CHAPTER 152: UNIFIED DEVELOPMENT PROVISIONS

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GENERAL PROVISIONS

§ 152.001 TITLE AND PURPOSE.

(A) *Title.* This chapter shall be known and may be cited as the “Town of Robbins Unified Development Ordinance”, and may be referred to as the “Unified Development Ordinance”, the “UDO” or “this chapter”.

(B) (1) *General purpose.* The purpose of this chapter is to promote and protect the public health, safety, peace, comfort and general welfare of the citizens and residents of the town and its extraterritorial jurisdiction (ETJ). It is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land and the use of land.

(2) *Specific purpose.* This chapter is adopted for the following specific purposes:

(a) To implement the goals and policies of the town, existing and future development plans and updates, as well as other goals and policies adopted by the Board of Commissioners related to growth and development;

(b) To protect and improve the established small-town character of the town and the social and economic stability of the existing residential, commercial, industrial, cultural and institutional development;

(c) To promote good planning practice and to provide a regulatory mechanism which includes appropriate performance standards for development within the town and the extraterritorial jurisdiction.

(d) To prevent the adverse impacts of development on natural resources and features and the availability of water, water quality, roads and transportation, floodplains and steep slopes in critical areas of the town;

(e) To encourage a more efficient use of land and public services and to reflect changes in technology of land development;

(f) To promote alternative land development practices which will otherwise promote the public health, safety and general welfare;

(g) To discourage sprawling development patterns such as single dimensional residential development, leap-frog development and strip commercial development; and

(h) To encourage mixed use development and inter-connectivity between development. (Ord. passed 11-18-2010)

§ 152.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For convenience and ease of use, where a specific definition is applicable to a specific chapter, a section on definitions will sometimes be included at the beginning of that subchapter.

ABANDONMENT. To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ABUTTING. Having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

ACCESSORY STRUCTURE. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE. A use incidental to, and on the same lot as, a principal use.

AGRICULTURAL USE. The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce; provided however, that the operation of the accessory uses shall be secondary to that of normal agricultural activities.

AIRPLANE HANGAR. A building used for storage of aircraft, the location for which is either on municipal airport property or property adjoining a municipal airport. This use shall be permitted in accordance with the Table of Permissible Uses provided an "Agreement Regarding Airport Access," allowing access to town property, runways and taxiways, has been fully executed.

ALLEY. A public or private way permanently reserved as a secondary means of access to abutting property.

ALTERATION. Any change, addition or modification in construction or occupancy of an existing structure.

ANTENNA. Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

BAR (NIGHT CLUBS). A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Also known as the ***100-YEAR FLOOD.***

BOARDING HOUSE. A residential use consisting of at least one dwelling unit together with more than two

rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or ***BOARDING HOUSE*** is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guest.

BUFFER YARD. Open space setbacks which separate site improvements from adjacent property lines and street right-of-way. These may contain natural materials including but not limited to vegetation, ground cover, mulch and the like. Fencing, paving, gravel, buildings, dumpsters, storage, curb and gutter and the like, are all prohibited within the ***BUFFER YARD.***

BUILDING. A structure designed to be used as a place of occupancy, storage, shelter, business, industry or other public or private purpose or accessory use.

BUILDING, PRINCIPAL. A building in which is conducted the principle use of the lot on which the building is situated.

BUILDING LINE. The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line. See ***SETBACK LINE.***

CERTIFY. Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the town, the town may require that the certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the town may accept ***CERTIFICATION*** by telephone from some agency when the circumstances warrant it, or the town may require that the ***CERTIFICATION*** be in the form of a letter or other document.

CIRCULATION AREA. The portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the ***CIRCULATION AREA.***

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

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

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

CONVENIENCE STORE. A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Quick Check", "Fast Fare" and "7-11 " chains.

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

DEBRIS. The worthless remains that result from the destruction or breaking down of anything, including automobiles.

DEVELOPMENT. All structures and other modifications of the natural landscape above and below ground or water, on a particular site. That which is to be done pursuant to a zoning permit, special use permit, conditional use permit or sign permit.

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

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

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

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

EASEMENT. The right of a person, government agency or public utility company to use public or private land owned by another for a specific purposed.

ELECTRONIC GAMING OPERATION. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, or cybercafés. This does not include any lottery approved by the State of North Carolina or any nonprofit operation that is otherwise lawful under State law (for example, church or civic organization fundraisers).

