting areas and type of vegetation which will be used to comply with the buffer yard requirements including the species identified by common and scientific name, height at maturity, DBH (the single stem trees only) at maturity, and spacing of all vegetation;

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- d) Existing and proposed physical barriers used to comply with the buffer yard requirements; and,
- e) All surrounding existing land uses and zoning classifications.

N) Compliance.

1) Certificate of Occupancy.

In order for a final certificate of occupancy to be issued, all vegetation, fencing, and berm required by this section or the approved buffer yard plan shall be in place. A written statement from the installer affirming the vegetation has been planted in accordance with the approved buffer yard plan must be submitted to the Town.

The Town shall inspect property for any dead, unhealthy, or missing vegetation and the required vegetation shall be replaced by the owner/developer upon written notice of noncompliance from the Zoning Administrator. Replacement shall occur at the earliest suitable planting season as determined by the Planning and Inspections Department.

Temporary certificates of occupancy may be issued only after a detailed buffer yard plan indicating the required buffer yard and signifying the schedule for planting has been submitted and approved by the Planning and Inspections Department.

2) Second Inspection.

- a) A second inspection shall be completed during the second growing season after installation of all plantings.
- b) The purpose of a second inspection is to determine if sufficient progress toward full compliance has been made. Sufficient progress shall mean at a minimum, all the following conditions have been met:
 - i) All plant material used for screening/buffering purposes is healthy and producing foliage normally.
 - ii) With normal growth, the specified screening/buffering standard can reasonably be expected to be achieved within five growing seasons from time of installation.
 - iii) All built structures used for screening/buffering are well maintained and in good condition.
- c) Additional inspections shall be made, as needed, to ensure compliance with this section.

O) Penalties and Appeals.

1) Penalty for Noncompliance.

Failure to maintain plantings and/or fences in good condition shall constitute a violation of the Town's *Code of Ordinances*. Any such violations will be enforced pursuant to the provisions of Section 28, Enforcement, herein.

2) Appeal Process.

Any appeal of an administrative decision made pursuant to this section shall be heard by the BOA in accordance with provisions of Section 31 of this Ordinance.

SECTION 20 Special Use Permits

A) General.

Special uses are practices which are not permitted by right in any zoning district in the Town but may only be granted after due consideration by the BOC. The consideration of a special use application is a quasi-judicial function to be conducted in accordance with the procedure set forth in Section 32, Quasi-Judicial Procedure. Special use permits may only be granted by the BOC following a recommendation by the Planning Board and the completion of the quasi-judicial review process by the BOC as outlined in Section 32.

A Special Use Permit is a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

B) Special Use Permit Application Procedures.

- 1) A written application for a special use permit in all zones shall be submitted to the Town’s Planning and Inspections Department in accordance with the requirements of Section 1 and Section 31 of this Ordinance and all applicable administrative regulations. The application shall include:
 - a) A proposed use site plan which contains information documented in Section 18(C) of this Ordinance and the specific information below:
 - i) A vicinity map and survey of the parcel which shall include the zoning and use of all adjacent properties;
 - ii) A legend identifying all symbols on the map;
 - iii) A North arrow and a scale;
 - iv) A preliminary design of the proposed use which shows all existing and proposed structures, parking layouts, driveways, buffering, landscaping, points of ingress and egress, easements, minimum building lines, and street rights-of-way;
 - v) A site data block of features which includes the proposed use(s), square footage of the proposed and existing structure(s), site zoning, total acreage, number of lots, minimum lot size, and average lot size;
 - vi) The map book, page number, and deed book information;
 - vii) A note stating whether any portion of the property is included in any adopted Town plan; and,
 - viii) Any other related information requested by Town staff, the Planning Board, or the BOC.
 - ix) All required environmental permit improvements needed for the property.
 - b) The special use permit sought; and,
 - c) Information supporting the existence of the required findings, and providing such plans or other relevant data as may be required by the Town.

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- 2) Whenever an application is submitted for a special use permit in a residential zone, the applicant shall also include:
 - a) A narrative which illustrates the appropriateness of the proposed use in a residential zone. This narrative shall also describe all the architectural design features which make the proposed use and associated building compatible with the urban character of the residential neighborhood;
 - b) The submitted site plan shall also include all street front architectural elevation drawings to ensure the compatibility of the building(s) with the surrounding residential structures; and,
 - c) Additionally, the BOC and Town staff may require a professional rendering or any other graphic illustration of the proposed structure.
- 3) The application shall be reviewed by Town staff and submitted with comments and recommendation to the Planning Board for review. The Planning Board shall ~~review the follow the quasi-judicial procedures outlined in Section 32 herein when considering an~~ application for a special use permit ~~and make a recommendation as to whether is should be approved or denied.~~ After the Planning Board makes its recommendation, the application shall be forwarded to the BOC for consideration.

C) *Quasi-Judicial Proceeding Notification Requirements.*

The Planning Board ~~shall follow the quasi-judicial procedures outlined in Section 32 herein when considering an~~ will review and make recommendations regarding all applications for a special use permit. The BOC shall schedule a quasi-judicial proceeding for the application and BOC consideration after reasonable opportunity for staff and Planning Board review. In considering the application, the BOC shall follow the procedures set forth in Section 32, Quasi-Judicial Procedure.

D) *Procedures on Special Use Applications.*

In considering whether to approve an application for a special use permit, the BOC shall proceed as follows:

- 1) The BOC shall conduct an evidentiary hearing in accordance with the provisions of Section 32, Quasi-Judicial Procedure, herein. And consider relevant information regarding whether the required findings under Section 20(E) exist and whether the special use is appropriate in the proposed location.
- 2) The BOC shall consider whether the application complies with each individual required finding specified in Section 20(E). The BOC need not make the required findings at the time of the hearing and may vote to table the matter and request information if needed. If the special use permit application is approved, the BOC motion shall contain language showing all the required findings under Section 20(E) have been met, and in the absence of specific findings, it shall be conclusively presumed the application complies with all the findings in Section 20(E).
- 3) The BOC shall render a decision within a reasonable period of time not to exceed ninety days after holding the evidentiary hearing for the proposed special use application. The BOC need not issue a decision at the time of the hearing if additional information is needed and may table the matter until a later date.

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- 4) If the application is found not to be in compliance with one or more of the required findings of Section 20(E) or any other applicable section of this Ordinance, the application shall be denied. Such motion shall specify the particular findings the application fails to meet.
- 5) Notwithstanding the specific requirements of this Ordinance, the BOC may impose additional conditions and reasonable requirements upon the requested special use permit in order to ensure the use is consistent with the required findings as specified under Section 20(E).
- 6) The BOC shall render its decision on the special use permit application, in writing, in accordance with the provisions of Section 32 herein.

E) Required Findings.

- 1) In addition to any other findings or requirements as specified by any other section of this Ordinance, before any application for a special use may be granted or denied, the BOC shall make each of the following findings:
 - a) The proposed use is an allowable special use in the zoning district it is being located within;
 - b) The application is complete;
 - c) The location and character of the use will be in conformity with the Town’s Comprehensive and CAMA Land Use Plan and other comprehensive planning elements;
 - d) Streets, driveways, parking lots, traffic control, and any other traffic circulation features shall be designed and provided in accordance with current traffic engineering standards and Town regulations and found to be adequate for the proposed special use;
 - e) The proposed special use will not substantially injure the value of adjoining or abutting properties;
 - f) The proposed special use will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area; and,
 - g) The proposed use will not materially endanger the public health or safety of the community if located where proposed and developed according to the submitted and approved plan.
- 2) The BOC shall make its findings based on "competent, material and substantial evidence" as described in N.C. Gen. Stat. §160D-406 in accordance with the procedures set forth in Section 32 herein.
- 3) Compatibility Standards for Special Uses in Residential Zones:
 In deciding whether the architectural elements of the proposed special use in a residential zone will be compatible with the adjoining buildings, the BOC shall review said proposal in reference to the following architectural elements:
 - a) Size (footprint);
 - b) Height;
 - c) Proportion and scale;
 - d) Roof shape(s);
 - e) Setbacks;
 - f) Location, size, and number of openings (doors and windows);
 - g) Materials;
 - h) Color; and,
 - i) Texture.

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F) *Special Use Guidelines.*

1) Adult Establishments.

- a) No building, structure, or any portion thereof nor any portion of a lot or parcel or property shall be used for an adult establishment at a location closer than one thousand feet (1000') from any other adult establishment; or closer than one thousand feet (1000') from any residentially zoned property, pre-school, childcare, nursery school, day care, K-12 school, public playground, or church situated within the Town's planning and development regulation jurisdiction.
- b) Plans are required and must show:
 - i) Locations of buildings and signs and the size of the plan;
 - ii) Proposed points of access and egress and patterns of circulation;
 - iii) Layout of parking spaces;
 - iv) Lighting plan inclusive of wattage and illumination; and,
 - v) Landscape plan.

2) Day Care Centers (Including Kindergarten).

- a) One parking space shall be provided for each adult attendant and one parking space provided for every six children or fraction thereof.
- b) Section 19 of this Ordinance gives the screening/buffering and fencing guidelines required for this application.
- c) Plans are required and must show:
 - i) Location and approximate size of all existing and proposed structures and buildings within the site and on the lots adjacent thereto;
 - ii) Proposed points of access and egress and pattern of circulation;
 - iii) Layout of parking spaces;
 - iv) Location and extent of open play area(s);
 - v) Day care center shall provide one hundred square feet (100 ft²) of play area space per pupil.
 - vi) Outdoor play area shall be enclosed by a solid or open fence or wall at least four feet (4') in height. Where the outdoor play area is directly adjacent to a residentially used or zoned lot, a solid fence or wall at least six feet (6') high or the maximum applicable fence or wall height limitation for the district or an open fence at least four feet high (4') and a screen planting designed to grow three feet (3') thick and six feet (6') high shall be created. The BOC may at its discretion, require additional screening/buffering and/or fencing elements to be located adjacent to abutting nonresidential land uses.
 - vii) In residential districts, a day care center shall not be operated between the hours of 7:00 p.m. and 7:00 a.m. unless permitted under the special use permit as issued.
 - viii) Landscape plan.

3) Radio or Television Transmitter.

- a) Minimum lot area – at least three acres in area.
- b) One parking space is required at the site.
- c) Plans are required and must show:

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- i) Location and approximate size of all existing and proposed structures within the site and within one thousand linear feet in all directions;
 - ii) Proposed points of access and egress;
 - iii) Proposed off-street parking spaces; and,
 - iv) Protective fencing at least six feet (6') high with three stands of barbed wire turned out and ten feet (10') from the perimeter of the antenna base shall be established.
- 4) Telecommunication Tower.
- a) Guy-wire towers shall not be permitted.
 - b) Co-location towers shall be permitted in accordance with the provisions of N.C. Gen. Stat. §160D-935.
 - c) Height of communication towers shall be regulated by the Federal Aviation Administration (FAA).
 - d) Communication towers are prohibited in front yards and shall be in compliance with the Telecommunication Act of 1996.
 - e) Local governments have no ability to prohibit towers on the basis of environmental or health issues according to the Federal Radio Frequency Emission Standards.
 - f) The BOC may deny a permit based upon a tower's influence on property value or aesthetics.
 - g) A minimum lot size of one-half acre per tower shall be met; however, the Telecommunication Tower shall be placed on a lot of sufficient size, and in a position on the lot, if the tower falls, no part of it will fall onto adjacent property. Variances of this requirement shall not be allowed.
 - h) Landscaping and screening/buffering are required as approved by the Planning Board and according to Section 15 and Section 19 of this Ordinance.
 - i) A six-foot (6') high protective barrier shall be required around the base of the tower. The barrier shall be a masonry wall, chain link fence, solid wood fence, or opaque barrier as described in Section 19 of this Ordinance.
 - j) Setback requirements shall be according to the zoning district in which the tower is located.
 - k) Towers shall be lighted to satisfy the FAA requirements.
 - l) Towers shall be removed within one hundred eighty days following abandonment of such towers.
 - m) Towers shall be removed by the property owner within one hundred eighty days following damage or termination of operation resulting in inoperable towers or towers where the owner of the tower shows no intent to repair said tower. Blown over towers shall also be removed by the owner of such tower under this guideline.
 - n) Any advertising signage is strictly prohibited on towers.
 - o) Towers shall be painted blue or gray if not otherwise required by the FAA.
 - p) The owner must provide adequate insurance coverage for any potential damage caused by or caused to the tower.
 - q) For permitting purposes, site plans are required as defined in Section 18 of this Ordinance and shall show all of the following additional features:
 - i) Identification of intended user of tower.

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- ii) Documentation by registered engineer shows tower has sufficient structural integrity to accommodate more than one user.
- iii) Statement from owner indicating his intent to allow shared use of the tower and how others will be accommodated.
- iv) Evidence the property owners of residentially zoned/used property within three hundred feet of the base of the proposed tower would be notified prior to the special use application being heard by the BOC in addition to those parties entitled to receive notice under Section 32(B).
- v) Documentation which shows towers over a certain height are absolutely necessary for the provision of service (i.e., a tower up to one hundred ninety-six feet (196') cannot provide a reasonable level of service).
- r) The BOC shall determine if a tower is in harmony with the area and compatible with adjacent properties and may consider the aesthetic effects of the tower as well as mitigating factors concerning aesthetics. The BOC may disapprove a tower based on the grounds the aesthetic effects are unacceptable and a new site should be proposed. The following factors shall be considered:
 - i) Protection of the view in scenic areas, unique natural features, scenic roadways, historic sites, etc.
 - ii) Prevention of a concentration of towers in one certain area; and,
 - iii) Height, design, placement, and other characteristics could be modified to have a less intrusive visual impact.
- s) In considering an application for a telecommunication tower, the Town shall comply with the standards set forth in N.C. Gen. Stat. §160D-930 through N.C. Gen. Stat. §160D-938.

5) Marinas.

The requirements below are for marinas and for proper disposal of sewage from boats:

- a) All slips over thirty feet (30') shall provide a permanent pump-out connection so a hose of not more than thirty feet (30') can reach the mid-point of the slip.
- b) Any vessel with a permanently installed marine sanitation devise shall be located so the holding tank can be pumped-out using a hose not to exceed thirty feet (30').
- c) Mobile pump-out equipment may not be used to meet the requirements of Sections 20(F)(5)(a) and 20(F)(5)(b).
- d) A marina may not charge marina tenants an additional fee to pump-out their holding tanks.
- e) When a T-head of a dock is unoccupied during regular business hours, the marina shall provide public access to the pump-out facility for a nominal fee.

6) Office: Small Business.

Property owners may be granted a special use permit for an Office: Small Business in a residential zoning district if identified as a *Small Business* as defined in Section 4 of this Ordinance.

- a) In addition to application requirements outlined in Section 20(B), special use permit applications must include the following:
 - i) Detailed narrative describing the activities associated with the requested use;
 - ii) Number of employees requested to work on site;
 - iii) Requested business hours of operation;

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- iv) Estimated number of clients served on site per day; and,
- v) Detailed drawing or photographs, including measurements of signage if requested.
- b) Signage will be reviewed by the BOC at the time of the special use permit and will meet the following standards:
 - i) Not more than one sign is permitted;
 - ii) Sign will not exceed an area of two square feet (2 ft²);
 - iii) Colors will be compatible with those of the structure and will not detract from the residential characteristics of the structure;
 - iv) Sign will be affixed flatly against the building; and,
 - v) Directly lighted and/or neon signage is not permitted.
- c) Conditions: The BOC may impose reasonable conditions as it deems necessary for the protection of the public health, general welfare, and public interest regarding:
 - i) Compatibility. The compatibility of the proposal, regarding both use and appearance, with the surrounding neighborhood;
 - ii) Hours of Operation. The frequency and duration of indoor/outdoor activities and the impact of the surrounding area;
 - iii) Noise. The added noise level created by activities associated with the request;
 - iv) Parking. The request will not generate a need for additional parking; and,
 - v) Appearance. The general appearance will not be adversely affected by the location of the proposed use on the property.

SECTION 21 Board of Adjustment

The Board of Adjustment (BOA) is a “quasi-judicial” administrative body whose purpose is (i) to hear, review, and decide appeals from any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance; (ii) to issue variances as authorized by this Ordinance and state law; and, (iii) to issue special use permits when required by this Ordinance. The responsibilities of the BOA are authorized and set forth by N.C. Gen. Stat. §160D-302.

A) Organization of the Board of Adjustment.

1) Board Membership.

The BOA shall consist of five regular and two alternate members. Three regular and one alternate member shall reside within the corporate limits of the Town and be appointed by the Town’s Board of Commissioners (BOC). Two regular and one alternate member shall be appointed by the Carteret County Board of Commissioners (CC BOC) and shall reside within the Town’s extraterritorial jurisdiction (ETJ). If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for such residents, the CC BOC may appoint other residents of the county to fill these seats. If the CC BOC fails to appoint ETJ members needed within ninety days after receiving a resolution requesting such action from the Town, the BOC may make the necessary appointments.

The BOC may establish reasonable procedures to solicit, review and make appointments to the BOA.

The BOC shall from time to time review this section to confirm the existence of proportional representation based on population for residents of the Town’s ETJ, pursuant to N.C. Gen. Stat. §160D-307(a).

2) Term Limits.

BOA regular members and alternate members shall be appointed to serve a three-year staggered term and members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitation. Vacant seats and unexpired terms shall be filled by the BOC or the CC BOC as necessary.

3) Oath of Office.

All members appointed to the BOA under this section shall, before entering their duties, qualify by taking an oath of office as required by N.C. Gen. Stat. §160A-61.

4) Removal from Board.

a) Regular BOA members may be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five percent (75%) of the meetings within any twelve-month period or for any other good cause related to performance of duties. Such failure will constitute a voluntary resignation of the member. .

b) Alternate members may also be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with BOA established procedures.

c) If a member appointed by the Town moves outside the Town’s corporate limits, that member shall be deemed to have resigned from the BOA. If a member representing the ETJ of the Town moves outside the Town ‘s ETJ, that member shall be deemed to have resigned from the BOA.

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- d) If for reasons other than mentioned herein a member resigns from the BOA, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.
- e) Members of the BOA may be removed for inefficiency, neglect of duty or misconduct in office by the BOC only after being given a copy of the charges and provided the opportunity to be heard in person or by counsel. A BOA member is entitled to at least 10 days after receipt of the notice to prepare for such hearing.

5) ETJ Members Rights.

ETJ regular members shall have equal rights, privileges, and duties as Town members and may vote on all matters considered by the board regardless of whether or not the property affected lies within their planning jurisdiction.

6) Notification of Absences.

Regular members shall promptly notify the board secretary if they are unable to attend or participate in an upcoming meeting. The secretary shall notify an alternate member to attend when necessary. Assignments shall be rotated among the alternate members. When seated, any alternate member in attendance shall have the same powers and duties as the regular member they replace, including the ability to constitute a quorum for the purpose of the meeting regardless of whether the alternate is a regular or ETJ member.

B) Meeting of the Board of Adjustment.