ENCLOSED BUILDING. A garage or other building that provides a complete enclosure (all sides of building enclosed) so that the contents of the building cannot be seen from a street or from adjacent property erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

EXPENDITURE. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

EXTRATERRITORIAL PLANNING AREA. The portion of the town's planning jurisdiction that lies outside the corporate limits of the town.

FACADE. The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

FENCE. Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA, GROSS. The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term gross floor area shall include basements; elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of six feet six inches or more; penthouses; attic space, whether or to a floor has actually been laid, providing structural headroom of six feet, six inches or more; interior balconies; and mezzanines.

FRONTAGE. The front or frontage is that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.

GAME ROOM. Any place of business that principally operates mechanical games or pay devices or tables for which charge is made either directly or indirectly. Examples of GAME ROOMS, by way of illustration and not limitation, include electronic gaming operations, pool rooms, billiard halls, amusement centers, video game rooms and the like. See also Robbins Code of Ordinances Chapter 111, “Game Rooms.”

GARAGE, PRIVATE. A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GRADE. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

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

HALFWAY HOUSE. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, eleven of whom live together as a single housekeeping unit.

HANDICAPPED. Having: a physical or mental impairment that substantially limits one or more of such person's major life activities so that the person is incapable of living independently; a record of having such an impairment; or being regarded as having such an impairment. However, ***HANDICAPPED*** shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

HANDICAPPED OR INFIRM HOME. A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally handicapped or infirm, together with no more than two persons providing care or assistance to those persons, all living together as a single housekeeping unit. Persons residing in the homes, including the aged and disabled, principally need residential care rather than medical treatment.

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

HAZARDOUS SUBSTANCES. Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with the material or substance.

HEIGHT. The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than ten feet from the front lot line or from the grade in all other cases.

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment which: is clearly incidental and subordinate to the use of the dwelling unit as a residence; is carried on only within the main dwelling and does not alter or change the exterior character of appearances of the dwelling; iii) is located in a residential district; and is created and operated as a sole proprietorship.

HOME OCCUPATION, RURAL. An accessory use to customary farming operation or a non-farm household located in a rural area assigned for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from accessory buildings located within 100 linear feet of the dwelling unit occupied by the family conducting the home occupation.

HOMEOWNERS ASSOCIATION. A formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area; may take permanent responsibility for costs and up keep of semi-private community facilities.

INDUSTRY, HEAVY. A use engaged in the basic processing and industrial of materials or products predominately from extracted or raw materials, or use engaged in storage of, or industrial processes using flammable or explosive materials, or storage or industrial processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

INERT DEBRIS BENEFICIAL FILL. Operation that does not require State Division of Waste Management permits, that only fills valley, holes and the like, for purpose of leveling up land for future construction (a site plan must be submitted). The filling operation must be part of land preparation for immediate future development. The fill material shall be solid waste that consists solely of material that is virtually inert (non-reactive under normal conditions), that is likely to retain its physical and chemical structure under expected conditions of disposal including but not limited to brick, concrete, cement, cinderblock, asphalt, gravel, rock soil and similar materials that are not painted, treated, contaminated by petroleum products, nor biodegradable.

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

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

JUNK. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

JUNKED MOTOR VEHICLE. Any motor vehicle that does not display a current state license plate that:

(1) Is partially dismantled or wrecked;

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move. This includes dismantled truck trailers or truck bed boxes which were originally attached to a motorized vehicle; or

(3) Is more than five years old and appears to be worth less than $500.

KENNEL. A commercial operation that: provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian); or engages in the breeding of animals for sale.

LAND USE ADMINISTRATOR. Except as otherwise specifically provided in this ordinance primary responsibility for administering the Robbins Land Use Ordinance shall be assigned by the Town Manager to one or more individuals, and this individual or individuals shall be referred to herein as the “Land Use Administrator” or “Administrator.” The terms “staff” and “Planner” are sometimes used interchangeably with the term “Administrator.”

LITTER. Rubbish or refuse scattered about the manufactured home rental community.

LOADING AND UNLOADING AREA. The portion of the vehicle accommodation area used to satisfy the requirements of §152.296.

LOT. A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

LOT AREA. The total area circumscribed by the boundaries of a lot, except that: when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street, and in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the ***LOT AREA*** shall be the inside boundary of the traveled portion of that road.

LOT, CORNER. A lot abutting on and at the intersection of two or more streets.