- 1) The BOA shall meet periodically pursuant to a schedule adopted pursuant to law and may hold special or emergency meetings in accordance with Chapter 143 of the North Carolina General Statutes.
- 2) All meetings of the board shall be open to the public and whenever feasible, the agenda for each board meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The BOA shall keep minutes of its proceedings. The minutes of all meetings and hearings of the BOA shall be retained by the board secretary or his/her designee and all minutes shall be a public record once adopted by the BOA. This shall include all findings of fact and decisions of the board.
- 4) The Chairman of the BOA will have the authority to cancel a meeting of the BOA when notified by the Planning and Inspections Department there is no business to be considered at the meeting.
- 5) Quasi-Judicial Decisions. The BOA shall follow the procedures set forth in Section 32 of this Ordinance if making a decision or determination on a quasi-judicial matter.

C) Quorum.

1) Quorum Requirements.

- a) A quorum for the BOA shall consist of a minimum of four members.
- b) Other than for a variance, all actions of the BOA shall be taken by majority vote, a quorum being present.

2) Withdrawal from Meeting.

Any member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.

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D) Deciding Cases.

1) Voting.

- a) The concurring vote of four-fifths of the board shall be necessary to grant a variance.
- b) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- c) For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

2) Failure to Vote.

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 Section 21(D)(3) or has been allowed to withdraw from the meeting in accordance with Section 21(D)(4).

3) Conflicts.

A member of the board shall not participate in or vote on any quasi-judicial matter in a manner which would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts of interest are defined in Section 33 of this Ordinance.

4) Voting Procedures Due to Conflict.

If an objection is raised to a member's participation and the member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

5) Roll Call Vote.

A roll call vote shall be taken upon request of any member.

E) Board of Adjustment Officers.

1) Election of Officers.

- a) Officers will be elected during the first February meeting of the year of the BOA and by majority vote.
- b) The board shall elect one of its members to serve as chairperson (chair) and preside over the board's meetings. The chair should always be one of the regular members. No chair may serve more than three consecutive terms.
- c) The board shall elect one member to serve as vice-chairperson (vice-chair). The vice-chair shall serve as acting chair in the chair's absence and at such times, he/she shall have the same powers and duties as the chair.
- d) A secretary will be appointed by majority vote of the members either from within its membership or outside. The secretary shall produce all necessary clerical items for the board including public notices, minutes, correspondence, etc. as directed by the chair.
- e) The persons so designated to fill these positions shall serve in these capacities for a term of one year. The officers may be eligible for reappointment subject to the term limits herein.
- f) Vacancies may be filled for the unexpired terms of the chair and vice-chair only by majority vote of the board membership (excluding vacant seats).

2) Rules of Procedure and Rules of Order.

Rules of procedure that are consistent with the provisions of Chapter 160D may be adopted by the BOC for the BOA. In the absence of action by the BOC, the BOA is authorized to adopt its

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own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and shall be posted on the Town’s website.

The chair shall decide on all points of order and procedure consistent with the *Zoning Board of Adjustment*, by Michael B. Brough and Philip P. Green, Jr., as updated; ~~and the modified version of *Roberts Rules of Order*, as updated;~~ and the UNC School of Government’s Suggested Rules of Procedure for Small Local Government Boards-

3) Chairpersons Rights.

- a) The chair or any member temporarily acting as chair and the Clerk to the BOA may administer oaths to witnesses coming before the board.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

F) ***Powers and Duties of Board of Adjustment.***

- 1) The BOA shall hear and decide:
 - a) Appeals from and review of any order, decision, requirement, or determination made by the administrative official charged with the enforcement of this Ordinance, as provided in Section 21(H) and Section 31.
 - b) Applications for variances, as provided in Section 21(I).
 - c) Questions involving interpretations of the location boundary lines on the Official Zoning Map or ordinance text requirements as provided in Section 21(J).
 - d) Any other matter the board is required to act upon by any other Town ordinance or state law.
- 2) Additional Powers.
The BOA shall have all powers given to boards of adjustments generally by Chapter 160D.

G) ***Public Notice of Hearings of the Board.***

- 1) Notice of hearings conducted pursuant to this Section shall be given in accordance with the provisions of Section 32 herein.

H) ***Appeals.***

- 1) Appeal Procedures.
 - a) An appeal from any final order, decision, requirement, or determination of a Town official charged with the enforcement of this Ordinance may be taken to the BOA by any person aggrieved in accordance with the provisions of Section 31 (E) herein.
- 2) Stay of the Appeal.
Stays are governed by the provisions of Section 31(D)(5) herein.
- 3) Modifications to Appeals.
The BOA may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination which in its opinion should be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal was taken.

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I) Variances.

The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances and with due regard to the main purpose of this Ordinance: to preserve the property rights of others. No change in permitted uses may be authorized by variance.

1) Application Submittal.

An application for a variance shall be submitted to the BOA by filing a copy of the application with the Town. The BOC shall also follow the procedure outlined in Section 21(I)(2) when considering a variance from the provisions of Section 34, Subdivision Regulations or where a variance is otherwise required by the provisions of this Ordinance.

2) Findings of Fact.

When unnecessary hardships would result from carrying out the strict letter of a requirement of this Ordinance, the BOA shall vary the requirement of this Ordinance upon a showing of all of the following:

- a) Unnecessary hardship would result from the strict application of the requirement. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

3) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

J) Interpretations.

1) The BOA 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 Zoning Administrator, they shall be handled as provided in Sections 21(H) and Section 31.

2) An application for a map interpretation shall be submitted to the BOA by filing a copy of the application with the Town. The application shall contain sufficient information to enable the board to make the necessary interpretation.

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

- a) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
- b) Boundaries indicated as approximately following lot lines in the Town’s planning and development regulation jurisdiction limits shall be construed as following such lines, limits, or boundaries;

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- c) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of a change in the shoreline shall be construed as continuing to follow such shorelines;
- d) 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; and,
- e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply only to the portion of such streets or alleys added thereto by virtue of such vacation or abandonment.

K) Burden of Proof in Appeals, Interpretations, and Variances.

- 1) When an appeal is taken to the BOA in accordance with Section 21(H), the appellant has the burden of proof and persuasion.
- 2) The applicant for a variance shall have the burden of proof and persuasion.

L) Board Action on Appeals and Variances.

1) Appeals.

The concurring vote of four-fifths of the BOA shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 32 shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

2) Granting a Variance.

Before granting a variance, the BOA must take a separate vote and vote affirmatively by a four-fifths majority, on each of the four required findings stated in Section 21(I)(2). A motion to make an affirmative finding on each of the requirements set forth in Section 21(I)(2) shall include a statement of the specific reasons or findings of fact supporting such motion.

3) Denying a Variance.

A motion to deny a variance shall be made if any one or more of the four required findings set forth in Section 21(I)(2) are not satisfied or if the application is incomplete. A motion to deny a variance shall include a statement of the specific reasons or findings of fact which were not met and therefore caused the denial of the variance. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance (excluding vacant seats).

M) Review of Board's Decisions.

Every decision of the board shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Court shall be filed with the Clerk of Superior Court in accordance with the provisions of Section 32(K) herein. The decision of the board should be delivered in accordance with the provisions of Section 32.

N) Deadlines for Applications to the Board.

All applications and supporting materials shall be submitted to the Town's Planning and Inspections Department fifteen business days prior to the next regularly scheduled BOA meeting. Informational packets shall be delivered to board members seven days prior to the scheduled meeting.

SECTION 22 Planning Board

A) Composition of the Planning Board Pursuant to N.C. Gen. Stat. §160D-301.

1) Board Membership.

There shall be a Planning Board consisting of seven members. Five regular members shall reside within the corporate limits of the Town and be appointed by the BOC. Two members shall reside within the Town’s extraterritorial jurisdiction (ETJ) and be appointed by the Carteret County Board of Commissioners (CC BOC). If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for such residents, the CC BOC may appoint other residents of the county to fill these seats. If the CC BOC fails to appoint ETJ members needed within ninety days after receiving a resolution requesting such action from the Town, the BOC may make the necessary appointments.

The BOC may establish reasonable procedures to solicit, review and make appointments to the Planning Board.

The BOC shall from time to time review this section to confirm the existence of proportional representation based on population for residents of the Town’s extraterritorial jurisdiction, pursuant to N.C. Gen. Stat. §160D-307(a).

2) Terms Limits.

Planning Board members shall be appointed to serve a three-year staggered term and members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitations. Vacant seats or unexpired terms shall be filled by the BOC or the CC BOC as necessary.

3) Oath of Office.

All members appointed to the Planning Board under this section shall, before entering their duties, qualify by taking an oath of office as required by N.C. Gen. Stat. §160A-61.

4) Removal from Board.

a) Planning Board members may be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five percent (75%) of the meetings within any twelve-month period or for any other good cause related to performance of duties. Such failure will constitute a voluntary resignation of the member. Members of the Planning Board may be removed for inefficiency, neglect of duty or misconduct in office by the BOC only after being given a copy of the charges and provided the opportunity to be heard in person or by counsel. A Planning Board member is entitled to at least 10 days after receipt of the notice to prepare for such hearing.

b) If a member appointed by the Town moves outside the Town’s corporate limits, that member shall be deemed to have resigned from the Planning Board. If a member representing the ETJ of the Town moves outside the Town’s ETJ, that member shall be deemed to have resigned from the Planning Board.

c) If for reasons other than mentioned herein a member resigns from the Board, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.

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B) Meetings of the Planning Board.

- 1) The Planning Board shall meet periodically pursuant to a schedule adopted by law and may hold special or emergency meetings in accordance with Chapter 143 of the North Carolina Statutes.
- 2) All meetings of the Planning Board shall be open to the public and whenever feasible, the agenda for each Board meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The Planning Board shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- 4) Minutes shall be kept of all Board proceedings by the board secretary or his/her designee and all minutes shall be a public record once adopted by the Planning Board.
- 5) The Chairman of the Planning Board shall have the authority to cancel a meeting of the board if the Planning Department advises him there is no business to be conducted at the meeting.
- ~~6) Quasi-Judicial Decisions. The Planning Board shall follow the procedures set forth in Section 32 of this Ordinance if making a decision or determination for which a quasi-judicial hearing is required.~~

C) Quorum and Voting.

- 1) Quorum Requirements.
 - a) A majority of the members of the Planning Board shall constitute a quorum.
 - b) All actions of the Planning Board shall be taken by majority vote, a quorum being present.
- 2) Withdrawal from Meeting.
Any member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.
- 3) Roll Call Vote.
A roll call vote shall be taken upon the request of any member.
- 4) ETJ Members Rights.
ETJ members shall have equal rights, privileges, and duties as Town members and may vote on all matters considered by the board regardless of whether or not the property affected lies within the ETJ planning jurisdiction.
- 5) Notification of Absences.
Members shall promptly notify the board secretary if they are unable to attend or participate in for any reason an upcoming meeting.
- 6) Conflicts of Interest.
A member of the board shall not participate in or vote on any ~~quasi-judicial~~ matter in a manner which would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts of interest are defined in Section 33 of this Ordinance.

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D) **Planning Board Officers.**

1) Election of Officers.

Officers will be elected during the February meeting of the Planning Board by majority vote of its membership (excluding vacant seats). One member will be elected to serve as chairperson (chair) and preside over the Planning Board’s meetings and one member will be elected to serve as vice-chairperson (vice-chair). The persons so designates shall serve in these capacities for a one-year term. The Planning Board shall appoint other officers as it may deem necessary and appropriate. Vacancies and unexpired terms of the chair or vice-chair may be filled by majority vote of the board membership (excluding vacant seats).

2) Chairpersons Rights.

- a) The chair or any member temporarily acting as chair or the Clerk to the Planning Board may administer oaths to witnesses coming before the board.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

3) Rules of Order.

All points of order and procedure shall be determined by the *Beaufort Planning Board Handbook of Rules of Procedures* as updated; ~~and~~ the modified version of *Roberts Rules of Order* as updated; ~~and~~ the UNC School of Government’s Suggested Rules of Procedure for Small Local Government Boards

E) **Powers and Duties of the Planning Board.**

1) Duties of the Planning Board.

The Planning Board may:

- a) Make studies and recommend to the BOC plans, goals, and objectives relating to the growth, development, and redevelopment of the Town’s planning and development regulation jurisdiction.
- b) Develop and recommend to the BOC policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- c) Make recommendations to the BOC concerning development proposals, and proposed zoning map changes.
- d) Review all special use permit applications and make recommendations as necessary to the BOC.
- e) Perform any other appropriate duties as assigned by the BOC.

2) Adoption of Rules of Procedure.

Rules of procedure that are consistent with the provisions of Chapter 160D may be adopted by the BOC for the Planning Board. In the absence of action by the BOC, the Planning Board is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and shall be posted on the Town’s website.

3) Additional Powers.

The Planning Board shall have all powers given to planning boards pursuant to N.C. Gen. Stat. §160D-301 and generally by Chapter 160D.

F) **Public Notice of Hearings of the Board.**

- 1) Whenever the Board is called upon to make recommendations concerning a zoning amendment proposal, the Board shall follow the procedures set forth in Section 3 of this Ordinance.

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G) *Deadlines for Applications to the Board.*

Matters pertaining to the consideration of subdivisions shall comply with the submittal time frames set forth in Section 34. For all other matters, applications and supporting materials shall be submitted to Town’s Planning and Inspections Department staff fifteen business days prior to the next regularly scheduled Planning Board meeting. Informational packets shall be delivered to board members seven days prior to the next scheduled meeting.

SECTION 23 Historic Preservation Commission

A) Organization of the Historic Preservation Commission.

1) Commission Membership.

The Beaufort Historic Preservation Commission (BHPC) is a “quasi-judicial” administrative body consisting of seven members. All members shall reside within the planning and development regulations jurisdiction of the Town as established pursuant to N.C. Gen. Stat. §160D-303.

2) Term of Office.

The term of office for members shall be a three-year staggered term made by appointment of the BOC. A majority of members of the BHPC shall have demonstrated special interest, experience, or education in preservation, history, architecture, archeology or related fields. Vacant seats or unexpired terms shall be filled by the BOC. The BOC may establish reasonable procedures to solicit, revise, and make appointments to the BHPC.

3) Removal from Commission.

- a) The BOC may remove any member of the BHPC for neglect of duty, failure to maintain the CLG (Certified Local Government) status, or malfeasance while in office.
- b) BHPC members may also be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five (75%) of the meetings within any twelve-month period. Such failure will constitute a voluntary resignation of the member. Upon the request of the member proposed for removal, the BOC shall hold a hearing on the removal before it becomes effective.
- c) If for reasons other than mentioned herein a member resigns from the commission, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.
- d) Members of the BHPC may be removed for inefficiency, neglect of duty or misconduct in office by the BOC only after being given a copy of the charges and provided the opportunity to be heard in person or by counsel. A BHPC member is entitled to at least 10 days after receipt of the notice to prepare for such hearing.

4) Quorum.

A majority of the members of the BHPC in attendance shall constitute a quorum at all meetings of the BHPC. All actions of the BHPC shall be taken by majority vote, a quorum being present.

5) Voting.

A member of the commission shall not participate in or vote on any matter in a manner which would violate the affected persons’ constitutional rights to an impartial decision maker. Impermissible conflicts of interest are defined in Section 33 of this Ordinance.

6) Election of Officers.

Officers will be elected during the February meeting of the BHPC by majority vote of its membership (excluding vacant seats). The BHPC shall elect one of its members to serve as chairperson (chair) and preside over the commission’s meetings and one member to serve as vice-chairperson (vice-chair). The persons so designated shall serve in these capacities for a term of one year. The BHPC shall appoint other officers as it may deem necessary and appropriate.

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7) Rules of Procedure and Rules of Order.

Rules of procedure that are consistent with the provisions of Chapter 160D may be adopted by the BOC for the BHPC. In the absence of action by the BOC the BHPC is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and shall be posted on the Town’s website. The modified version of *Robert’s Rules of Order -and the UNC School of Government’s Suggested Rules of Procedure for Small Local Government Boards* shall be used as a guide for parliamentary procedure.

8) Chairpersons Rights.

- a) The chair or any member temporarily acting or appointed by the chair or the Clerk to the BHPC may administer oaths to witnesses coming before the commission.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

9) Oath of Office.

All members appointed to the BHPC shall, before entering their duties, qualify by taking an oath of office as required by N.C. Gen. Stat. §160A-61.

B) Meetings of the BHPC.

- 1) The BHPC shall meet periodically pursuant to a schedule adopted pursuant to law and may hold special or emergency meetings in accordance with Chapter 143 of the North Carolina General Statutes.
- 2) All meetings of the commission are subject to the Open Meetings Law and whenever feasible, the agenda for each commission meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The BHPC shall keep minutes of its proceedings. Minutes of all meetings and hearings of the BHPC shall be maintained by the commission secretary and all minutes shall be a public record upon adoption of such minutes by the BHPC. This shall include all findings of fact and decisions of the commission.
- 4) Members of the BHPC shall promptly notify the commission secretary if they are unable to attend or participate for any reason in an upcoming meeting.
- 5) The chairman may cancel a meeting when advised by the Planning and Inspections Department there is no business scheduled to be conducted at the meeting.
- 6) Quasi-Judicial Decisions. The BHPC shall follow the procedures set forth in Section 32 of this Ordinance if making a decision or a determination for which a quasi-judicial hearing is required.

C) Certificate of Appropriateness Required.

- 1) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Beaufort Historic District until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the BHPC.

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- 2) No exterior portion of any landmark designated pursuant to N.C. Gen. Stat. §160D-945 (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features located on the lot on which the landmark is situated), nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the BHPC.
- 3) When a certificate of appropriateness is required under this section, such certificate must be issued prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures. A certificate of appropriateness shall be required whether or not a building or other permit is required.

D) Powers and Duties of the BHPC.

1) Adoption of Guidelines.

The BHPC may prepare and adopt principals and guidelines consistent with the *Design Guidelines for the Beaufort Historic District & Landmarks* as revised.

2) Powers of the BHPC.

- a) To consider applications for certificates of appropriateness and to act on such applications according to N.C. Gen. Stat. §160D-942;
- b) To create and maintain an inventory of properties of historical, pre-historical, architectural, and/or cultural significance;
- c) To recommend to the BOC areas to be included in the Beaufort Historic District, or areas to designated as additional historic districts in accordance with the standards set forth in N.C. Gen. Stat. §160D-944; and
- d) To recommend to the BOC individual structures, buildings, sites, areas, or objects to be designated by ordinance as “landmarks.” No property shall be recommended for designation as a historic landmark unless it is deemed and found by the BHPC to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

e) Inventory.

As a guide for the identification and evaluation of landmarks, the BHPC shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. The inventories and any additions or revisions to them shall be submitted as expeditiously as possible to the Office of Archives and History. No regulation or amendment to a regulation designating a historic building, structure, site, area, or object as a landmark shall be adopted, and no property shall be accepted or acquired by a BHPC or the governing board, until all of the following procedural steps have been taken:

- i. The BHPC forwards to the Office of Archives and History of the North Carolina Department of Natural and Cultural Resources an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition.