LOT DEPTH. The average horizontal distance between the front and rear lot lines.

LOT, FLAG. Lots or parcels that the town has approved with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

LOT LINE. A line dividing one lot from another lot or from a street or alley.

LOT, SUBSTANDARD. A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provide that the lot or parcel was of record as a legally created lot on the effective date of this chapter.

MANUFACTURED HOME. 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 U.S. Secretary of Housing and Urban Development and complies with the standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq. (the “Act”), federal regulations adopted under the Act, and any laws enacted by the United States Congress that supersede or supplement the 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 semi-permanent 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 semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. (N.C. General Statute § 143-145(7)). Manufactured homes are sometimes referred to as “mobile homes.”

MANUFACTURED HOME RENTAL COMMUNITY. Any site or tract of land where land rental and specified services (water and sewer) are provided for manufactured homes.

MANUFACTURED HOME SPACE. A plot of land within a manufactured home rental community designed for the accommodation of a single manufactured home.

MANUFACTURED HOME STAND. The portion of the manufactured home space designed for and used as the area occupied by the manufactured home.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in an industrial plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the State Building Code applicable to site-built homes), or a series of panels or room section transported on a truck and erected or joined together on the site.

MOTEL. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a ***MOTEL.***

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

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

OFFICE. A building or portion of a building wherein services are performed involving predominantly

administrative, professional or clerical operations.

OPERATOR/MANAGER. The individual that is responsible for the daily operations of the manufactured home rental community.

PARCEL. A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PARK. Any public or private land available for recreational, educational, cultural or aesthetic use.

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

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

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

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

PLANNED UNIT DEVELOPMENT (PUD). A development constructed on a tract of at least 25 acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PUD district.

PLANNING JURISDICTION. The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development.

PRINCIPAL BUILDING. A building in which the primary use of the lot on which the building is located is conducted.

PRINCIPLE USE. The main use of land or structures, as distinguished from a secondary or accessory use.

PUBLIC WATER SUPPLY SYSTEM. Any water supply system furnishing portable water to 10 or more dwelling units or businesses or any combination thereof.

REOCCURRING SPECIAL EVENTS. Circuses, fairs, carnivals, festivals or other types of special events that: run for longer than one day but not longer than 14 days; are intended to or likely to attract substantial crowds; and reoccur up to four times a year (see §156 for additional requirements).

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

RESIDENCE, MULTI-FAMILY. A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall.

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

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

RESIDENCE, MULTI-FAMILY DOWNTOWN APARTMENTS. Multiple dwelling units located within the central business district intended for renter occupancy only and that share means of egress and other essential

facilities.

RESIDENCE, MULTI-FAMILY DOWNTOWN CONDOMINIUMS. Multiple dwelling units located within the central business district intended for owner occupancy, with the interior space individually owned but the land beneath each unit and all common areas are owned proportionately by each unit owner in the development. Walls between units are constructed in accordance with State Building Code requirements.

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

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

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

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

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

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

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

RESTAURANT. An establishment that serves food and beverages primarily to persons seated within the building. This includes cafés, tea rooms and outdoor cafés.

ROAD, PUBLIC. All public property reserved or dedicated for street traffic.

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

SIGN. Any device that: is sufficiently visible to persons not located on the lot where the device is located to accomplish either of the objectives set forth in the next part of this definition; and is designed to attract the attention of the persons or to communicate information to them.

SHELTER HOUSE. Short-term housing for not more than nine women and children in need of safe and secure dwelling with no more than two on site managers. Residents are responsible for the care of their children. This is not to be considered a treatment facility and shall be permitted in accordance with the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, provided there is not a similar facility on the same lot.

SKIRTING. The enclosure of the perimeter of the manufactured home.

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

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

STRUCTURE. Anything constructed or erected.

SUBDIVISION. The division of a tract of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and including 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 of this chapter applicable strictly to subdivisions: the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter; the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or the public acquisition by purchase of a strip of land for widening or opening streets; or the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter.

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

SUBDIVISION, MINOR. A subdivision that does not involve any of the following: the creation of more than a total of three lots; the creation of any new public streets; the extension of a public water or sewer system; or the installation of drainage improvements through one or more lots to serve one or more other lots.

TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE. A residence (which may be a mobile home) that is: located on the same lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by the disaster; or located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in the permanent residence when the work is completed; or located on a nonresidential construction site and occupied by persons having construction or security responsibilities over the construction site.