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- ii. The Department of Natural and Cultural Resources is allowed 30 days from receipt of the BHPC's complete investigation and report to provide written comments to the BHPC concerning the proposed designation or acquisition. Failure of the Department to submit its comments within the time allowed relieves the BHPC and the BOC of any responsibility to consider the comments.
 - iii. The BHPC and the BOC hold a joint legislative hearing or separate legislative hearings on the proposed ordinance. Notice of the hearing shall be made as provided by N.C. Gen. Stat. §160D-601. Following the hearings, the BOC may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
 - iv. Upon adoption of the ordinance, the owners and occupants of each designated landmark are given written notice of the designation within a reasonable time. One copy of the ordinance and all amendments to it shall be filed by the BHPC in the office of the register of deeds of Carteret County. In the case of any landmark property lying within the planning and development ordinance jurisdiction of the Town, a second copy of the ordinance and all amendments to it shall be kept on file in the office of the Town Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and any amendments shall be given to the Town Building Inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the Town for such period as the designation remains in effect.
 - v. Upon the adoption of the landmark ordinance or any amendment to it, the BHPC gives notice of the ordinance or amendment to the tax supervisor of Carteret County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.
- f) Acquire by any lawful means the fee or any lesser included interest, including options to purchase properties within established districts or to any such properties designated as "Landmarks," to hold, manage, preserve, restore, and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
 - g) Restore, preserve, and operate historic properties;
 - h) Recommend to the BOC that designation of any area as a "historic district" or part thereof or designation of any building, structure, site, area, or object as a "landmark" be revoked or removed for cause;
 - i) Conduct an educational program regarding historic properties and districts within its jurisdiction;
 - j) Cooperate with the state, federal, and local governments in pursuance of the purposes of this section. The BOC or the BHPC, when authorized by the BOC, may contract with the state or the federal government or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;
 - k) Enter solely in performance of its official duties and only at reasonable times upon private lands for examination or survey thereof. However no member, employee, or agent of the BHPC may enter any private building or structure without the express consent of the owner or occupant thereof;

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- l) Prepare and recommend the official adoption of a preservation element as part of the Town’s Comprehensive and CAMA Land Use Plan;
- m) Review and act upon proposals for alterations, demolitions, or new construction within “historic districts” or for the alteration of or demolition of designated “landmarks” pursuant to this section;
- n) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation when such action is reasonably necessary or appropriate; and
- o) Seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

3) BHPC Functions.

- a) It shall be a function of the BHPC to maintain the current CLG rating, or to increase such rating if possible, through whatever means are necessary, such as attending continuing education classes.
- b) It shall be a function of the BHPC to review and pass upon the appropriateness of the construction, reconstruction, alteration, restoration, moving, or demolition of any buildings, structures, appurtenant fixtures, outdoor advertising signs, or other exterior features in the Historic District. The BHPC may require interior and exterior photographs, architectural drawings, other notations or architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure.
- c) It shall be a function of the BHPC to review and pass upon the appropriateness of exterior features of buildings, structures, and properties within the “Historic District” in accordance with the COA application and procedures approved within this section.

4) Additional Powers.

The BHPC, in carrying out the intent and purpose of this Ordinance, shall have all of those powers enumerated in N.C. Gen. Stat. §160D-942 as amended, which powers are incorporated herein by reference.

E) ***Procedures of the BHPC.***

1) Evidentiary Hearing Procedures.

Prior to issuance or denial of a COA, the BHPC shall follow the steps outlined in Section 32, Quasi-Judicial Procedure, of this Ordinance.

2) Requirement for Certificate of Appropriateness.

No exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on a landmark or within the Beaufort Historic District (and subsequent historic districts which may be established, if any) until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the BHPC. The Town shall require such a certificate to be issued by the BHPC prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this section. A certificate of appropriateness is required whether or not a building or other permit is required.

For purposes of this section, "exterior features" include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and

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texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

3) Certification of Application (COA) Procedures.

All complete applications for a COA shall be reviewed and acted upon within the timeline specified in the *Design Guidelines for the Beaufort Historic District & Landmarks*. The completed COA application will be filed with the BHPC secretary fifteen working days in advance of a regularly scheduled meeting unless a shorter time is established by the BHPC's *Rules of Procedure*. As part of its review procedure, the BHPC may view the premises and seek the advice of the N. C. Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

4) Minor Works Procedures.

The BHPC has defined certain minor building and/or site changes which will have no discernible impact on the special character of the Historic District as "Minor Works" items. These items do require submittal of a completed COA application but they do not require review by the BHPC. Minor works items are evaluated by Town staff for consistency with the historic guidelines and other procedures or guidelines adopted by the BHPC. Minor works applications should follow the procedures set forth in this section.

5) Multiple Applications Prohibited.

The BHPC shall have no jurisdiction to accept an application for a COA for activity on a lot or structure on a lot (1) as long as a previous application is pending before the BHPC, or on appeal, for such lot or structure, or (2) until a certificate of compliance has been issued for all the work authorized by a previous COA for such lot or structure. An applicant may; however, withdraw the previous application, or surrender a previously granted COA, in order to apply for a new COA for the same lot or structure. An applicant may also amend a pending application, but not in a manner to seek approval for multiple development proposals.

F) **Approval by the BHPC.**

1) Procedures after BHPC Approval.

Upon approval of any COA application, the BHPC shall forthwith cause a COA to be issued to the applicant/property owner setting forth the specific conditions and requirements with regard to the proposed construction, reconstruction, demolition, alteration, restoration, or movement of the building, structure, outdoor signs, vending machines, or other significant exterior features within the district. The COA should be issued in compliance with the requirements of Section 32(J) herein. The minutes of the BHPC's actions stating the basis upon which such approval was made shall be maintained by the BHPC's Secretary.

2) Time for Consideration of Applications.

a) All applications for certificates of appropriateness, except applications for demolition or relocation of structures, shall be reviewed and acted upon within 120 days from the date a completed application for a certificate of appropriateness is filed. Upon failure of the BHPC to take final action upon a completed COA application within said 120 days after such application has been submitted the COA application shall be deemed to have been approved.

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- b) All applications for certificates of appropriateness to demolish or relocate structures shall be reviewed and acted upon within 180 days from the date a completed application for a certificate of appropriateness is filed. Upon failure of the BHPC to take final action within said 180 days the COA application shall be deemed to have been approved.
- c) The deadlines in this subsection may be extended by mutual written agreement between the Director of Planning and Inspections or the BHPC and the applicant.

3) Expiration of COA.

Work authorized by a COA must commence within six months of issuance and must be completed no later than one year thereafter. A COA may be extended by the BHPC if circumstances beyond the control of the applicant/property owner prevent completion of work commenced but not completed within the one-year period.

4) Inspection of Work.

- a) The Director of Planning and Inspections shall inspect any work carried out to the exterior of any building, structure, or property for which a COA has been issued pursuant to the provisions hereof, and shall report to the BHPC immediately any work not being carried out in accordance with the COA or the provisions of this section of this Ordinance.
- b) Upon completion of the work authorized by a COA, the Director of Planning and Inspections is authorized to issue a certificate indicating the work complies with the COA.

5) Revocation of COA.

Any changes or deviation from the approved COA shall constitute a violation of this Ordinance and the COA issued by the BHPC. The BHPC shall be authorized to revoke any such COA for any violation in addition to any other rights and remedies the BHPC or the Town may have as outlined in Section 28 herein. The Director of Planning and Inspections is authorized to issue a stop work order if he or she determines work is being conducted in violation of a COA in accordance with Section 28 herein.

G) **Appeals.**

1) Board of Adjustment.

An appeal may be taken to the BOA from the BHPC’s action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within thirty days after the decision of the BHPC is signed by its chairman and entered in the records of the commission, and (iii) shall be in the nature of certiorari.

2) Superior Court.

Any appeal of a decision of the BOA in any such case may be appealed to the Carteret County Superior Court in accordance with the provisions of Section 32(K) herein.

H) **Certain Changes Not Prohibited.**

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Beaufort Historic District or of a landmark that does not involve a change in design, material, or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the Building Inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this section shall be construed to prevent a property owner from making any use of his or her property that is not prohibited by other law. Nothing in this section shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the BHPC.

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I) *Applicability to State and Other Government Properties.*

All of the provisions of this section are hereby made applicable to construction, alteration, moving, and demolition by the State of North Carolina, its political subdivisions, agencies, and instrumentalities, provided, however, they do not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies may appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under N.C. Gen. Stat. §121-12(a) from any decision of the BHPC. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission is final and binding upon both the State and the BHPC.

J) *Demolition of Buildings.*

1) Determination of Statewide Significance.

The BHPC shall not consider an application for a COA to demolish or relocate, in whole or part, a building or structure in the Historic District, or a designated landmark or part thereof, until a determination is made by the State Historic Preservation Officer (SHPO) as to whether or not the structure has statewide significance under the North Carolina General Statutes subject to the following:

- a) When such an application is filed, the Director of Planning and Inspections shall, following a preliminary review of the available information about the structure, decide whether evidence exists to support an application to the SHPO for statewide significance.
 - i) If he/she determines such evidence exists he/she shall make the application to the SHPO for statewide significance as expeditiously as possible.
 - ii) If he/she determines such evidence does not exist, he/she shall report his/her findings to the BHPC and seek an order from the BHPC excusing him/her from filing with the SHPO. If the BHPC issues such order, the Director shall not file such application and the BHPC will proceed to consider the application under the provisions Section (I)(2) of this subsection. If the BHPC refuses to issue such order, the Director shall apply to the SHPO for a designation of statewide significance.
 - iii) An application for statewide significance shall be made if there is any reasonable chance the designation will be made.
- b) If an application for statewide significance is made, the BHPC will delay consideration of an application to demolish or re-locate until the SHPO has made a decision, unless such delay will result in the granting of the COA by the passage of time without action in which case the BHPC will act before the 180 day time limit in this section.
- c) If the SHPO grants statewide significance, the BHPC will thereafter proceed to consider the application to demolish or relocate pursuant to the remaining provisions of this section.
- d) The Director of Planning and Inspections shall have the authority to engage such experts as he deems necessary to assist in determining whether a structure may have statewide significance and to assist in preparing and presenting an application for statewide significance to the SHPO.

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2) Terms of Demolition.

An application for a COA authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within the district may not be denied, except as provided in Section 23(J)(4).

If the BHPC has voted to recommend designation of a property as a landmark or designation of an area as a historic district, and final designation has not been made by the BOC, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed historic district may be delayed by the BHPC for a period of up to 180 days or until the BOC takes final action on the designation, whichever occurs first.

3) Waiving Delay Period.

The effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the BHPC where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the BHPC shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the BHPC finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

4) Demolition of Structures with Statewide Significance.

An application for a COA authorizing the demolition or destruction of a building, site, or structure deemed by the State Historic Preservation Officer (SHPO) as having statewide significance as defined in the criteria of the National Register of Historic Places, may be denied except when the BHPC finds the developer/owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the denial.

K) Penalties and Remedies.

1) Preventing Unlawful Work.

In case any building, structure, site, area, or object designated as a historic landmark or located within the Historic District designated pursuant to N.C. Gen. Stat. Chapter 160D, is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, or destroyed except in compliance with the provisions of Section 23 of this Ordinance and the *Design Guidelines for the Beaufort Historic District & Landmarks*, the Town, the BHPC, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal to restrain, correct, or abate such violation or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object in accordance with the provisions of Section 28 herein.

2) Penalties.

A violation of this section is subject to all penalties and enforcement actions in Section 10.99 of the Beaufort Town Code and Section 28 of this Ordinance, including, but not limited to a civil penalty in the amount of \$500.00 for each day's violation.

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L) *Deadlines for Applications to the Commission.*

All COA applications together with all plans, photographs, elevations, and other documents and information necessary in order for the BHPC to determine whether or not to issue a COA shall be delivered to the BHPC secretary a minimum of fifteen working days prior to the next regularly scheduled meeting of the BHPC. Packets containing applications and supporting documentation will be delivered to BHPC members seven days prior to the scheduled meeting. A copy of the application and documents shall also be provided to the Town Planner.

M) *Conflict with Other Laws.*

Whenever any regulation adopted pursuant to Section 23 requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, Section 23 shall govern. Whenever the provisions of any other statute, charter provision, ordinance, or regulation require a longer waiting period or impose other higher standards than are established under Section 23, such other statute, charter provision, ordinance, or regulation shall govern.

SECTION 24 Certificate of Occupancy

Except for agricultural purposes, no land shall be used or occupied and no building structurally altered or erected shall be used or changed in use until a certificate of occupancy is issued by the Zoning Administrator and/or Building Inspector. The Town may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable state and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Section 11 of Chapter 160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to N.C. Gen. Stat. §160D-1116 has been issued. A like certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy either for the whole or part of a building shall be issued within ten days after the erection or structural alterations of such building or part thereof and shall have been completed in conformity with the provisions of this Ordinance and the North Carolina State Building Codes where applicable. A record of all certificates of occupancy shall be kept on file in the Town's Planning and Inspections Department and copies shall be furnished upon request to any person having an interest in the building. No permit for the excavation of or the erection of any building, part of a building, or for repairs to or alterations of a building shall be issued until after a statement of its intended use has been filed by the applicant.

SECTION 25 Plat or Plot Plans

Each application for a building permit shall be accompanied by a plat/plot plan drawn to scale showing accurate dimensions of the lot to be built upon, accurate dimensions of each of the buildings to be erected, their location(s) on the lot, and other such information as may be necessary to provide for the enforcement of this Ordinance. A careful record of such applications and plat or plot plans shall be kept in the Town's Planning and Inspections Department.

SECTION 26 Interpretation, etc., of the Ordinance

In interpreting and applying the provisions of this Ordinance they shall be held to be minimal requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare of the Town's citizens. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties. However, where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, easements, covenants, or agreements, the provisions of this Ordinance shall govern. Nothing in this Ordinance shall be construed to amend or repeal any provision of this Ordinance or other ordinance of the Town relating to maintenance or keeping of horses, livestock, or animals within the corporate limits. Chapter 160D of the North Carolina General Statutes applies to this Ordinance. In the event of any conflict between this Ordinance and Chapter 160D, the provisions of Chapter 160D shall control.

SECTION 27 Conditional Zoning

A) Authority.

The Conditional Zoning Districts set forth herein are authorized by N.C. Gen. Stat. §160D-703(b). Conditional Zoning Districts are districts which parallel general zoning districts outlined in this Ordinance. Conditional Zoning Districts are identical to their corresponding general zoning districts in all respects only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the conditional zoning regulations.

Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local ordinances, the Comprehensive and CAMA Land Use Plan, or the impacts reasonably expected to be generated by the development or use of the site.

B) Requirements.

A request for rezoning to a conditional zoning district may be made only by application from the developer and/or owner of all property included in the area proposed to be rezoned. Conditional zoning is intended to provide flexibility in property development while ensuring the development and/or uses are compatible with the surrounding uses. Conditional zonings are more restrictive than the general zoning districts. Additional conditions, standards and regulations may be placed on the rezoning. The applicant and/or property owner must agree to the conditions.

1) General Requirements.

a) Application.

Conditional zoning requests will only be considered upon submission of a complete application.

- i) Proposed Use(s). Proposed uses shall be set forth in detail, including a statement addressing compatibility with the uses in the surrounding area. Any limitations or conditions to be placed on the proposed uses to enhance compatibility with and benefit to surrounding areas shall also be noted.
- ii) Dimensional Requirements. The application will show that the request is consistent with the dimensional requirements of the requested zoning district (e.g. setback requirements, height restrictions, etc.).
- iii) Off-Street Parking Requirements. The application will indicate the location of all off-street parking as required in Section 13 of this Ordinance.
- iv) Site Plan Requirements. Site plans are required if the request meets the standards set forth in Section 18 of this Ordinance.
- v) Miscellaneous Provisions. The application may include other conditions, such as: days and hours of operation, number of employees, exterior lighting, noise, etc., which might be proposed to increase the compatibility of the proposed use with the surrounding area.

b) Conditions.

The Town staff, Planning Board and BOC may recommend conditions including but not limited to the following:

- i) The location of the proposed use on the property;
- ii) The number and location of structures;

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- iii) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
 - iv) Buffer areas and requirements;
 - v) The height of any structure;
 - vi) Other restrictions regarding the use of the property that adhere to the purposes of this Ordinance and maintain the public health, safety and welfare; and
 - vii) Such other matters as proposed by the applicant(s).
- 2) Procedures.
Conditional zoning is a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. The procedure as set forth in Section 3 herein for a zoning map amendment shall be followed by the Planning Board and BOC in considering an application for conditional zoning.
- 3) Failure to Comply.
Compliance with all conditions of a conditional zoning district is an essential element of the effectiveness of conditional zoning district(s). If the Planning Director and Town staff determines the applicant has failed to comply with a condition of an approved conditional zoning district, he/she shall notify the applicant(s) and property owner(s). The Zoning Administrator or his/her designee will then present the violation to the Planning Board and BOC where the BOC will issue an official recommendation to initiate the revocation process. Notice of the hearing will be given and the hearing will be conducted in accordance with Section 32 herein. If the BOC finds the approved conditions have not been met, the BOC may initiate a rezoning of the property to its previous zoning classification in accordance with Section 3 herein.

SECTION 28 Enforcement

A) Notice of Violation.

When the Zoning Administrator determines work or activity has been undertaken in violation of this Ordinance or any approval issued hereunder, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the approval and to the landowner of the property involved, if the landowner is not the holder of the approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. A notice of violation may be appealed to the BOA, and the BOA shall follow quasi-judicial processes as set forth in this Ordinance.

The notice to correct a violation issued under the provisions of this Ordinance shall contain:

- 1) An order to correct the violation or to request a hearing by the Town Manager within a stated time (not to exceed ten days);
- 2) The location of the violation;
- 3) A description of what constitutes the violation;
- 4) A statement of action necessary to correct the violation; and,
- 5) A statement avowing if the violation is not corrected as directed and no request for a hearing is made within the prescribed time, a civil penalty will be levied.

B) Stop Work Order.

Whenever any work or activity subject to regulation pursuant to this Ordinance is undertaken in substantial violation of any state or local law, or in a manner that endangers life or property, the Zoning Administrator may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the approval and to the owner of the property involved (if that person is not the holder of the approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. A stop work order may be appealed to the BOA, and the board shall follow quasi-judicial processes as set forth in this Ordinance. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

C) Revocation.

Development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of this Ordinance or any Town ordinance governing development regulation or any state law delegated to the Town for

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enforcement purposes in lieu of the state; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable state or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section 31 herein. If an appeal is filed regarding a development regulation adopted by the Town pursuant to Chapter 160D, the provisions herein regarding stays apply.

D) *Inspections.*

The Zoning Administrator and his/her staff may inspect work undertaken pursuant to a development approval to ensure that the work is being done in accordance with applicable state and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

E) *Additional Remedies for Violations of Subdivision Regulations.*

- 1) In addition to the foregoing, any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Town, thereafter subdivides the land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Carteret County Register of Deeds, is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty.
- 2) The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to N.C. Gen. Stat. §160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

F) *Persons Liable.*

The developer, owner, tenant, or occupant of any building or land or part thereof who participates in, acts in concert, assists, directs, creates, or maintains any condition which is in violation of the requirements of this Ordinance, may be held responsible for the violation and subject to the penalties and remedies herein provided.

G) *Abatement by Town.*

This Ordinance may be enforced by any remedy provided by N.C. Gen. Stat. §160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Ordinance, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

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Upon failure to correct the zoning violation cited by the Town in the time specified by the notice to correct such violation, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct the unlawful condition upon or cease the unlawful use of property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct such buildings or other structures on the property be closed, demolished, or removed; fixtures, furniture, or other movable property be removed from buildings on the property; grass and weeds be cut; improvements or repairs be made; or any other action be taken which is necessary to bring the property into compliance with this Ordinance. If the violator fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The violator may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the violator's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

H) *Payment of Costs.*

Upon completion of the abatement of any structure deemed a nuisance by the Town under the provisions of this Ordinance, the Town's Planning and Inspections Department shall deliver to the Town's Tax Collector a statement including the costs of labor, hauling, and other necessary items of expense for such abatement. The Town's Tax Collector shall thereupon mail to the violator a bill covering the costs. When the violator is the property owner, the amount of the bill shall become a lien upon said property for the collection of delinquent taxes. If the violator is not the property owner, the amount shall be recovered by the Town in a civil action in the nature of debt.

I) *Civil Penalties and Criminal Action.*

- 1) A violator who fails to correct a violation in the time specified shall be subject to a civil penalty of five hundred dollars (\$500.00). No penalty shall be assessed until the party alleged to be the violator has been notified of the violation in accordance with the provisions of this section.
- 2) For each day the violation is not corrected after the notification has been properly served to the violator, the violator will be guilty of a new and separate offense and subject to additional civil penalties.
- 3) If the violator fails to pay this penalty within ten days after being cited for violation, the penalty may be recovered by the Town in a civil action in the nature of debt.
- 4) In addition to or in lieu of the penalty the Zoning Administrator or other appropriate authority may seek a mandatory injunction seeking enforcement of this Ordinance.
- 5) If the same violation occurs within a five-year period from the date of the initial violation by the same violator, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties as set forth in this section.
- 6) Violation of this Ordinance is a misdemeanor.

**SECTION 29 Extension of Zoning Regulations Beyond the
Corporate Limits**

This Ordinance shall serve as the zoning regulations for the extraterritorial jurisdiction (ETJ). The properties beyond the corporate limits of the Town for a distance of one mile in all directions shall be deemed the ETJ area and be subject to the same extent and with the same effect as such regulations now apply to the territory within the corporate limits of the Town.

SECTION 30 Permit Choice and Vested Rights

A) Applicability.

Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. It is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

B) Permit Choice.

If the Ordinance is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, N.C. Gen. Stat. §143-755 applies.

C) Vested Rights.

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- 1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with N.C. Gen. Stat. §143-755.
- 2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with N.C. Gen. Stat. §143-755.
- 3) A site-specific vesting plan pursuant to N.C. Gen. Stat. §160D-108.1
- 4) A multi-phased development pursuant to Section 30(E).
- 5) A vested right established by the terms of a development agreement authorized by Section 10 of Chapter 160D.

The establishment of a vested right under any subdivision of this section does not preclude vesting under one or more other subdivisions of this section or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in state or federal law mandating Town enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

D) Duration of Vesting.

Upon issuance of a development permit, the statutory vesting granted by this section for a development project is effective upon filing of the application in accordance with N.C. Gen. Stat. §143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the Town or by the applicable governmental agency as a court directive.

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Except where a longer vesting period is provided by statute or this Ordinance, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any Town appeal proceeding or civil action in a state or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

E) *Multiple Permits for Development Project.*

Subject to Section 30(D) herein, where multiple Town development permits are required to complete a development project, the development permit applicant may choose the version of each of the Town land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this section, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

F) *Multi-Phased Development.*

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this section remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

G) *Continuing Review.*

Following issuance of a development permit, the Town may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

H) *Process to Claim Vested Rights.*

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator who shall make an initial determination as to the existence of the vested right. The decision of the Zoning Administrator may be appealed to the BOA. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal, a person claiming a vested right may bring an original civil action as provided by N.C. Gen. Stat. §160D-1403.1.

I) *Miscellaneous Provisions.*

The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by N.C. Gen. Stat. §136-131.1 and N.C. Gen. Stat. §136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

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J) Definitions.

As used in this section, the following definitions apply:

- 1) Development. - As defined in N.C. Gen. Stat. §143-755(e)(1).
- 2) Development permit. - As defined in N.C. Gen. Stat. §143-755(e)(2).
- 3) Land development regulation. - As defined in N.C. Gen. Stat. §143-755(e)(3).
- 4) Multi-phased development. - A development containing 25 acres or more that is both of the following:
 - a) Submitted for development permit approval to occur in more than one phase.
 - b) Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

K) Conditions.

- 1) The BOC may approve a site specific development plan upon such terms and conditions as may be reasonably necessary to protect the public health, safety, and welfare of its citizens.
- 2) Notwithstanding the provisions of this section, approval of a site specific development plan conditional upon a variance being obtained shall not grant a zoning vested right unless and until the necessary variance is obtained.
- 3) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

L) Approval Procedures and Approval Authority.

1) Application Procedures.

The applicant must indicate at the time of application, on a form provided by the Town Planning and Inspections Department, that a zoning vested right is being sought. A reasonable fee shall be set within the Town’s official fee schedule or as established by resolution of the BOC and filed in the Office of the Town Clerk to administer expenses involved in establishing the zoning vested right.

2) Submittal of Site Plan.

A site specific development plan shall be submitted and shall contain the following notation: "Approval of this plan establishes a zoning vested right under N.C. Gen. Stat. §160D-108..1”.

3) Revocation of Vested Right.

Nothing in this Ordinance shall prohibit the revocation of the vested right or other remedies for failure to comply with the applicable terms and conditions of the zoning vested right in accordance with the provisions set forth in Section 28 herein.

M) Duration and Termination of Vested Right: Site Specific Vesting Plan.

- 1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town.

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- 2) Notwithstanding the provisions of subdivision (1) of this subsection, the Town may provide for rights to 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 and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with N.C. Gen. Stat. § 160D-108.1.
- 3) Upon issuance of a building permit, the provisions of N.C. Gen. Stat. §160D-1111 and N. C. Gen. Stat. §160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.
- 4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

N) *Changes Prohibited and Exceptions: Site Specific Vesting Plan.*

A vested right, once established as provided for in this section, precludes any zoning action by the Town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

- 1) With the written consent of the affected landowner.
- 2) Upon findings, by ordinance after notice and an evidentiary 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 vesting plan.
- 3) To the extent that the affected landowner receives 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 consulting fees incurred after approval by the Town, together with interest as provided under N.C. Gen. Stat. §160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.
- 4) Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the site-specific vesting plan or the phased development plan.
- 5) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the Town 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 an evidentiary hearing.

O) *Voluntary Annexation.*

A petition for annexation filed with the Town under N.C. Gen. Stat. §160A-31 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 N.C. Gen. Stat. §160D-108.

SECTION 31 ADMINISTRATIVE APPROVAL PROCESS AND APPEAL OF ADMINISTRATIVE DECISIONS

A) Zoning Administrative Approval Process.

No person shall commence or proceed with development without first securing approval from the Town as herein provided. The Zoning Administrator (or his authorized agent) is hereby authorized, and it shall be his duty, to enforce the provisions of this Ordinance in accordance with Section 28 herein. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. The Zoning Administrator should have all rights of enforcement as outlined in Section 28, Enforcement, herein.

B) Permit Administration.

1) Application.

Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. Applications must be made in accordance with the requirements of Section 1 herein.

2) Approvals.

A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable state and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

3) Notice.

Any approval or disapproval of an application for a zoning certificate made pursuant to this section shall be communicated by the Zoning Administrator who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

4) Expiration of Zoning Certificate.

A zoning certificate shall expire one year after the date of issuance if the work authorized by the certificate has not been substantially commenced. If after commencement the work or activity allowed under a certificate is discontinued for a period of 12 months after commencement, the certificate shall immediately expire.

5) Appeal.

Any appeal from a decision of the Zoning Administrator may be made in accordance with the provisions of Section 31(D).

6) Runs with the Land.

A development approval made pursuant to this Ordinance attaches to and runs with the land.

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C) *Inspections.*

The Zoning Administrator and his/her staff may inspect work undertaken pursuant to a development approval to ensure that the work is being done in accordance with applicable state and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

D) *Appeals of Administrative Decisions.*

1) Applicability.

Appeals of decisions made by the Zoning Administrator or his/her designee or staff under this Ordinance shall be made to the BOA. Appeals shall be heard by the BOA in compliance with the quasi-judicial processes set forth in Chapter 32 herein.

2) Standing.

Any person who has standing or the Town may appeal an administrative decision to the BOA. An appeal is taken by filing a notice of appeal with the Clerk to the Board. The notice of appeal shall state the grounds for the appeal.

3) Time to Appeal.

The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

4) Record of Decision.

The official who made the decision shall transmit to the BOA all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

5) Stays.

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

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6) Appeals of Decisions of the BOA.

Any appeal from the decision of the BOA shall be made to Superior Court of Carteret County, in accordance with the provisions of N.C. Gen. Stat. §160D-1402.

SECTION 32 QUASI-JUDICIAL PROCEDURE

A) Process Required.

All boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

B) Notice of Hearing.

Notice of evidentiary hearings conducted pursuant to this Ordinance shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular meeting of the board without further advertisement.

C) Administrative Materials.

The Zoning Administrator shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

D) Presentation of Evidence.

The applicant, the Town, and any person who would have standing to appeal the decision under N.C. Gen. Stat. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

E) Objections.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to N.C. Gen. Stat. §160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

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F) Appearance of Official New Issues.

The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

G) Oaths.

The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

H) Subpoenas.

The board making a quasi-judicial decision under this Ordinance through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any person with standing may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

I) Voting.

The concurring vote of four-fifths of a board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 33(D) of this Ordinance shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

J) Decisions.

The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the Town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

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K) *Judicial Review.*

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C. Gen. Stat. §160D-1402. Appeals shall be filed within the times specified in N.C. Gen. Stat. §160D-1405(d).

SECTION 33 CONFLICTS OF INTEREST

A) **BOC.**

A member of the BOC shall not vote on any legislative decision regarding a development regulation under this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

B) **Appointed Boards.**

Members appointed to boards by the BOC shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

C) **Administrative Staff.**

No staff member shall make a final decision on an administrative decision regarding a development regulation if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated under this Ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

D) **Quasi-Judicial Decisions.**

When a member of the BOC or any board appointed by its BOC is exercising quasi-judicial functions, board members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having:

- a fixed opinion prior to hearing the matter that is not susceptible to change;
- undisclosed ex parte communications;
- a close familial, business, or other associational relationship with an affected person;
- or
- a financial interest in the outcome of the matter.

E) **Resolution of Objection.**

If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

F) **Familial Relationship.**

For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationship.

SECTION 34 SUBDIVISION REGULATIONS

A) Title and Purpose.

1) Title.
This Section shall be known and may be cited as the "Subdivision Regulations."

2) Purpose.
The purpose of this Section is to regulate the subdivision of land within the Town's planning and development regulation jurisdiction. for the orderly growth and development of the Town; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare. These Subdivision Regulations are designed to further facilitate adequate provision for water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re- subdivision of larger tracts into smaller parcels of land.

B) Authority and Jurisdiction.

1) Authority.
These Subdivision Regulations are hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160D, Section 8, Subdivision Regulation.

2) Jurisdiction.
The regulations contained herein shall govern each and every subdivision in the Town's planning and development regulation jurisdiction.

C) Plat Approval and Recordation.

No subdivision within the Town's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the Town Board as herein provided, and until this approval shall have been entered on the face of the plat in writing by the Mayor and the Town Clerk. No person shall commence or proceed with development or with a subdivision of land without first securing approval under this section from the Town.

The review officer, pursuant to N.C. Gen. Stat. §47-30.2, shall not certify a subdivision plat that has not been approved in accordance with this section nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

A plat shall be prepared, approved and recorded pursuant to this section whenever a subdivision of land takes place.

Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in these Subdivision Regulations.

D) Legal Provisions.

1) Approvals and Disapprovals.
The approvals and disapprovals set forth in this section shall be communicated by the officer making the determination who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if

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different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the County tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

2) Statement by Owner.

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within Town’s planning and development regulation jurisdiction.

3) Acceptance of Improvements.

The approval of a plat shall not be deemed to constitute the acceptance by the Town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the BOC may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within the Town’s planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

4) Penalties for Violation.

In addition to other penalties which apply to violations of this Ordinance generally, any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Town, thereafter subdivides the land in violation of this section or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this section and recorded in the office of the appropriate register of deeds, is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to N.C. Gen. Stat. §160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

5) Separability.

Should any section or provision of these Subdivision Regulations be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Subdivision Regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

6) Variances.

The BOC may authorize a variance from these Subdivision Regulations by following the procedure set forth in 21 (I).

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7) Amendments.

The BOC may from time to time amend the terms of these Subdivision Regulations in accordance with the provisions of Section 3 herein.

8) Abrogation.

It is not intended that these Subdivision Regulations repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where these Subdivision Regulations impose greater restrictions, the provisions of these Subdivision Regulations shall govern.

9) Reenactment and Repeal of Existing Subdivision Ordinance.

These Subdivision Regulations in part carries forward by reenactment some of the provisions of the former Subdivision Ordinance of the Town adopted on June 25, 1979, and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the subdivision ordinance, which are not reenacted herein, are hereby repealed.

All suits at law or in equity and/or all prosecutions resulting from the violation of any Subdivision Ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of these Subdivision Regulations, but shall be prosecuted to their finality the same as if these Subdivision Regulations had not been adopted; and any and all violations of the existing ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in these Subdivision Regulations shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

10) Word Interpretation.

For the purpose of these Subdivision Regulations, certain words shall be interpreted as follows: Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

The word "used for" shall include the meaning "designed for." The word "structure" shall include the word "building."

The word "lot" shall include the words "plot," "parcel," or "tract." The word "shall" is always mandatory and not merely directive.

11) Effective Date.

A prior version of these Subdivision Regulations was adopted by the Town on the 8th day of September, 1998, and these Subdivision Regulations were amended and restated in their entirety by the Town on July 1, 2023.

E) Definitions.

1) Standards.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in these Subdivision Regulations shall have the meanings herein set forth when used in this section. If a word or phrase used in this section is not defined by this

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section or elsewhere in this Ordinance, to the extent such word or phrase is defined in Chapter 160D, that definition shall control.

2) "Subdivision" Defined.

These Subdivision Regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the these Subdivision Regulations:

- a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.
- b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- d) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

The Town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- a) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
- b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- c) The entire area of the tract or parcel to be divided is greater than 5 acres.
- d) After division, no more than three lots result from the division.
- e) After division, all resultant lots comply with all of the following:
 - i) All lot dimension size requirements of the applicable land-use regulations, if any.
 - ii) The use of the lots is in conformity with the applicable zoning requirements, if any.
 - iii) A permanent means of ingress and egress is recorded for each lot.

3) Other Definitions.

For the purpose of these Subdivision Regulations, certain words or terms used herein shall be defined as follows:

Alley: A roadway easement which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.

Buffer Strip: A buffer strip shall consist of an approved wall, fence, or planted strip of such characteristics as will provide an obscuring screen. The purpose of the buffer strip is to screen light, noise, odor, and dust. The buffer shall be no less than six (6) feet in height, except when

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extending into a front yard, in which case the buffer shall be a maximum of four (4) feet in height. If composed of planted material, the buffer strip shall be composed of evergreen trees, or a mixture of evergreen and deciduous trees at least ten (10) feet in width, with trunks spaced not more than ten feet apart, plus at least one row of dense shrubs with main trunks a maximum of five (5) feet apart using mature plants only.

Building Setback Line: A line establishing the minimum allowable distance between the nearest portion of any building and the street right-of-way line when measured perpendicularly thereto; or, on a flag lot, a line establishing the minimum allowable distance between the nearest portion of any building and the interior lot line most parallel to and nearest the street from which access is obtained. The following are allowed to encroach three (3) feet beyond the building setback line toward the street right-of-way used to establish the building setback line:

- i) uncovered porches, decks and steps,
- ii) chimneys,
- iii) eaves,
- iv) gutters, and
- v) fixtures similar to those listed in (i) through (iv).

The terms “front set back line” and “minimum front building line” shall mean “building setback line” as herein defined.

Cluster Development: A development design technique that concentrates residential buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas, historic, scenic vistas and natural areas.

Condominium: Ownership of single units in a multi-unit structure with common areas and facilities developed and submitted to condominium ownership, in accordance with Chapter 47A of the North Carolina General Statutes.

Condominium Development: A project consisting of three or more condominium units in one or more multi-unit buildings designed, developed, and constructed for unit ownership, in accordance with Chapter 47A of the North Carolina General Statutes.

Dedication: A gift, by the owner, of a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Double Frontage Lot: A continuous (through) lot which is accessible from both streets upon which it fronts.

Easement: A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Flag Lot: An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an access corridor of the lot that does not meet the minimum lot width and street frontage standards specified in the zoning district in which the lot is located. As used in the Town’s land use ordinances the term “access corridor” in connection with a flag lot shall

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mean that portion of a flag lot between the street onto which the lot has access and the point where the lot dimension parallel to the street first equals or exceeds the minimum lot width specified by the zoning district regulations.

Group Housing: Includes apartments, condominiums, townhouses, and planned unit developments.

Landscape Plan: A schematic drawing of property to scale depicting (1) all existing trees with a trunk diameter of five inches (5") or larger at four feet (4') above grade; (2) all proposed new trees; (3) all buffer vegetation whether existing or proposed; and (4) all trees between the property line and adjacent street paving.

Lot: Land area of defined boundaries in single ownership, set aside for separate use or occupancy, and recorded as such in the office of the Carteret County Register of Deeds.

Lot of Record: A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Carteret County prior to the adoption of these Subdivision Regulations, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of these Subdivision Regulations.

Lot Types:

Corner Lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. The street line forming the least frontage shall be deemed the front of the lot except where two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a building permit.

Interior Lot: A lot other than a corner lot with only one frontage on a street.

Through Lot or a Double Frontage Lot: A lot other than a corner lot with frontage on more than one Side Street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot: A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.

Official Maps or Plans: Any maps or plans officially adopted by the BOC as a guide to the development of the Town.

Open Space: All land area not covered by buildings, structures, parking areas, or street pavement.

Plan: Any documented and approved program of recommended action, policy, intention, etc., which sets forth goals and objectives along with criteria, standards and implementing procedures necessary for effectively guiding and controlling decisions relative to facilitating development and growth management. The plan is sometimes referred to as "the land development plan."