TEMPORARY VEHICLE STORAGE, ACCESSORY USE. The storage area for an establishment or place of business that is maintained, used or operated for storing, parking, sales, repair and/or processing of inoperative, wrecked, towed and/or damaged vehicles located outside of an enclosed structure for less than 90 days.

TEMPORARY VEHICLE STORAGE, ACCESSORY USE. The storage area shall be customarily associated with but not limited to; motor vehicle sales or rental, installation of motor vehicle parts or accessories, motor vehicle repair and maintenance, motor vehicle painting and body work, commercial garages, and automobile service stations.

TRASH. Any accumulation of waste materials no longer in use, including but not limited to paper, bottles, grass and shrubbery cuttings, leaf ranking and the like.

VEHICLES. may include but not limited to motor vehicles, automobiles, trailers, trucks, tractor-trailer, boats, recreational vehicles, and motorcycles. This definition does not include junkyard, automobile salvage yard or automobiles graveyard operation. Staking, dismantling and/or disassembling vehicles in order to sell the parts is not permitted under this definition.

TOWER. Any structure whose principal function is to support an antenna.

TRACT. The term is used interchangeably with the term ***LOT.*** Particularly in the context of subdivisions, where one ***TRACT*** is subdivided into several ***LOTS.***

TRAVEL TRAILER. A structure that: is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definition criteria of a mobile home.

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

SOLAR FARM. An installation or area of land in which solar panels are set up to generate electricity and/or thermal energy for commercial purposes. A solar farm also includes any other property for which the primary use is the operation of solar panels, even if the operation is not commercial in nature. The term applies, but is not limited to, solar photovoltaic systems, solar thermal systems, and solar hot water systems. A solar farm is sometimes referred to as a solar energy system ("SES"). This term does not regulate or otherwise limit the installation of solar panels and other types of solar collectors on a residential property in accordance with G.S. § 160A-201.

UTILITY FACILITIES. Any above-ground structures or facilities (other than buildings, unless the buildings are used as storage incidental to the operation of the structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by (the appropriate provision of state law) and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals. Except from this definition are utility lines and supporting structures listed in §152.105 (B) below.

UTILITY FACILITIES, COMMUNITY OR REGIONAL. All utility facilities other than neighborhood facilities.

UTILITY FACILITIES, NEIGHBORHOOD. Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where the facilities are proposed to be located.

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

VEHICLE ACCOMMODATION AREA. The portion of a lot that 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.

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

WOODED AREA. An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.

ZONING PERMIT. A permit issued by the Land Use Administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

(Ord. passed 6-8-2017; Amended 6-14-2018)

§ 152.003 MINIMUM REGULATIONS.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with, abrogate, or annul easements, covenants or other agreements between parties; provided, however that where this chapter imposed a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.
(Ord. passed 11-18-2010)

§ 152.004 AUTHORITY.

(A) This chapter is adopted pursuant to the authority vested in the town by its Charter and by G.S. Ch. 160A, Art. 19, Part 3.

(B) Whenever any provision of this chapter refers to or cites a section of the state statutes and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
(Ord. passed 11-18-2010)

§ 152.005 JURISDICTION.

(A) This chapter shall be effective throughout the town planning jurisdiction. The town's planning jurisdiction comprises the area within the corporate boundaries of the town as well as the area shown on the official zoning map and designated as the extraterritorial jurisdiction. The planning jurisdiction may be modified from time to time in accordance with G.S. § 160A-360.

(B) In addition to other locations required by law, an official copy of this chapter and the official map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the Robbins Town Hall, 101 North Middleton Street, Robbins, NC 27325.
(Ord. passed 11-18-2010)

§ 152.006 EFFECTIVE DATE.

The provisions in this chapter were adopted and became effective on November 18, 2010.
(Ord. passed 11-18-2010)

§ 152.007 EXISTING PROVISIONS.

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the town's zoning, flood control and watershed control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, the regulations governing the subdivision of land being new to the town regulations are hereby made a part of the Unified Development Ordinance. All amendments made by the Board of Commissioners to the 1992 edition of the Town Zoning Ordinance will be considered a part of this chapter. Where the Planning Board, and/or staff recommends changes and updates in the wording and context of the existing development ordinances to the Board of Commissioners and these are adopted after proper public notice and hearing, these amendments and updates shall supercede and replace those regulations. In any instance where the duly adopted Unified Development Ordinance conflicts with previous ordinances and development regulations, the Unified Development Ordinance regulations shall prevail.