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Planned Unit Development: The planned unit development is a use regulated by this Ordinance and designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.

Planning Board: The Planning Board is established and defined under Section 22 of this Ordinance.

Plat: A map or plan of a parcel of land which is to be or has been subdivided.

Private Driveway: A roadway serving two or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

Private Street: An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with N.C. Gen. Stat. §136-102.6.

Public Sewage Disposal System: A system serving two or more dwelling units and approved by the Carteret County Division of the District Health Department of the Carteret County Health Department and the North Carolina Department of Natural and Economic Resources.

Public Water Supply: Any water supply furnishing potable water to ten or more residences or businesses, or combination of residences or businesses. Approval is required by the State of North Carolina agency then-having jurisdiction of same.

Recreation Area or Park: An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

Reservation: A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Single-Tier Lot: A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Street: A dedicated and accepted public right-of-way for vehicular traffic. The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there may exist a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development. The following classifications shall apply:

Rural Roads.

Major Collector: A road which serves major intra-county travel corridors and traffic generators and provides access to the arterial system.

Minor Arterial: A rural link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high (55 mph) overall travel speeds with

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minimum interference to through movement. This network would primarily serve traffic.

Minor Collector: A road which provides service to small local communities and links with locally important traffic generators with their rural hinterland.

Local Road: A local road serves primarily to provide access to adjacent land and for travel over relatively short distances.

Principal Arterial: A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

Urban Streets.

Local Street: A local street is any link not a higher-order urban system and serves primarily to provide direct access to abutting land and access to higher systems. It offers the lowest level of mobility and through traffic is usually deliberately discouraged.

Major Thoroughfares: Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

Minor Thoroughfares: Minor thoroughfares are important streets in the city system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating a minor thorough-traffic movement and may also serve abutting property.

Specific Type Rural or Urban Streets.

Alley: A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Cul-de-sac: A cul-de-sac is a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

Expressway: An expressway is a divided street or road which serves through traffic with full or partial control of access and generally with grade separations at intersections; however, infrequent at-grade crossings may be permitted.

Frontage Road: A frontage road is a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Freeway: A freeway is a divided street or road which serves through traffic with full control of access and with grade separations at intersections.

Subdivider: A person, including a governmental agency or redevelopment authority, who undertakes any subdivision of land and who is the landowner of the property to be subdivided or who has been authorized by the landowner to undertake such subdivision of that property.

Townhouse Development: Three or more attached single-family residences in one or more multi-residential structures, with each townhouse or row house occupying its individual land

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area, with streets, drives, recreational areas, open spaces and other facilities for ownership by the association of property owners within a development.

F) Compliance with Official Plans

1) Thoroughfare Plans.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the ~~officially adopted thoroughfare plan of the Town, Carteret County Comprehensive Transportation Plan (“CTP”)~~, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in these Subdivision Regulations.

2) School Plans.

School sites may be reserved in accordance with plans approved by the BOC. In order for a reservation to become effective, before approving such plans, the BOC and the board of education with jurisdiction over the area shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the BOC shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the BOC and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision or site plan shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision or site plan within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation.

3) Review by Other Agencies.

The following agencies shall be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- a) The district highway engineer as to proposed state streets, state highways, and related drainage systems.
- b) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.
- c) Any other agency or official required by state law or designated by the BOC.
- e)d) ~~Building Inspector.~~

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4) Zoning and Other Plans.

A proposed subdivision shall comply with all other provisions of these Subdivision Regulations.

G) Procedure for Review and Approval of Subdivision Plat

1) General.

To secure approval of plats, the subdivider shall follow the procedures established in this section.

2) Sketch Design Plan.

Prior to preliminary plat application the subdivider shall submit to the Planning Director a simple sketch plan of the proposed subdivision. The subdivider shall, at this time, discuss the proposed development with the Planning Director and become familiar with the regulations

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affecting the land to be subdivided. This procedure does not require formal application or fee. Sketch plans shall conform to the following requirements:

- 2.01. Number of Copies and Graphic Media. A minimum of two copies of a sketch design plan shall be submitted. No specific graphic media must be employed.
- 2.02. Size of Plan and Scale. No specific size or scale requirements apply to sketch design plans; it is suggested that the requirements applicable to preliminary and final plats be utilized.
- 2.03. Administrative Fees. No administrative fees are charged in connection with the submission of sketch design plans.
- 2.04. Certification Required. No certificates must be provided in connection with the submission of sketch design plans.
- 2.05. Contents Required. The sketch design plan shall depict or contain the following information:
 - 2.05.01. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
 - 2.05.02. The boundaries of the tract and the portion of the tract to be subdivided;
 - 2.05.03. The total acreage to be subdivided;
 - 2.05.04. The existing and proposed uses of the land within the subdivision and adjoining it;
 - 2.05.05. The proposed street and lot layout;
 - 2.05.06. The name, address, and telephone number of the owner;
 - 2.05.07. The name, if any, of the proposed subdivision;
 - 2.05.08. Streets and lots of adjacent developed or platted properties;
 - 2.05.09. The zoning classifications of the tract and of adjacent properties.
- 2.06. Review Procedure. The Planning Director shall review the sketch design plan for general compliance with the requirements of the Town; the Planning Director shall advise the subdivider of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for recording of the subdivision by the Planning Board or BOC, as required by these Subdivision Regulations.
- 2.07. Disposition of Copies. One copy shall be retained by the Planning Director for his records with the other copy being returned to the subdivider.
- 2.08. Development Near Town Waste Treatment Plant. Areas and lands that are located within 150 feet of the Town's sewage treatment plant property located off State Road 1412 shall not be subdivided into commercial or residential building sites unless the subdivider presents the written opinion and certification from the State of North Carolina agency having jurisdiction which certifies that said areas in close proximity to the sewage treatment plant are suitable and safe for human habitation and use. Said areas may be used as open space, roads, recreational areas, and similar uses which do not constitute a health hazard to persons in close proximity to the sewage treatment plant.

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3) Preliminary Plat.

After sketch plan review as above described, the subdivider shall submit eight copies of the preliminary plat, and any supplementary materials, to the Planning Director at least 30 days prior to the regular meeting of that board during which review of such plat is requested.

3.01 Number of Copies and Graphic Media. Eight copies (8) of the preliminary plat shall be submitted; no specific graphic media must be employed. Three (3) copies shall be disposed of as provided under paragraph 3.07; five (5) copies shall be distributed for review as provided in paragraph 3.06.

3.02. Size of Plat and Scale. No specific size requirements apply to preliminary plats. Preliminary plats shall be prepared at a scale of one inch equals 200 feet, or greater.

3.03. Administrative Fees. An administrative fee as set from time to time by the BOC shall be charged with the submission of preliminary plats. No fee shall be charged for sketch plan submittal.

3.04. Certifications Required. No certifications must be provided in connection with the submission of preliminary plats. (See Section VIII, Section 8, regarding approval of utilities.)

3.05. Contents Required. The preliminary plat shall depict or contain the following information; lots not illustrating or containing the following data shall be returned to the sub-divider or his authorized agent for completion and resubmission:

3.05.01. The proposed name of the subdivision;

3.05.02. A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area at a scale of one inch equals 400 feet;

3.05.03. The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented, with all bearings and distances shown;

3.05.04. Scale denoted both graphically and numerically;

3.05.05. North arrow and declination;

3.05.06. The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electrical service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal must be accompanied by letters of preliminary approval by the appropriate county and state authorities (see appendix I). Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, and gate valves, and shall include profiles based upon mean sea level datum for sanitary sewers and storm sewers;

3.05.07. Proposed street names; all streets must be designated either "public" or "private";

3.05.08. The zoning classification(s) of the tract to be subdivided and on adjoining properties;

3.05.09. Proposed location and size of parks, school sites, or other recreational or open spaces, if any, and their future ownership (dedication for public use to governmental body, for owners to duly constituted homeowners' or community association, or for tenants remaining in sub-divider's ownership);

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- 3.05.10. Site calculations, including:
 - (1) Acreage in total tract to be subdivided;
 - (2) Acreage in parks and other nonresidential use;
 - (3) Total number of parcels created;
 - (4) Linear feet in streets;
- 3.05.11. Proposed minimum building setback lines;
- 3.05.12. The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
- 3.05.13. Any proposed riding trails, natural buffers, pedestrian, bicycle, or other rights-of-way, utility or other easements, their location, width, and purposes;
- 3.05.14. Proposed streets, existing and platted streets on adjoining properties and in the proposed subdivision, rights-of-way, pavement widths, approximate grades, design engineering data for all corners and curves, and typical street cross-sections. If any street is proposed to intersect with a state- maintained road, the plat shall be accompanied by an application for driveway approval, as required by the Department of Transportation, Division of Highways' Manual on Driveway Regulations;
- 3.05.15. Existing and proposed property lines, both on the tract to be subdivided and on adjoining properties, building or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining, corporate limits, township boundaries, and county lines;
- 3.05.16. Proposed lot lines, lot and block numbers, and approximate dimensions;
- 3.05.17. Wooded areas, creeks, rivers, bodies of water, marshes, swamps, ponds or lakes, streams or stream beds, and any other natural features affecting the site;
- 3.05.18. The preliminary plat should be accompanied by a copy of any proposed deed restrictions or similar covenants when deemed necessary by the Planning Board (mandatory when private recreation areas are established);
- 3.05.19. Date of plat preparation;
- 3.05.20. The name(s) of the township(s), county, and state in which the subdivision is located;
- 3.05.21. The name(s), address(es), and telephone number(s) of the owner(s), mortgagee(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision;
- 3.05.22. The name and location of any property, within the proposed subdivision or within any contiguous property, that is listed on or is eligible for listing on the U.S. Department of Interior's National Register of Historic Places; likewise any property that has been designated by local

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ordinance as an "historic property," pursuant to N.C.G.S. Chapter 160A, Article 19, Part 3B, likewise any property that has been designated by local ordinance as an "historic district," pursuant to N.C.G.S. Chapter 160A-400.4;

- 3.05.23. Environmental impact statement. Pursuant to Chapter 113A of the North Carolina General Statutes, the Planning Board may require the subdivider to submit an environmental impact statement with his preliminary plat if:
 - (1) The development exceeds two acres in area; and
 - (2) If the board deems it necessary due to the nature of the land to be subdivided, or peculiarities in the proposed layout;
- 3.05.24. All information and data required by the duly adopted flood ordinance as amended for the Town;
- 3.05.25. Any other information considered by either the sub-divider or the Planning Board to be pertinent to the review of the preliminary plat; i.e., topographic map showing vertical contours every five feet.
- 3.05.26. Landscape plan.

3.06. Review Procedure. The Planning Board shall review and make a recommendation to the BOC on the preliminary plat within ninety (90) days after submittal of such plat to the Town’s Planning Director. After receiving the recommendation from the Planning Board, the BOC will first consider the preliminary plat at its next regularly scheduled meeting.

3.07. Disposition of Copies. If the preliminary plat is approved by the BOC, approval shall be entered on the face of the plat in writing by the Planning Department on at least three (3) copies of the plat. One copy (1) shall be transmitted to the Town Clerk who shall retain it for public examination; one (1) copy shall be returned to the sub- divider; and one (1) copy shall be retained by the Planning Department. If the preliminary plat is disapproved by the BOC, the Planning Director shall specify the reasons for such required under Section 31(B)(3). One (1) copy of such reasons shall be retained by the Planning Department, one (1) copy shall be given to the sub-divider, and one (1) copy shall be transmitted to the Town Clerk. If the preliminary plat is disapproved, the sub-divider may make the recommended changes and submit a revised preliminary plat or may appeal the decision in accordance with N.C. Gen. Stat. §160D- 1403.

4) Final Plat.

4.01. Improvements, Installation or Guarantees. Upon approval of the preliminary plat by the BOC, the subdivider may proceed with the preparation of the final plat, and the installation or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of the Subdivision Regulations. Prior to approval of a final plat, the subdivider shall have installed improvements specified in these Subdivision Regulations or guaranteed their installation as provided herein.

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4.02. Performance Guarantee.

4.02.01. Final plats of a subdivision shall only be approved by the BOC after the subdivider has installed all required improvements in accordance with the requirements of this Chapter or provided a performance guarantee in accordance with Section 4.02.02 below.

4.02.02. Performance Guarantees. Final plats of a subdivision may be approved by the BOC upon posting of a performance guarantee to ensure successful completion of required improvements.

For purposes of this section, all of the following apply with respect to performance guarantees:

- a) Type. The type of performance guarantee shall be at the election of the subdivider. The term “performance guarantee” means any of the following forms of guarantee:
 - i) Surety bond issued by any company authorized to do business in this state.
 - ii) Letter of credit issued by any financial institution licensed to do business in this state.
 - iii) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- b) Duration. The duration of the performance guarantee shall initially be one year, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration.
- c) Extension. A subdivider shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (e) of this Subsection and shall include the total cost of all incomplete improvements.
- d) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the

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specifications of the Town, or are accepted by the Town, if subject to its acceptance, upon request by the subdivider, the Town shall timely provide written acknowledgement that the required improvements have been completed.

- e) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the subdivider. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- f) Timing. A performance guarantee required under this section shall be posted at the time the plat is recorded.
- g) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- h) Legal responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this Subsection or in the proceeds of any such performance guarantee other than the following:
 - i) The Town.
 - ii) The subdivider at whose request or for whose benefit the performance guarantee is given.
 - iii) The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the subdivider.
- i) Multiple guarantees. The subdivider shall have the option to post one type of a performance guarantee as provided for in Section 4.02.02 (a), in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
- j) Performance guarantees associated with erosion control and storm water control measures are not subject to the provision of this section.

4.03. The Final Plat. 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 these Subdivision Regulations.

4.03.01. No final plat shall be approved unless and until the subdivider shall have

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installed in that area, represented on the final plat, all improvements required by these Subdivision Regulations or shall have guaranteed their installation, as provided for in paragraphs 4.01 and 4.02 thereof.

- 4.04. Plat Submitted. The subdivider shall submit the final plat, so marked, to the Planning Director not less than 30 days prior to the Planning Board meeting at which the subdivider requests such plat be considered for approval; further, the plat shall be submitted to the Planning Director not more than 12 months after the date on which the preliminary plat was approved, otherwise such approval shall be null and void unless a written extension of this time limit is granted by the Planning Board on or before the one-year anniversary of the approval.
- 4.05. Plat Prepared. The final plat shall be prepared by a surveyor or professional engineer licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of plats, subdivisions, and mapping requirements as set forth in N.C. Gen. Stats. 47-30, as amended.
- 4.06. Number of Copies and Graphic Media. Five copies of the final plat shall be submitted; two of these shall be drawn in ink on linen or film suitable for reproduction; three shall be black or blue line paper prints.
- 4.07. Size of Plat and Scale. Final plats shall have an outside marginal size of not more than 21 inches by 30 inches nor less than 8 1/2 inches by 11 inches, including 1 1/2 inch for binding on the left margin and one-half inch border on each of the other sides. Where size of land areas or suitable scale to ensure legibility require, maps may be placed on two or more sheets with appropriate match lines. Final plats shall be drawn at a scale of one-inch equals 200 feet, or greater.
- 4.08. Administrative Fees. Submission of the final plat must be accompanied by an administrative fee as set forth from time to time by the BOC.
- 4.09. Certification Required. The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning Board by the subdivider:
 - 4.09.01. Certificate of ownership and dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town and that I hereby adopt this plan of subdivision with my free consent, established minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town.

Date

Owner(s)

- 4.09.02. Certification of approval of water supply and sewage disposal systems. I hereby certify that the water supply and sewage disposal systems installed or proposed for installation in this Subdivision meet necessary public health requirements (as described in appendix XI of the subdivision regulations) of Beaufort, and are hereby approved.

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Date

County Health Officer or
His Authorized Representative

(Certification 4.12.02 4.10.02 not required for subdivisions which are connected, or will be connected, to existing publicly owned and operated water supply and sewage disposal systems.)

4.09.03. Certificate of survey and accuracy. I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page _____ Book _____, Page _____, etc.) (other); 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 _____, that this map was prepared in accordance with N.C. Gen. Stat. §47-30, as amended. Witness my hand and seal this _____ day of _____, A.D., _____.

Surveyor or Engineer

License or Registration Number

4.09.04. Certificate or approval of the design and installation of streets, utilities, and other required improvements. I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to the Town specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town have been received, and that the filing fee for this plat, in the amount of \$ _____ has been paid.

Date

Town Manager

4.10. Contents Required. The final plat shall depict or contain the following information; plats not illustrating or containing the following data shall be returned to the subdivider for completion and resubmission:

4.10.01. The name of the subdivision;

4.10.02. The exact boundary lines of the tract to be sub-divided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands;

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- 4.10.03. Scale denoted both graphically and numerically;
- 4.10.04. The plans for utility layouts, including sewers, storm sewers, water distribution lines, natural gas, telephone and electrical service, illustrating connections to existing systems or plans for individual water supply systems and/or sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, and gate valves;
- 4.10.05. Street names;
- 4.10.06. The location, purpose, and dimensions of areas to be used for purposes other than residential;
- 4.10.07. Minimum building setback lines;
- 4.10.08. The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
- 4.10.09. The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use, with the purpose of each stated;
- 4.10.10. Right-of-way lines and pavement widths of all streets, and the location and width of all adjacent streets and easements;
- 4.10.11. Property lines, buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining, corporate limits, township boundaries, and county lines;
- 4.10.12. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;
- 4.10.13. The accurate locations and descriptions of all monuments, markers, and control points;
- 4.10.14. The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block;
- 4.10.15. The deed restrictions or any other similar covenants proposed for the subdivision, if any;
- 4.10.16. The date of the survey and plat preparation;
- 4.10.17. North arrow and declination;
- 4.10.18. All certifications as required by section 4.11 of this Section;
- 4.10.19. The name(s) of the township(s), county(s), and state in which the subdivision is located;
- 4.10.20. The name and location of any property, within the subdivision or within any contiguous property, that is listed on or is eligible for listing on the U.S. Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinance as a "historic property" pursuant to N.C. Gen. Stat. Chapter 160A, Article 19, Part 3B; likewise any

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property that has been designated by local ordinance as an “historic district” pursuant to N.C. Gen. Stat. Chapter 160A, Article 19, Part 3A;

4.10.21. The name(s), address(es), and telephone number(s) of the owner(s), mortgagee(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision, and the registration number(s) and seal(s) of the professional engineers and registered surveyors;

4.10.22. Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the final plat.

4.10.23. Landscape plan.

4.11. Review Procedure. Final plats shall be reviewed according to the following procedure:

4.11.01. Planning Board Review: The Planning Board shall approve or disapprove the final plat within 45 days of its first consideration. During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, in the opinion of the Planning Board, the costs shall be charged to the sub- divider and the plat shall not be approved until such errors have been corrected. If the Planning Board approves the final plat, such approval shall be entered on the face of the plat in writing as follows:

Certification of Approval by the Planning Board

The Beaufort Planning Board hereby approves the final plat for the _____ Subdivision.

Date _____
Chairman, Beaufort Planning Board

If the Planning Board disapproves the final plat, the Planning Board shall state in writing its reasons for such action and transmit same in accordance with Section 31(B)(3). Town Clerk If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of these Subdivision Regulations and resubmit same for reconsideration by the Planning Board.

If the Planning Board fails to approve or disapprove the final plat within 45 days after first consideration, as previously defined in paragraph 3.06, such failure shall be deemed a recommendation to the BOC for approval and shall constitute grounds for the subdivider to apply for final approval by the BOC.

4.11.02. BOC Review: The BOC shall review the final plat with the recommendations of the Planning Board within 45 days the Planning Board’s final action on

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same. If the BOC approves the final plat, such approval shall be entered on the face of the plat in writing as follows:

Certificate of Approval for Recording

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

Date _____
Town Clerk, Beaufort

If the final plat is disapproved by the BOC, the reasons for such disapproval shall be stated in writing And shall be transmitted pursuant to ____ If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this These Subdivision Regulations and resubmit same for reconsideration by the BOC.

- 4.12. Disposition of Copies. If the final plat is approved by the BOC, the original tracing and one print of the plat shall be returned to the subdivider. One reproducible tracing and one print shall be filed with the Town Clerk, and one print shall be retained by the Planning Board.
- 4.13. Recording of the Final Plat. The subdivider shall file the approved final plat with the Register of Deeds of Carteret County for recording within 60 days after the date of BOC' approval; otherwise, such approval shall be null and void.
- 4.14. Re-subdivision Procedures. For any re-plotting or re-subdivision of land, the same procedures, rules and regulations shall apply, as prescribed here, for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:
 - a) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plat;
 - b) Drainage, easements or rights-of-way shall not be changed;
 - c) Street alignment and block sizes shall not be changed;
 - d) The property line between the back of the lots shall not be changed;
 - e) The rear portion or lots shall not be subdivided from the front part; and
 - f) The character of the area shall be maintained.

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H) **Improvement Required and Minimum Standards of Design.**

1) General.

All relevant standards in the Town of Beaufort Construction and Design Manual shall be followed. Each subdivision shall contain the following improvements, depending on the proposed lot sizes as expressed in the following chart:

Improvements Required	Lot Areas in 1,000 Square Feet					Multi-Family/Group
	20.	15.	10.	8 & 8A.	5.	
(A) Graded Streets and Lots	X	X	X	X	X	X
(B) Drainage	X	X	X	X	X	X
(C) Central Water and Hydrants	X	X	X	X	X	X
(D) Public Sewer	X	X	X	X	X	X
(E) Paved Streets	X	X	X	X	X	X
(F) Max. Street Grade	8%	8%	6%	5%	5%	5%
(G) Sidewalks One Side	X	X	X			
(H) Sidewalks Both Sides				X	X	X
(I) Curb and Gutter		X	X	X	X	X
(J) Street Lights			X	X	X	X
(K) Street Trees			X	X	X	X
(L) Underground Wiring	X	X	X	X	X	X

2) Suitability of Land.

Land subject to flooding, improper drainage, erosion or that is for topographical or other reasons unsuitable for residential use, as determined by the Planning Board, shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards can be and are corrected.

2.01. Prevention of Flood Damage. All subdivisions shall comply with the provisions of Town's Flood Damage Prevention Ordinance.

2.02. Fill Areas. Areas that have been used for the disposal of solid waste shall not be subdivided into commercial or residential building sites unless the subdivider presents the written opinion

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and certification of a registered engineer or architect that these areas are safe and that the construction of buildings and improvements in the area will not be affected because of the previous use of said area. This shall include those areas that have been used for the disposal of trash, demolition waste, and other waste materials.

- 3) Sidewalks.
Sidewalks required by Section VIII, Section 1 shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of reinforced concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development.
- 4) Name of Subdivision.
The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the Town.
- 5) Historic Properties and Natural Assets.
In any subdivision, due consideration will be given to safeguard the heritage of the Town by preserving any archaeological site or any property therein, or located on adjacent property thereto, that embodies important elements of its cultural, social, economic, political or architectural history; and likewise all due consideration should be given to promoting the use and conservation of such property for the education, pleasure, and enrichment of the residents of the Town and the State of North Carolina as a whole. It is a requirement of these Subdivision Regulations that the name and location of all historic properties, located within the proposed subdivision or within any contiguous property, be clearly identified on both the preliminary and final plats. If any such historic property is listed on the U.S. Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinance as a "historic property," pursuant to N.C. Gen. Stat. Chapter 160D, Article 9, Part 4; likewise any property that has been designated by local ordinance as a "historic district," pursuant to N.C. Gen. Stat. Chapter 160D, Article 99, Part 4; the Planning Board may provide the N.C. Department of Cultural Resources, Division of Archives and History an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved.
- 6) Sedimentation Pollution Control.
In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall comply with all state and federal requirements pertaining to same and with any local sediment control ordinances.
- 7) Storm Water Drainage.
The subdivider shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be subject to the approval of the Planning Board and BOC:
 - 7.01. No surface water shall be channeled or directed into a sanitary sewer.
 - 7.02. Where feasible, the subdivider shall connect to an existing storm drainage system.
 - 7.03. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
 - 7.04. Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding.

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- 7.05. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 300 feet of horizontal distance.
- 7.06. All streets abutting lots of 12,000 square feet or less shall have curbs and gutters constructed to Department of Transportation standards. The Planning Board may require curbs and gutters on streets abutting larger lots if it is deemed appropriate for the control of surface drainage and/or to facilitate street cleaning and maintenance.
- 8) Water and Sewerage Systems.
The preliminary subdivision plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal:
 - 8.01. Where the system is to be connected to a system owned and operated by a governmental entity but will not be constructed by such governmental entity, the preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public sewer system or public water system, and the appropriate state agency. Water supply systems should be approved by the water and fire departments as to location of hydrants and size of mains as required by the North Carolina Fire Code. No mains shall be less than eight inches inside diameter, and they shall be laid out so as to create a complete circuit, with no dead end lines in excess of 300 feet. A blowout shall be placed at the dead end. Water and sewer lines should be installed in the street rights-of-way where possible.
 - 8.02. Where the proposed system does not contemplate the use of facilities owned and operated by any of the above, the proposed facilities shall be approved by the appropriate governmental agencies having jurisdiction over same.
 - 8.03. Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the Carteret County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the health department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (at least one per acre) to determine the absorption capacity of the soil and test holes at least six feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.
- 9) Streets.
 - 9.01. Coordination and Continuation of Streets. The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area and, where possible, existing principal streets shall be extended.
 - 9.02. Access to Adjacent Properties. Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround shall be provided.

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- 9.03. Private Streets and Reserve Strips. Private streets or reserve strips shall be prohibited unless otherwise provided for in these Subdivision Regulations.
- 9.04. Subdivision Street Disclosure Statement - "Public" or "Private Street" – Designation (N.C. Gen. Stat. §136-102.6). All streets shown on the final plat must be designated either "public" or "private," and designation as "public" is to be conclusively presumed an offer of dedication to the public.
- 9.05. Marginal Access Streets. Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.
- 9.06. Street Names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Planning Board.
- 9.07. Collector and Minor Street. Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to ensure convenient access to parks, playgrounds, schools, and other places of public assembly.
- 9.08. Design Standards. The design of all streets and roads within the Town shall be in accordance with the then-current policies of the North Carolina Department of Transportation, Division of Highways. The provision of the street rights-of-way shall conform and meet the requirements of the thoroughfare plan for the Town, as approved by the Planning Board and adopted by the BOC and the North Carolina Department of Transportation, Division of Highways. The proposed street layout shall be coordinated with the existing street system of the surrounding area. Where possible, proposed streets shall be the extension of existing streets. The urban planning area boundary is as depicted on the ~~mutually adopted Town thoroughfare plan~~CTP. The rural planning area shall be that area outside the urban planning boundary.

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9.09. Right-of-Way Widths. Right-of-way widths shall not be less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the Town thoroughfare plan.

9.09.01	Rural	Right-of-way (feet)
	Principle Arterial	
	Interstate	400
	Other	200
	Minor Arterial	100
	Major Collector	100
	Minor Collector	70
	Local Road	50

9.09.02	Urban	Right-of-way (feet)
	Major Thoroughfare other than Freeway and Expressway	90
	Minor Thoroughfare	70
	Local Street	50
	Cul-de-sac	100' diameter for turnaround

9.10. 100 Feet Maximum. The subdivider will only be required to dedicate a maximum of 100 feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of 100 feet. In all cases in which right-of-way is sought for an access controlled facility, the subdivider will only be required to make a reservation.

9.10.01. Curb and Gutter: Two (2) types of curb and guttering will be allowed: either straight back or roll back. Either type shall be made of approved materials. Straight back curbing shall have a minimum width of 30 inches for major streets and a minimum of 24 inches for secondary streets. Roll-back type curbing shall have a minimum width of 24 inches.

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9.11. Pavement Widths. Pavement widths or graded widths shall be as follows:

	Streets with Curb and Gutter (measured face-to- face curb)	Streets without Curb and Gutter
Principal Arterials	52 feet	48 feet
Minor Arterials	44 feet	40 feet
Major Collector	44 feet	40 feet
Minor Collector	32 feet	24 feet
Local Road	28 feet	24 feet
Marginal Access (frontage)	28 feet	24 feet
Cul-de-sac	28 feet	24 feet
Cul-de-sac Turnaround	80 ft. in dia.	80 ft. in dia.

9.12. Roads and Street Surfaces. All subdivision streets and roads shall be constructed to meet the current requirements of the North Carolina Department of Transportation, Division of Highways' standards for state maintenance.

9.13. Tangents. A tangent of at least 100 feet shall be provided between reverse curves on all streets.

9.14. Street Intersections. Street intersections shall be laid out as follows:

9.14.01. All streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees.

9.14.02. Intersections with a major street shall be at least 1,000 feet apart measured from centerline to centerline.

9.14.03. Where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet.

9.14.04. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90 degrees, a greater radius may be required.

9.14.05. Proper sight lines shall be maintained at all intersections of streets. There shall be a clear sight distance of 150 feet for major streets and 75 feet for all other streets from the point of intersection, as measured along the centerline. No building or obstruction shall be permitted in this area.

9.15. Half Streets. The dedication of half streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development. However, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property that is owned or controlled by the subdivider; provided that the width or a partial dedication be such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the said adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

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9.16. Cul-de-sacs. Permanent dead end streets shall not exceed 500 feet in length unless necessitated by topography and shall be provided with a turnaround having the dimensions stated hereinbefore.

9.17. Alleys. An alley shall be provided to the rear of all lots used for other than residential purposes. Alleys are prohibited in residential blocks unless approved by the Planning Board. All alleys shall be designed in accordance with the Department of Transportation, Division of Highways' specifications and standards and shall meet the following requirements:

- Right-of-way Width 20 feet
- Property Line Radius at Alley Intersection 15 feet
- Minimum Centerline Radius when Deflection Angle of More Than 10° occurs. 35 feet
- Minimum Turnaround Diameter of Dead End Alley (Right-of-Way Width) 80 feet

9.18. Geometric Characteristics. The standards outlined below shall apply to all subdivision streets proposed for addition to the state highway system or municipal street system. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under right-of-way shall apply.

9.18.01. Design Speed. The design speeds for subdivision type streets shall be:

	<u>Desirable</u>	<u>(Minimum)</u>
Rural		
Minor Collector Road	60	(50)
Local Roads	50	(40)
Urban		
Major Thoroughfares other than Freeway		
Expressway	60	(40)
Minor Thoroughfares	60	(40)
Local Streets	35	(20)

9.18.02. Maximum and Minimum Grades. The maximum grades in percent shall be:

Type of Topography	60 Desirable (50 Minimum)	60 Desirable (40 Minimum)	50 Desirable (40 Minimum)	40 Desirable (30 Minimum)
Flat - NCDOT Divisions	3	3	4	5
1, 2, 3, 4, & 6	(4)	(5)	(5)	(6)

The minimum grade in no case shall be less than 0.5%. Grades for 100 feet each way from intersections should not exceed five percent.

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9.19. **Minimum Sight Distances.** In the interest of public safety, the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of 100 feet. Calculated lengths should be rounded up in each case).

Design Speed, MPH	30	40	50	60
Stopping Sight Distance				
Stopping Distance, Ft.	200	275	350	475
Min. K* Value for:				
Crest Vertical Curve	28	55	85	160
Sag Vertical Curve	35	55	75	105
Passing sight distance				
Passing Distance, Ft., 2 Lane	800	1,300	1,700	2,000
Minimum K* Value for Crest Vertical Curve	190	510	870	1,210

*K is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve that will provide minimum sight distance.

9.20. **Minimum Degree of Curve and Related Maximum Super-Elevation.**

Type of Facility	Section	Design Speed, MPH							
		30		40		50		60	
		D	e	D	e	D	e	D	e
Rural									
Minor Collector	Shoulder					7.5°	0.08	5.0°	0.08
	C & G					5.5°	0.02	3.5°	0.02
Local Road	Shoulder			12.5°	0.08	7.5°	0.08		
	C & G			9.0°	0.02	5.5°	0.02		
Urban									
Major & Minor Thoroughfares	Shoulder			11.5°	0.06			4.0°	0.06
	C & G			9.0°	0.02			3.5°	0.02
Local Street	Shoulder	21.0°	0.06°	11.5°	0.06				
	C & G	17.0°	0.02°	9.0°	0.02				

D = Maximum allowable degree of curve.

e = Super-elevation.

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10) Design Standards for Blocks.

- 10.01. General. The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation, control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
- 10.02. Block Length. Blocks shall not be less than 400 feet nor more than 1,320 feet in length.
- 10.03. Block Width. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, or when abutting a water area.
- 10.04. Pedestrian Crosswalks. Where deemed necessary by the Planning Board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, or to a water area such as a stream, river, or lake.

11) Design Standards for Lots.

- 11.01. The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. All lots must have frontage on a public or private street.
- 11.02. Subdivisions Subject to Zoning Ordinance District Regulations. Lots in subdivisions located within a district specified by the zoning ordinance shall meet and conform to all size, dimension, and building setback requirements of said zoning district.
- 11.03. Large Tract or Parcels. Where land is subdivided into larger parcels than ordinary building lots, such parcels should be so arranged as to allow for the opening of future streets and logical further re-subdivision.
- 11.04. Specific Standards for Flag Lots. Flag lots shall only be permitted in the following zoning districts: R-15 and R-20. The following standards shall apply to the creation of flag lots:
 - 11.04.01 The lot width and street frontage of a flag lot may be reduced to twenty (20) feet along the access corridor. At no point along the access corridor shall the width be less than twenty (20) feet.
 - 11.04.02 The access corridor of a lot shall not be longer than four hundred (400) feet.
 - 11.04.03 The access corridor a lot shall not be included in the area, width, or depth, calculations or be used to provide off-street parking.
 - 11.04.04 Access easements (easements across other parcels of land to gain access for a landlocked parcel) are not to be considered an access corridor of a flag lot and are not permitted. However, access easements shall be permitted for existing lots of record that do not have direct street access.
 - 11.04.05 The lot line at the end of the access corridor lying generally parallel to the street to which the access corridor connects shall be considered to be the front lot line for setback and yard purposes. Setbacks (minimum yard requirements) of a flag lot shall be as follows unless greater setbacks are

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required by the zoning regulations: Front – 30 feet, Sides – 15 feet, Rear – 25 feet.

- 11.04.06 For flag lots created from an existing lot of record, any existing structure may not be made non-conforming as to setbacks as a result of the creation of the new lot.
- 11.04.07 Adequate lot area must exist to permit a vehicular turnaround that enables vehicles on a flag lot to exit the lot by driving straight onto the street rather than backing onto the street.
- 11.04.08 Where public water is available, any building on the flag lot must be within 1,000 feet of a fire hydrant measured along the access street and access corridor of the lot.
- 11.04.09 No re-subdivision of a flag lot shall be permitted unless each new lot created by the subdivision meets or exceeds the standards for a flag lot, and no structure on the original flag lot is rendered non-conforming by the re-subdivision.
- 11.04.10 11.04.10 Flag lots shall be approved only where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot design is intended to accommodate a particular extenuating circumstance which makes traditional lot design unfeasible. Therefore, flag lots should be judiciously approved.

12) Design Standards for Easements.

Easements shall be provided as follows:

- 12.01. Utility Easements. Easements for underground or aboveground utilities shall be provided where necessary across lots or preferably centered on rear or side lot lines and shall be at least ten feet in width.
- 12.02. Drainage Easements. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.
- 12.03. Buffer Strips. A buffer strip at least ten feet in width may be required by the Planning Board adjacent to a major street or a commercial or industrial development. This strip shall be in addition to the normally required lot dimension, shall be part of the platted lot, and shall be reserved for the planting of trees and shrubs by the owners.

13) Design Standards for Boat Launching Ramps and Docks.

All subdivisions adjoining a creek, river, or similar water area shall provide for access to the water for owners of all lots within such subdivision. Such access shall include boat docks or boat launching ramps every one-quarter mile along the shoreline of the subdivision. The purpose of these facilities is to serve properties within the subdivision. Such facilities shall meet the lot area requirements, off-street parking requirements, and other applicable regulations established by the zoning ordinance, and shall be directly accessible to a state or town maintained street or road. Where a public boat dock or launching ramp is provided by the state, county, or other agency within or contiguous to the area to be subdivided, such facility may count toward meeting the requirements of this section.

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14) Placement of Monuments.

Unless otherwise specified by these Subdivision Regulations, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under provisions of Section 16, Chapter 98 of the General Statutes of North Carolina, shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. The Suburban Land Survey (Class B) criteria shall apply to all subdivisions in the Town’s planning and development regulation jurisdiction except for commercial and industrial surveys.

15) Construction Procedures.

- 15.01. Commencement. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.
- 15.02. Permits. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of these Subdivision Regulations until all the requirements of these Subdivision Regulations have been met.
- 15.03. Access. The Planning Director shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance.
- 15.04. Inspection. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Planning Director to provide for adequate inspection. Erosion Control. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected to comply with the provisions of Article VIII, Section 2.
- 15.05. Erosion Control. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected to comply with the provisions of Article VIII, Section 2.
- 15.06. Existing Flora. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the U.S. Department of Agriculture in Agricultural Information Bulletin No. 285, Protecting Trees Against Damage From Construction Work, U.S. Government Printing Office, 1964. Such trees are to be preserved by well islands or retaining walls whenever abutting grades are altered. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
- 15.07. Construction. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

16) Oversized Improvements.

The Town may require installation of certain oversized facilities such as water mains in excess of eight-inch diameter, when it is in the interest of future development. The Town shall pay for that portion of the improvement which exceeds the standards set forth in these Subdivision Regulations.

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17) Landscape Plans.