(Ord. passed 11-18-2010)

§ 152.008 RELATIONSHIP TO OFFICIAL ZONING MAP AND DEVELOPMENT PLANS.

It is the intention of the Board of Commissioners that this chapter implement the planning policies adopted by the Board of Commissioners and its extraterritorial planning area, as reflected in any development plans and other planning documents. While the Board of Commissioners reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any previous planning document.

(Ord. passed 11-18-2010)

§ 152.009 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH PROVISIONS.

(A) Subject to §§ 152.060 through 152.067 of this chapter, 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 or her control except in accordance with all of the applicable provisions of this chapter.

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

(Ord. passed 11-18-2010) Penalty, see § 152.999

§ 152.010 INTERLOCAL AGREEMENTS BETWEEN TOWN AND COUNTY FOR THE PROVISION OF FLOODPLAIN MANAGEMENT, FIRE INSPECTION AND BUILDING INSPECTIONS.

Pursuant to the authority granted by the G.S. § 160A-461, on March 12, 2009, the town entered into an interlocal agreement with the county. The town and the county agreed as follows.

(A) The County Building Inspections Department and the inspectors in it shall exercise their powers within all of the town's territorial jurisdictions, as authorized by G.S. § 160A-413.

(B) Within the town's territorial jurisdiction, the county's building inspections and the inspectors in it shall exercise, to the full extent of their respective licensing and certification by the state, the authority conferred by G.S. § 160A-411 and shall perform the duties and responsibilities set forth by G.S. § 160A-412, provided however, that during the effectiveness of this agreement, the County Board of Commissioners shall have full power and authority to enact reasonable and appropriate provisions governing the enforcement and performance of building inspection services within the town's territorial jurisdiction.

(C) All county inspectors providing building inspection services hereunder within the town's territorial jurisdiction shall be appropriately licensed and certified by the state and shall maintain the licenses and certifications current and in full force and effect at all times that the inspectors are providing building inspection services under this agreement.

(D) The county shall provide and maintain for all county inspectors providing services hereunder errors and omissions and other insurance coverage in amounts reasonably acceptable to the town.

(E) The County Board of Commissioners shall fix reasonable fees for issuing permits, for inspections and for all other services of the County Building Inspections Department provided under this agreement with the town's territorial jurisdiction. The county shall retain any and all fees collected pursuant to this agreement.

(F) Any appeal of a decision of a County Inspector of a stop work order involving an alleged violation of the State Building Code or any approved local modification thereof shall be as provided by G.S. § 160A-421(b) and subject to the requirements of the statute; provided, however, that appeal of a stop work order involving an alleged violation of the Town Unified Development Ordinance shall be to the Town Board of Adjustment as provided by G.S.
§ 160A-421(c), subject to the requirements of that statute and any rules of procedure of the Town Board of Adjustment; and further provided, that any appeal of an order under G.S. § 160A-429 shall be to the Board of Commissioners, as provided by G.S. § 160A-430 and subject to the requirements of that statute.

(G) No building permit shall be issued from any construction, repair or improvement to any land or structure with the town and its extra territorial area unless and until the responsible party shall first have obtained and been issued a valid zoning permit, or comparable approval evidencing that the work covered by the building permit complies with all applicable regulations and provisions of the town relating to planning and zoning, from the appropriate official of the town. Prior to the issuance of a certificate of occupancy, the county shall obtain approval of the town.

(H) On March 12, 2009 the town, by taking official action of approving an interlocal agreement with the county by its governing body, found that it would be in the public interest and would promote the public health, safety and welfare of the citizens of the town, for the county to administer the town's flood damage prevention ordinance within the town's corporate limits and extraterritorial jurisdiction and has requested the County Board of Commissioners, pursuant to G.S. § 160A-461, to direct the county's Floodplain Administrator or designee to exercise their powers within all of the town's corporate limits and extraterritorial jurisdictions.

(I) On March 12, 2009 the town, by taking official action of approving an interlocal agreement with the county by its governing body, found that it would be in the public interest and would promote the public health, safety and welfare of the citizens of the town, for the county to assume responsibility for and perform Fire Code Enforcement Services within the town and its extraterritorial jurisdiction and has requested the County Board of Commissioners, pursuant to G.S. §§ 160A-411, 160A-412, 160A-413, 160A-461,160A-360(g) to direct the County's Fire Code Inspections Officer or Department and the inspectors in it to exercise their powers within all of the town's corporate limits and extraterritorial jurisdictions
(Ord. passed 11-18-2010)

§ 152.011 FEES.