Preliminary and final plats for all site-specific development plans (single family residential properties accepted) and common areas of subdivisions shall include a landscape plan. The plan shall include an inventory of all existing trees with a trunk diameter of five inches (5) or larger at four feet (4') above grade and all new trees to be planted by the applicant. The plan shall include all buffer plantings, street trees and any other landscaping required by the Zoning Ordinance or these Subdivision Regulations. A landscape plan may not be approved unless it provides for an average density of at least one tree for each 4,000 square feet of a proposed site development or subdivision.

For properties subject to this section no person shall cut down or destroy any existing trees over five inches (5") in diameter at four feet (4') above grade until after such cutting or destruction is permitted in the approval of the final plat and landscape plan by the Town. All existing trees required by the approved landscape plan shall be clearly marked with tape or non-permanent spray paint to protect them from damage during construction. The applicant shall be responsible for replacing any such existing trees that are severely damaged and any new trees that do not survive at least two years after planting.

New trees may be evergreen or deciduous and shall conform to the American Standard for Nursery Stock published by the American Association of Nurserymen. Note: Palm trees do not conform to the intent of this section. However, they may be planted in addition to those required by this section. The minimum trunk diameter for four feet (4') above the roots will be two inches (2") for new trees whether used as new plantings or replacements for damaged large trees. Other information as to suitable local trees may be obtained at the county extension office or town public works office.

18) Street Lighting.

The purpose of these criteria is to ensure the safety of motorist and pedestrians while not adversely affecting land uses or adjacent properties. A street lighting plan is required for all major subdivisions and the proposed lighting shall be LED and provided by the current utility provider. Commercial and residential subdivisions shall meet the Town's spacing requirement for street lighting, which is one (1) light for at least every four hundred (400) feet. In all districts, lighting shall be directed downward (dark sky).

The use of decorative street poles and lights may be undertaken by a Homeowners Association and approved by the Town's BOC however the Homeowners Association will be responsible for the total expense of installation and operation thereafter.

Upwardly directed lighting shall not be used to illuminate structures except for low wattage architectural lighting. [Amended 7/11/16]

19) Power Lines.

No developer or builder shall be required to bury power lines meeting all of the following criteria:

- a) The power lines existed above ground at the time of first approval of a plat or development plan by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan, and
- b) the power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

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I) **Public Facilities.**

1) Recreation Areas.

- 1.01. Every person or corporation who subdivides land for residential purposes shall be required to dedicate or reserve a portion of such land, as set forth in these Subdivision Regulations, for the purpose of providing open space sites, recreation areas, or parks to serve the future residents of the neighborhood within which the subdivision is located. As an alternative to the dedication of a portion of such land by the subdivider, and/or where it is determined by the Planning Board and BOC that a dedication of land is not feasible in a given plat or incompatible within the Town land development plan, the subdivider may make provisions for an equitable amount of land in another location, or pay to the Town a fee in lieu of dedication, as provided herein.
- 1.02 The land dedicated under these Subdivision Regulations or any provisions made under these Subdivision Regulations shall be used only for the purpose of providing parks and recreation areas, and the location of the land shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision or residential development.
- 1.03 The amount of land required to be dedicated or reserved by a subdivider or developer shall be based upon the most recent U.S. Bureau of Census figures for an average size family for this particular Town and a minimum park and recreation standard factor of eight acres per 1,000 persons. The actual amount of land to be dedicated or reserved shall be determined by the following formula:

Total number of dwelling units or lots	X	**Average size of family	X	.008 acres per person	X	*Variable multiple	=	Amount (acreage) dedication or reservation
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Examples:

200 Units or Lots	X	3.3	X	.008	X	1.2	=	6.33 Acres
27 Units or Lots	X	4.1	X	.008	X	0.7	=	.619 Acres
50 Units or Lots	X	2.3	X	.008	X	1.4	=	3.86 Acres

* Variable density factor

**Average size of family is computed on the basis of average size family in the municipality or county as indicated in the latest decennial census.

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VARIABLE DENSITY FACTOR TABLE

Acreage average per dwelling unit or lot	Variable multiple
.0 -.1	1.8
.1-.2	1.6
.2 -.3	1.4
.3 -.4	1.2
.4 -.5	1.0
.5 -.6	0.9
.6 -.7	0.8
.7 -.8	0.7
.8 -.9	0.6
.9 - Over	0.5

Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots. For computation purposes, land dedicated or reserved for other purposes such as streets, sidewalks, access alleys, utilities, drainage, or other purposes may not be used in determining average acreage.

The variable density factor is designed to provide an adjustment to subdivision plats which contains average lot sizes of .5 acre and above. This adjustment is used since subdivisions with larger lots contain more open space, and thus fewer residents, which creates less demand for public recreation and park acreage. Conversely, those subdivision plats that create lots, which average less than .4 acre, are adjusted due to the density of development and inherent increased demand for more public recreation and park land. The adjustments for larger lots or for small lots are based on a sliding scale reflecting degree of density.

The requirements as outlined here apply to single-family units, multiple-family units (including apartments, condominiums and cooperative units), and mobile homes.

The minimum amount of land that shall be dedicated or reserved for recreation, parks, or open space in all subdivision plats shall be one-half acre for each subdivision, five percent of the gross acreage, or eight acres per 1,000 persons whichever is greatest.

1.04 Criteria for evaluating suitability of proposed recreation, park, and open space areas shall include but not be limited to the following, as determined by the governing board after recommendations of the Planning Board. The Planning Board shall consult with the recreation/park commission or advisory committee and/or recreation/park administrator prior to making its recommendation pursuant to this subsection:

1.04.01 Unity. The dedicated land shall form a single parcel of land except where the Planning Board determines that two parcels or more would be in the public interest and may also determine that a connecting corridor of open space is in

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the public interest, and in which case the path shall not be less than 30 feet wide for the purpose of accommodating a path or trail.

- 1.04.02 Shape, topography, and subsoils. The shape, topography, and subsoils of the dedicated or reserved parcel or parcels of land shall be such as to be usable for active recreation (play areas, ballfields, tennis courts, or similar recreation uses).
- 1.04.03 Location. The dedicated or reserved recreation or park land shall be located so as to reasonably serve the recreation needs of the subdivision for which the dedication was made.
- 1.04.04 Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement shall be not less than 30 feet wide.
- 1.04.05 Usability. The dedicated or reserved land shall be usable for recreation: lakes may not be included in computing dedicated or reserved land area unless acceptable to the Planning Board. Where the park and recreation commission or committee and the Planning Board determine that recreation needs are being adequately met, either by other dedicated or reserved parcels or existing recreation facilities, then land that is not used for recreation may be dedicated or reserved as open space.
- 1.04.06 Plans. Municipal and county plans shall be taken into consideration when evaluating land proposals for dedication.
- 1.04.07 Vegetative cover. The vegetative cover, if feasible, shall be sufficient to lend attractiveness to the land parcel, protection from the sun's rays, and suitability for a variety of nature related recreation opportunities.
- 1.04.08 Size. The amount of dedicated or reserved land shall be in accordance with the formula outlined in subsection 2.03. If the formula, for any reason, is not applicable, the minimum size requirement applies.
- 1.05 Where park or recreation space is deeded to a homeowners' association or any nonprofit ownership in lieu of public dedication or fee payment, the subdivider or owner shall record a declaration of covenants and restrictions that will govern the open space of the association or nonprofit organization. This shall be submitted with the application for preliminary plat approval. Provisions shall include but not be limited to the following:
 - 1.05.01 The homeowners' association shall be established before the homes are sold.
 - 1.05.02 Membership shall be mandatory for each home buyer and all successive buyer(s).
 - 1.05.03 The association shall be responsible for the liability insurance, local taxes and the maintenance of recreation and other facilities.
 - 1.05.04 Any sums levied by this association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgagee liens.
 - 1.05.05 If all or any portion of property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the Town to satisfy the requirements for public recreation facilities under this section.

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- 1.06 Nothing herein shall be construed to limit the amount of privately controlled open space land which may be included under this agreement, over and above the recreation and park site obligation.
- 1.07 Where reservation of land for parks, recreation, and open space is required, then additional documentation is needed. At any time prior to the final approval of the subdivision plat, the owner shall give the Town a valid option on the land provided for as a park, recreation or open space area within the subdivision. This option shall be a separate agreement to be drawn by the attorney of the Town at no cost to the owner. It may contain terms which are mutually agreed to by the owner and the Town, but shall contain the following:
 - 1.07.01 Legal description and plat map.
 - 1.07.02 Provision for payment of \$100.00 to owner upon execution of the option, which shall be applied to the purchase price.
 - 1.07.03 Provision that the owner shall sell the land at an agreed raw land value, which is the fair market value, of the proposed park, recreation or open space area before platting development or improvements.
 - 1.07.04 Provision that the option shall last for a period of one year unless terminated by exercise of the option to purchase by the governing unit or unless sooner terminated by the Town by an instrument in writing.
 - 1.07.05 Provision that, in addition to the stipulated purchase price if option is exercised, the owner shall be entitled to interest on the purchase price from date of execution of option until day of exercise of the option at eight percent per year.
- 1.08 Where land has been reserved for acquisition by the governmental unit, the purchase price of the land will be the raw land value, which is the fair market value of the proposed park, recreation, or open space area before development or improvements. In the event the governmental unit and the subdivider cannot agree upon the fair market value, or location, terrain, size and shape of the land necessary to be dedicated or reserved; or cannot agree upon the details or provisions for an equitable amount of land in another location; same shall be determined by existing, established, legal procedures.
- 1.09 Notwithstanding provisions of this section to the contrary, the governing body may, in cases of an unusual or exceptional nature, allow adjustments in the dedication or reservation regulations established in and required by this Ordinance. Such adjustments shall be reviewed by the parks and recreation commission or advisory committee and/or the Planning Board before action by the governing body.
- 1.10 A developer may provide funds in the amount of \$10,000.00 per acre dedicated or market value, whichever is less, as required in Section 1.03 to the Town whereby the Town may purchase land or areas to serve the subdivision or development in the immediate area. If so, approved by the BOC, this may be done in lieu of providing the land requirement.

J) **Planned ~~Building Group~~ Unit Development.**

~~The owner, or his agent, of land proposed for development under the _____ of this Ordinance for which one or more plats will be recorded at the Carteret County Register of Deeds Office, or~~

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~~for which a master plan is required under this section, is required to proceed as provided herein. The provisions of this section apply to Planned Building Group (“PBG” hereinafter) projects regardless of whether or not a subdivision of land will occur in the marketing or conveyance of property therein.~~

~~1) Single Land Use Projects:~~

~~The owner of each PBG project proposing a single land use within a single zoning district (for example a condominium proposed for a zoning district where condominiums are permitted uses), and for sections or phases proposed for imminent development in PBG projects for which a master plan has either been approved by the Town or is under consideration by the Town, shall submit to the Town’s Planning Department a preliminary plan for the proposed PBG. The preliminary plan shall contain the detail and information necessary for the Town to determine if the plan meets all of the Town’s applicable land use and technical requirements. Where not otherwise specified in this section or in the zoning ordinance the preliminary plan shall contain all of the information required for preliminary subdivision plats under Section 34(G)(3) of these Subdivision Regulations. Information or detail required for preliminary subdivision plats deemed irrelevant to the proposed PBG by the Planning Board and the Town Board may be waived.~~

~~1.01. Planning Board Review. The Planning Board will review the preliminary plan within sixty (60) days after it has been filed with the Town to determine compliance with all Town land use regulations including the zoning ordinance, any applicable provision of the subdivision ordinance, the Land Use Ordinance, and the Town’s technical specifications for development contained in the documents called “Standard Specification for Town of Beaufort Public Works Department, Utilities, Drainage and Streets,” dated June, 1999. After initial consideration of the preliminary plan, the Planning Board may request additional information from the Owner supporting the application. After final consideration of the preliminary plat, the Planning Board shall recommend to the Town BOC either approval as submitted, approval with conditions, or disapproval. If the Planning Board recommends disapproval, it shall provide the owner a list of the reasons of disapproval. Prior to consideration of the Planning Board’s recommendation by the Town Board, the owner may modify the preliminary plan and resubmit the same for additional consideration by the Planning Board. Thereafter, after such reconsideration, the Planning Board will send the preliminary plat to the Town Board for action.~~

~~1.02. Town Board Review. After receiving the Planning Board’s recommendation, the Town Board of Commissioners will review the preliminary PBG plat to determine compliance with all applicable Town land use regulations including the zoning ordinance, any applicable provision of the subdivision ordinance, the Land Use Ordinance, and the Town’s technical specifications for development contained in the documents called “Standard Specification for Town of Beaufort Public Works Department, Utilities, Drainage and Streets,” dated June, 1999. The Town Board may approve the plat as submitted, approve the plat with conditions, or disapprove the plat. If the plat is disapproved, the Town Board shall state its reasons and the owner may make such changes as will bring the plat into compliance with requirements of the Town Board and resubmit the same for reconsideration by the Town Board.~~

~~1.03. Effect of Preliminary PBG Plat Approval. Preliminary plat approval by the BOC shall authorize the owner to proceed with development of the property according to the approved plat.~~

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~~1.03.1 Duration of Approved Preliminary PBG Plat.~~

~~Preliminary PBG plat approval shall be valid for a period of two years from the date of approval, and upon application to the BOC, may be extended for an additional two year term. All construction specifications as noted and approved with the preliminary PBG plat approval shall be completed prior to its expiration.~~

~~1.04 Final PBG Plat Approval. Upon completion of the infrastructure or other improvements depicted on the approved preliminary PBG plat, the owner shall apply to the Planning Board for final plat approval. The Planning Board will review the project as built, and if it determines that the project has been constructed in accordance with the approved preliminary plat, it shall approve the final plat and cause a notation on the plat to be recorded at the Register of Deeds Office that the plat has been found to comply with the ordinances of the Town and is approved for recording.~~

~~1.05 Procedure if Final Plat Not Approved. If the Planning Board disapproves the final plat, the Planning Board shall state in writing the reasons for such action specifying the provisions of the Beaufort Ordinances with which the plat does not comply. If the plat is disapproved, the subdivider may make such changes as will bring the plat into compliance and resubmit the same for reconsideration by the Planning Board, or appeal to the BOC for final approval. Upon such appeal, if the BOC approves the final plat, the Town Clerk is authorized to certify such approval on the copy of the plat that will be recorded at the Register of Deeds Office. If the final plat is disapproved by the BOC, the reason for such disapproval will be stated in writing and the owner may make such changes as will bring the final plat into compliance with the Beaufort land use ordinances and regulations and resubmit the same for reconsideration by the Planning Board or BOC.~~

~~1.06 Procedure for Final Plat Approval Prior to Completion. In the event the Owner has not installed all infrastructure required or features depicted on the approved preliminary PBG plat, he may, nonetheless, apply for final plat approval by providing a performance guarantee in accordance with Section 4.02.~~

~~1.07 Amendment and Modifications. Should the owner request an amendment or modification to a PBG plat that has received preliminary or final approval, he shall apply to the Town for such amendment or modification, and the application will be considered according to the procedures established for original preliminary and final PBG plat approval.~~

~~2)1) Master Plans for Planned Building Group Projects Developed in Phases or as a Planned Unit Development.~~

~~Master plans are required for property exceeding 125 acres in area proposed ~~for development under the _____ of this Ordinance~~ to be developed in phases ~~or~~ as a planned unit development (“PUD”) subject to the requirements contained herein.~~

~~2.01 1.01 Application for Master Plan Approval. The owner of such property shall file with the Town a proposed master plan providing a generalized overview of the proposed development including types of proposed land uses, the specific zoning district(s) within the proposed project needed to support the proposed development as either a permitted or special use, and the relative location of the proposed land uses and zoning districts. The owner may also simultaneously apply for any rezoning request~~

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needed to permit the proposed ~~PBG-PUD~~ project, including a request for a rezoning to PUD. Rezoning requests are subject to Section 19 of the zoning ordinance

The owner may also simultaneously apply for preliminary plat approval on any phase of the ~~PUDBG~~ project for which he intends to begin development.

The owner may also simultaneously apply for any special use needed to permit proposed development.

With respect to a PUD master plan application, if the owner requests any variance from the terms of either the zoning or subdivision ordinances, he may apply for such variance along with his application for preliminary master plan approval.

For properties annexed into the Town and originally zoned PUD by the Town Board without specific designations as to sub-districts, each section must be developed pursuant to the requirements of a Town created zoning district (i.e. and R-5, R-MF, B-1, etc.) and, subject to the overall limits and requirements for the PUD, the Planning Board and Town Board will apply the restrictions within the sub-zoning district to each section of the PUD.

~~2.02~~ 1.02 Planning Board Review. The Planning Board will review the proposed master plan within sixty (60) days after it has been filed with the Town to determine compliance with any applicable Town land use regulations including the zoning ordinance, any applicable provision of the subdivision ordinance, and the Land Use Ordinance. The Planning Board may also consider preliminary plat approval for any phase or section of a ~~PBG-PUD~~ project, ~~or a section of a PUD,~~ proposed for imminent development, any variance request, any rezoning request, and any special use request. For preliminary plat approval of a section proposed for imminent development, the Planning Board shall proceed in accordance with Section 1.01 of this section. After initial consideration of the proposed master plan, the Planning Board may request additional information from the Owner supporting the application. After final consideration of the proposed master plan, the Planning Board shall recommend to the Town BOC either approval as submitted, approval with conditions, or disapproval. If the Planning Board recommends disapproval, it shall provide the owner a list of the reasons of disapproval. Prior to consideration of the Planning Board's recommendation by the Town Board, the owner may modify the proposed master plan and resubmit the same for additional consideration by the Planning Board. Thereafter after such reconsideration, the Planning Board will send the proposed master plan to the Town Board for action.

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~~2.03~~ 1.03 Town Board Review and Approval of Master Plan. Following a recommendation by the Planning Board, the BOC shall hold a public hearing on the proposed ~~PGD-PUD~~ master plan after advertising notice thereof for at least two successive weeks. Following the public hearing the BOC will review the proposed master plan to determine compliance with applicable Town land use regulations including the zoning ordinance, any applicable provision of the subdivision ordinance, and the Land Use Ordinance. The Town Board may approve the master plan as submitted, approve the plan with conditions, or disapprove the plan. If the plat is disapproved, the Town Board shall state its reasons and the owner may make such changes as will bring the plat into compliance with requirements of the Town Board and resubmit the same for reconsideration by the Town Board.

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Approval of the master plan by the BOC shall not vest rights in the owner except the right to proceed with an application for such specific approvals as is necessary to proceed with development.

The Town Board may simultaneously consider preliminary plat approval for sections of a ~~PGD, including a PUD~~; proposed for imminent development, rezoning requests, variance requests, or special use requests. For preliminary plat approval of a section for imminent development, the Town Board shall proceed in accordance with Section 1 of this section.

2.04 1.04 Amendment and Modifications. Should the owner request an amendment or modification to an approved master plan he shall apply to the Town for such amendment or modification, and the application will be considered according to the procedures established for original master plan approval.

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3)2) Exception for Duplex Condominium.

For conforming duplexes on single zoning lots that are to be subjected to the North Carolina Condominium Act, the Director of Planning shall have the authority to approve the condominium plat for recording upon a determination that such condominium duplex meets all of the requirements of the zoning ordinance, without the need for the owner thereof to proceed in accordance with Section 1 of this section.

K) Commercial and Business Condominiums.

1) Commercial and Business Condominiums.

Condominiums and townhouses designed, developed, and constructed primarily for business and/or commercial use shall be subject to the following requirements in addition to any other terms and conditions set forth herein or in the zoning ordinance

2) Procedure for Approval.

Applications proposing the creation of commercial or business condominiums shall be processed according to Section 34(J) of these Subdivision Regulations.

3) Minimum Specifications.

In addition to all other minimum specifications in the Town's land use ordinances, regulations, and technical specifications, the following will apply. In the event of a conflict between provisions, the most stringent will apply.

- a) Business or commercial condominiums shall only be permitted in B-1, B-2, B-3, and Office and Institutional Zoning Districts.
- b) There shall be no minimum lot area or lot width.
- c) Each condominium unit or townhouse shall front on a public street or commonly owned street or area.
- d) Each building on the perimeter of the business condominium development shall comply with the minimum yard requirements of the Town of Beaufort Zoning Ordinance for the district in which the property is located. The unit set back shall be those required of buildings on individual lots in the zoning district in which the building is located. All buildings with the exception of the end units may have zero side yards.
- e) All parking lots, drives, streets, and roads within the project shall be paved and constructed in accordance with the construction standards for paved subdivision public streets within the Town.
- f) Lighting provided within the condominium project shall be so located or shielded so that

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no offensive glare would be visible from adjoining streets or properties.

- g) Parking for each condominium or townhouse development shall meet the parking requirements in the Town of Beaufort Zoning Ordinance. The required parking spaces may be developed on any portion of the project site except for access streets or roads on which the parking shall be prohibited. All street parking spaces shall not be required to be located on each individual lot or adjoin each individual condominium unit, but the off-street parking spaces may be located in other areas within the project and shall be shown on the site plan.
- h) A screen of dense plant material which will grow at least three feet in width by six feet in height within three years shall be required, or a screened fenced a minimum of six feet in height and constructed in a manner that will be compatible with the design of the project shall be approved where the project abuts a residential lot.
- i) Driveway connections to an access road shall have a minimum width of fourteen feet for one-way travel and twenty-four feet for two-way travel. The onsite traffic circulation plan shall be functional and shall provide access by emergency vehicles to all portions of the proposed development.
- j) All areas of the project other than the streets and the condominium units which are to serve as common areas for one or more units shall be shown and designated as such on the preliminary and final plats, and the Declaration of the Condominium and/or Covenants and Restrictions shall describe each common area and indicate the uses of the common areas in the method of maintenance of the same.
- k) A sign shall only be permitted for the project in each unit which shall meet the terms and conditions for signs as contained in the Town of Beaufort Zoning Ordinance.
- l) Adequate space shall be provided within the project areas for the collection of garbage, trash, and other refuse, and all dumpsters and equipment used for garbage collection shall be screened from public view.
- m) Each building within the project shall be located within 300 feet of a fire hydrant. All hydrants shall be located adjacent to a paved street, road or parking lot suitable for the transportation of firefighting vehicles and equipment. A suitable and readily accessible drive or passage shall be provided so that firefighting vehicles will have the capability of getting within fifty feet of all units within the project.
- n) If buildings have stand pipes or sprinkler systems, one hydrant shall be located within seventy five feet of each stand pipe and sprinkler system connection.
- o) Any courtyard created by placement of buildings shall have at least 25% of its perimeter open for access by emergency vehicles.
- p) All fire hydrants shall be connected to a six inch or larger water main.
- q) In the event of dead end street, road, drive, or parking lot exceeding 200 feet in length, a paved turn around for firefighting equipment and vehicles, emergency vehicles, and service vehicles shall be provided, having a minimum interior turning radius of 28 feet. This provision may be omitted where such a turnaround is determined by the Town Board to be neither desirable or necessary.

SECTION 35 BUILDING REGULATIONS

The provisions of the most current edition of the North Carolina State Building Code shall be applicable within the corporate limits of the Town. Three copies of the code shall be maintained on file in the office of the Town Clerk. Additionally, Article 11 of Chapter 160D of the North Carolina General Statutes is incorporated herein by reference and is applicable to the Town's planning and development regulation jurisdiction.

SECTION 36 Minimum Housing Standards

A) *Definitions.*

- 1) Whenever the words "dwelling," "dwelling units," "rooming house," "rooming units" and "premises" are used in this section, they shall be construed as though they were followed by the words "or any part thereof."
- 2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Alter or alteration means any change or modification in construction or occupancy.

Basement means a portion of a building located partly or entirely underground, but having less than one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term building shall be construed as if followed by the words "or part thereof."

Congregate housing means any dwelling containing more than two dwelling units.

Deteriorated means a dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this section at a cost not in excess of 50 percent of its value, as determined by finding of the Inspector.

Dilapidated means a dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this section at a cost not in excess of 50 percent of its value, as determined by finding of the Inspector.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home that is used solely for a seasonal vacation purpose.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and extermination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods.

Family means one or more persons living together, whether or not related by blood, marriage or adoption, and having common housekeeping facilities.

Floor area means the total area of all enclosed habitable space in a building or structure.

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Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

Infestation means the presence within or around a dwelling of any insects, rodents or other pests.

Inspector means the Town's Building Inspector appointed as such to administer this section and including any agent of the Inspector who is authorized by the Inspector.

Manufactured home or mobile home.

As defined in N.C. Gen. Stat. §143-145(7), a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term "manufactured home" does not include a "recreational vehicle."

Occupant means any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Openable area means that part of a window or door available for unobstructed ventilation and which opens directly to the outdoors.

Operator means any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

Owner The holder of the title in fee simple and every mortgagee of record.

Parties in interest. - All individuals, associations, and corporations that have interests of record in a dwelling and any that are in possession of a dwelling.

Plumbing means all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed

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clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to the water, sewer or gas line.

Public authority Any housing authority or any officer that is in charge of any department or branch of the Town relating to health, fire, building regulations, or other activities concerning dwellings in the Town.

Public officer means the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by Chapter 160D of the North Carolina General Statutes.

Repair means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building or that would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term repair or repairs shall not apply to any change of construction.

Required means required by some provision of this section.

Residential occupancy means buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories shall be classified as residential occupancy. Such buildings include, among others, the following: dwellings, multiple dwellings and lodging houses. Rooming house means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish means combustible and noncombustible waste materials except garbage. The term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal mineral matter, glass, crockery and dust.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words "or part thereof."

Substandard dwelling or structure means a dwelling, dwelling unit, multiple dwelling, apartment house or any other space used or intended to be used as a habitable living space in any building or structure which does not meet the basic minimum requirements of this section for the use.

Supplied means paid for, furnished or provided by, or under the control of, the owner or operator.

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Temporary housing means any tent, mobile home or other structure used for human shelter that is designed to be transportable and that is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation means conditions exist in a dwelling that violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this section.

Ventilation means the process of supplying and moving air by natural or mechanical means to or from any space.

Yard means an open unoccupied space on the same lot with a building extending along the entire length of a street or rear or interior lot line.
(1992 Code, § 6-51; Ord. passed 4-11-1994)

B) Violations; penalty.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as provided in this section, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 36(T), to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense. The violation of any provision of this section shall constitute a misdemeanor, as provided in N.C. Gen Stat. §14-4, and shall be punishable by a fine of up to \$100.00 or 30 days in jail or both for each offense.

C) Finding; purpose.

- 1) It is hereby found and declared that there exist in the Town dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous or detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the town.
- 2) In order to protect the health, safety and welfare of the residents of the Town as authorized by Chapter 160D of the North Carolina General Statutes, it is the purpose of this section to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by Chapter 160D of the North Carolina General Statutes.

D) Minimum standards of fitness for dwellings, dwelling units.

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Section 36(E) through Section 36(K). No person shall occupy as owner-occupant, or let to another for occupancy or use as human habitation, any dwelling or dwelling unit that does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Section 36(E) through Section 36(K). The Inspector may determine that a dwelling is unfit for human habitation if he or she finds that conditions exist at the dwelling that render it

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dangerous or injurious to the health of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the Town.

E) Sanitary facilities.

- 1) A dwelling unit shall include its own sanitary facilities, which are in proper operating condition, can be used in privacy and are adequate for personal cleanliness and the disposal of human waste. These facilities shall utilize an approved public disposal system.
- 2) All required plumbing fixtures shall be located within the dwelling unit and shall be accessible to the occupants of same. A flush toilet, a fixed basin and tub or shower shall be located in a separate room in the dwelling unit affording privacy to the user, and such room shall have a minimum floor space of 30 square feet. The lavatory and tub or shower shall have hot and cold running water.
- 3) Every dwelling unit shall have connected to the kitchen sink, washing machine connections, lavatory and tub or shower an adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- 4) Every dwelling shall have water-heating facilities that are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F. Such water-heating facilities shall be capable of meeting the requirements of Section 36(E) when the dwelling or dwelling unit heating facilities required under the provisions of this section are not in operation.

F) Food preparation; refuse disposal.

- 1) A dwelling unit shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.
- 2) The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).
- 3) All plumbing fixtures and appliances shall meet the standards of the state's Plumbing Code and shall be maintained in a state of good repair and in good working order.
- 4) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the state's Electrical Code.
- 5) All cooking and heating equipment and facilities shall be installed in accordance with the building, gas or electrical code and shall be maintained in a safe and good working condition.
- 6) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which facilities or containers are approved by the BOC.

G) Space and security.

- 1) A dwelling unit shall afford the family adequate space and security.
- 2) A living room, kitchen area and bathroom shall be present, and the dwelling unit shall contain at

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least one sleeping or living/sleeping room of appropriate size for each two persons.

- 3) Exterior doors and windows accessible from outside the unit shall be lockable.
- 4) Every habitable room shall have at least one window or skylight that can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved equivalent ventilation.
- 5) Every bathroom shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilation system.

H) Structure and materials.

- 1) A dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.
- 2) Ceilings with minimum height of seven feet, six inches, and walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding or other serious damage. The condition and equipment of interior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe operating condition. In the case of a mobile home, the home shall be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.
- 3) The building foundation walls, piers and other structural elements shall be maintained in a safe manner and capable of supporting the load that normal use may cause to be placed thereon.
- 4) The exterior walls shall be substantially weathertight, watertight and shall be made impervious to the adverse effect of weather and be maintained in sound condition and good repair.
- 5) Roofs shall be maintained in a safe manner and have no defects that might admit rain or cause dampness in the walls or interior portions of the building.
- 6) Every dwelling unit shall have safe, unobstructed means of egress leading to a safe and open space at ground level.
- 7) Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- 8) Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof, and shall be kept in sound working condition and good repair.
- 9) Windowpanes or an approved substitute shall be maintained without cracks or holes.
- 10) Window sash shall be properly fitted and weathertight within the window frame.
- 11) Every window required for light and ventilation for habitable rooms shall be capable of being

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easily opened and secured in position by window hardware.

- 12) Every exterior door shall be provided with proper hardware and maintained in good condition.
- 13) Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.
- 14) Every door opening directly from a dwelling unit to outdoor space shall have screens, and every window or other device with opening to outdoor space, used or intended to be used for ventilation, shall likewise have screens.
- 15) Dwelling buildings containing central heating furnaces and air-conditioning equipment for mechanically ventilating the building year-round are not required to have screens on door or window openings. Window-type air-conditioning units are not included in this exception.
- 16) All exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.
- 17) Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.
- 18) Every structural element of the dwelling shall be maintained structurally rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.
- 19) Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration that would render them incapable of carrying loads that normal use may cause to be placed thereon.
- 20) No basement space shall be used as a habitable room or dwelling unit unless:
 - a) The floor and walls are impervious to leakage of underground and surface runoff water and insulated against dampness;
 - b) There is at least one window above ground.

I) *Thermal environment.*

- 1) A dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.
- 2) A dwelling unit shall contain safe heating and/or cooling facilities that are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to ensure a healthy living environment. Unvented room heaters that burn gas, oil or kerosene are unacceptable except as allowed by law.
- 3) A dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.
- 4) A dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

J) *Electrical systems.*

No person shall occupy as owner-occupant any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or heating therein that does not comply with the following

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requirements:

- 1) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electric power.
- 2) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load.
- 3) All fixtures, receptacles and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state's Electrical Code.
- 4) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

K) Care of premises.

- 1) The owner or occupants of a residential building, structure or property shall not utilize the premises of the residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of the residential property clean and to remove from the premises all such abandoned items as listed above including, but not limited to, weeds, dead trees, trash, garbage and the like, upon notice of the Inspector.
- 2) For the purpose of this section, an abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power.

L) Water supply.

- 1) The water supply of a dwelling unit shall be free from contamination.
- 2) The unit shall be served by an approved public or private sanitary water supply.

M) Lead-based paint.

No lead-based paint shall be used on a dwelling unit.

N) Access.

- 1) A dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties.
- 2) The building shall provide an alternate means of egress in case of fire (i.e., fire stairs or egress through windows).

O) Extermination.

- 1) A dwelling unit and its equipment shall be in a sanitary condition.
- 2) The unit and its equipment shall be free of vermin and rodent infestation.

P) Congregate housing.

- 1) The foregoing standards shall apply to congregate housing except for § 150.45.
- 2) In addition, the following standards shall apply:

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- a) The unit shall contain a refrigerator of appropriate size.
- b) The central dining facility (and kitchen facility, if any) shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner, and there shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

Q) *Duties of inspector.*

- 1) The Inspector is hereby designated as the officer to enforce the provisions of this section and to exercise the duties and powers prescribed in this section.
- 2) It shall be the duty of the Inspector to:
 - a) Investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this section with respect to such dwellings and dwelling units;
 - b) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
 - c) Keep a record of the results of inspections made under this section and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this section;
 - d) Perform such other duties as may be prescribed in this section.

R) *Powers of inspector.*

The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

- 1) To investigate the dwelling conditions in the town in order to determine which dwellings are unfit for human habitation;
- 2) To administer oaths and affirmations, examine witnesses and receive evidence;
- 3) To enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- 4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this section; and
- 5) To delegate any of his functions and powers under this section to assistants qualified under state law to perform such functions or powers.

S) *Inspections; duty of owners and occupants.*

Except in cases involving blighted areas, the Inspector may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the Inspector determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the Inspector may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following:

- 1) The landlord or owner has a history of more than two verified violations of the housing

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ordinances or codes within a 12-month period,

- 2) There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected,
- 3) The Inspector has actual knowledge of an unsafe condition within the building, or
- 4) Violations of the local ordinances or codes are visible from the outside of the property.

In conducting inspections authorized under this section, the Inspector shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with state fire prevention code or as otherwise required by state law.

T) Procedure for enforcement.

The Town, having found that dwelling conditions of the character described in N.C. Gen. Stat. §160D-1201 exist, hereby adopts the following provisions:

- 1) Designation of enforcement officer. The Inspector shall be designated to exercise the powers prescribed by this Ordinance.
- 2) Investigation, complaint, hearing. Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the Town charging that any dwelling is unfit for human habitation or when it appears to the Inspector that any dwelling is unfit for human habitation, the Inspector shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the Inspector, or the Inspector's designated agent, at a place within Carteret County. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the Inspector.
- 3) Orders. If, after notice and an administrative hearing, the Inspector determines that the dwelling under consideration is unfit for human habitation, the Inspector shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
 - a) If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. A reasonable cost is defined as no more than 50 % of the value of the property. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under Section 36(T)(3)(c).
 - b) If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost

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in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. However, notwithstanding any other provision of law, if the dwelling is located in the Historic District and the Historic Preservation Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with N.C. Gen. Stat. §160D-949.

- 4) Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the Inspector may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the Inspector may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the Inspector set forth in this subsection shall not be exercised until the BOC shall have by ordinance ordered the Inspector to proceed to effectuate the purpose of this subsection with respect to the particular property or properties that the Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the Carteret County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
- 5) Demolition. - If the owner fails to comply with an order to remove or demolish the dwelling, the Inspector may cause such dwelling to be removed or demolished. The duties of the Inspector set forth in this subsection shall not be exercised until the BOC shall have by ordinance ordered the Inspector to proceed to effectuate the purpose of Section 36 with respect to the particular property or properties that the Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the Carteret County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
- 6) Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to Section 36 (T)(4) or after an Inspector issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subsection, then the BOC may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the Town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances, the BOC may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
 - a) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

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- b) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the Carteret County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance

U) **Complaints; orders.**

- 1) Complaints or orders issued by the Inspector pursuant to this section shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- 2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

V) **Appeals.**

- 1) BOA is designated as the housing appeals board as authorized by N.C. Gen. Stat. §160D- 305 and shall have all duties specified in N.C. Gen. Stat. §160D-1208. An appeal from any decision or order of the Inspector is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the Town. Any appeal from the Inspector shall be taken within 10 days from the rendering of the decision or service of the order by filing with the Inspector and with the BOA a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the BOA, unless the Inspector certifies to the BOA, after the notice of appeal is filed with the Inspector, that because of facts stated in the certificate, a copy of which shall be furnished to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Inspector, by the BOA or by a court of record upon petition made pursuant to this section.
- 2) The BOA shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The BOA may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the Inspector, but the concurring vote of four

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members of the board is necessary to reverse or modify any decision or order of the Inspector. The BOA also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

- 3) Every decision of the BOA is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the BOA, but not otherwise.
- 4) Any person aggrieved by an order issued by the Inspector or a decision rendered by the BOA may petition the superior court for an injunction restraining the Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- 5) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this section or Chapter 160D, Article 12 or any valid order or decision of the Inspector or BOA made pursuant to this Ordinance, the Inspector or BOA may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

W) Costs; lien on premises.

- 1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- 2) The amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.
- 3) If the dwelling is removed or demolished by the Inspector, the Town shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in Section 36 shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

X) Alternative remedies.

Nothing in this section shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this section as authorized by N.C. Gen. Stat. §160A-144, and the enforcement of any other

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remedy in accordance with Section 28 of this Ordinance.

Y) *Enforcement by action in the nature of summary ejectment.*

If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the Town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in N.C. Gen. Stat. §42-29. If on return the summons it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town's BOC pursuant to Section 36(T) authorizing the Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under N.C. Gen. Stat. §42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in N.C. Gen. Stat. §7A-228, and the execution of such judgment may be stayed as provided in N.C. Gen. Stat. §7A-228, and execution of any such judgment shall be stayed in accordance with N.C. Gen. Stat. §7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Town's BOC has ordered the Inspector to proceed to exercise his or her duties under Section 36(T) to vacate and close or remove and demolish the dwelling.

Z) *Conflict with other provisions.*

If any provision, standard or requirement of this section is found to be in conflict with any provision of any other ordinance, provision or code of the Town, the provision that establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town shall prevail.