(A) Reasonable fees sufficient to cover the cost of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget, or as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.

(B) Fees established in accordance with division (A) above shall be paid upon submission of a signed application or notice of appeal.
(Ord. passed 11-18-2010)

§ 152.012 REMEDIES.

In case any building is created, constructed, reconstructed, altered, repaired, converted or maintained, or

any building or land is used in violation of this chapter, the Administrator, or any other appropriate town authority, or any person who would be damaged by the violation, in addition to other remedies, may institute an action for injunction, or mandamus or other appropriate action, or preceding to prevent the violation.
(Ord. passed 11-18-2010)

§ 152.013 COMPLAINTS REGARDING VIOLATIONS.

When a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the cause and basis thereof and shall be filed with the Administrator. The Administrator shall record properly the complaint, investigate within ten days, and take action thereon as provided in these regulations.
(Ord. passed 11-18-2010)

§ 152.014 ADOPTION BY REFERENCE.

The appendices of the ordinance from which this chapter is derived are hereby adopted by reference, and incorporated herein as fully as if set out at length herein.
(Ord. passed 11-18-2010)

ADMINISTRATIVE MECHANISMS

§ 152.025 PLANNING BOARD.

(A) *Creation, appointment and terms of Planning Board members.* A Planning Board is hereby created and established by the Board of Commissioners, under the authority granted by G.S. §§ 160A-361 and 160A-362.

(1) The Planning Board shall consist of five voting members. Three members shall be residents of the town and shall be appointed by the Board of Commissioners, pursuant to Rule 31 of the town Rules of Procedure. Two members shall be residents of the area of the extraterritorial jurisdiction (ETJ) and shall be appointed by the County Board of Commissioners upon recommendation by the Board of Commissioners.

(2) All members shall serve terms of three years, except for the initial appointments. Upon initial appointment, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms and one member shall be appointed for a three-year term.

(3) Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment.

(4) The term for each appointed member shall begin on the effective date of the adoption of the ordinance creating the Planning Board.

(5) Members may be appointed for any number of successive terms.

(B) Proceedings of the Planning Board.

(1) The Planning Board shall meet within 30 days after appointment and elect a Chairperson and Secretary, from among its membership. The Planning Board may fill the offices as it may deem necessary.

(2) The term of the offices of Chairperson and Secretary shall be one year, with eligibility for re-election.

(3) All meetings of the Planning Board shall comply with State Open Meetings Law.

(4) The Planning Board shall not make quasi-judicial or legislative decisions, except as may relate to its own rules and functions, not inconsistent with this and other town ordinances, policies, or rules. During the transaction of Planning Board business, any action shall require a concurring vote of a majority of the voting members.

(5) The Secretary shall prepare an agenda and order of business for each meeting.

(6) Accurate minutes of every meeting of the Planning Board shall be taken by the Secretary. In the absence of the Secretary, the Chairperson shall appoint a member to record the minutes of the meeting.

(7) Within four business days following a meeting of the Planning Board, the Chairperson shall submit the minutes from the meeting to the Town Manager.

(8) The Chairperson shall serve as a liaison between the Planning Board and the Town Manager.

(C) *Powers and duties.* The Planning Board is established as an advisory board to the Board of Commissioners. The powers and duties of the Planning Board are as follows:

(1) To provide information and advice to the Board of Commissioners on zoning and land use issues;

(2) To conduct studies of the town and its surrounding areas, relevant to zoning;

(3) To review the initial zoning ordinance and review all zoning amendments;

(4) To help to identify objectives to be sought in the development of the town;

(5) To identify options for achieving these objectives in a coordinated and efficient manner;

(6) To conduct research and provide information regarding advantages and disadvantages of various zoning options; and

(7) To perform other related duties as may be assigned.

(D) Rules and bylaws required.

(1) The Planning Board shall adopt rules and bylaws in accordance with the provisions of this chapter. The rules and bylaws shall be approved by the Board of Commissioners. All proceedings of the Planning Board shall be in compliance with the adopted rules and bylaws.

(2) The Planning Board shall propose and submit rules and bylaws, for its own governance, to the Board of Commissioners for approval. Once approved by the Board of Commissioners, the rules and bylaws shall govern all proceedings of the Planning Board.

(E) *Remuneration.* Members shall serve without pay. If the Board of Commissioners directs the Planning Board to perform duties where expenses are incurred, the expenses may be reimbursed. Reimbursement requires that the expenses be approved by the Town Manager or his or her designee, prior to the expenses being incurred. Requests for reimbursements require the completion of the appropriate town forms and the submittal of receipts.

(F) Reorganization, dissolution and removal of members.

(1) The Board of Commissioners can reorganize or dissolve the Planning Board, at any time, without advance notice.

(2) Any member of the Planning Board may be removed, by the Board of Commissioners, at any time, without notice, by a four-fifths majority vote.

(G) Quorum and voting.

(1) A quorum for the purpose of convening the Planning Board for any official action shall consist of a majority of the members.

(2) All actions of the Planning Board shall be taken by majority vote, a quorum being present.

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

(4) Extraterritorial planning area members may vote on all matters considered by the Board, regardless of whether the property affected lies within or without the town.

(5) The Chairperson and Vice Chairperson shall take part in all deliberations and vote on all issues. (Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

§ 152.026 BOARD OF ADJUSTMENT.

(A) *Board of Commissioners to serve as Board of Adjustment.* The members of the Board of Commissioners shall serve the dual role as the Board of Adjustment members. Therefore the appointment, term and officers of the Board of Adjustment shall be identical to that of the Board of Commissioners. There shall be two additional members who shall be residents of the area of the extraterritorial jurisdiction (ETJ) and shall be appointed by the County Board of Commissioners upon recommendation by the Board of Commissioners.

(B) Meetings of the Board of Adjustment.

(1) The Board of Adjustment shall meet on call as needed and shall take action with conformity with
§ 152.045(M) and (N).

(2) The Board of Adjustment shall conduct its meetings in accordance with the quasi-judicial procedures, including those set forth in this chapter and G.S. Ch. 160A.

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

(C) Quorum.

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

(2) A member who has withdrawn from the meeting without being as provided in this division (C) shall be counted as present for purposes of determining whether a quorum is present.

(D) Voting.

(1) The concurring vote of four-fifths of the regular Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision or determination of the Administrator or to decide in favor of the applicant any matter which it is required to pass under any ordinance (including the issuance of a special use permit) or to grant any variance. All other actions of the Board shall be taken by majority vote, a quorum being present.

(2) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with division (D)(3) below, or has been allowed to withdraw from the meeting in accordance with division (D)(4) below.

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

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

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

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

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

(4) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the

remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

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

(6) A roll call vote shall be taken upon the request of any member. (Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

§ 152.027 ORDINANCE ADMINISTRATOR.

(A) Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter is by the Town Manager, or his or her designee.

(B) The person or persons to whom these functions are assigned shall be referred to in this chapter as the "Land Use (Zoning) Administrator" or "Administrator". The term ***STAFF*** is sometimes used interchangeably with the term ***ADMINISTRATOR***.

(C) In administering the provisions of this chapter the Ordinance Administrator shall:

(1) Make and maintain records of all applications for permits and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved;

(2) File and safely keep copies of all plans submitted and the same shall form a part of the records of his or her office and shall be available for inspection at reasonable times by any interested person;

(3) Transmit to the appropriate board or commission and the Board of Commissioners all applications and plans for which their review and approval is required; and

(4) Conduct inspections of premises and, upon finding that any provisions of this chapter are being violated, notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it.
(Ord. passed 11-18-2010)

§ 152.028 BOARD OF COMMISSIONERS.

(A) The Board of Commissioners, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in §§ 152.045, 152.046 and 152.032.

(B) In considering proposed changes in the text of this chapter of the official zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of §§ 152.330 through 152.336.

(C) Unless otherwise specifically provided in this chapter, in acting upon conditional use permit requests or in considering amendments to this chapter, or the official zoning map, the Board of Commissioners shall follow the regular voting, and other requirements as set forth in other provisions of the town code, the Town Charter or general law.

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

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

(F) A roll call vote shall be taken upon the request of any member. (Ord. passed 11-18-2010)

§ 152.029 GENERAL USE DISTRICT REZONING AND TEXT AMENDMENTS.

(A) Intent.

(1) In order to maintain sound, stable and desirable development within the planning jurisdiction of the town, it is intended that this chapter not be amended except:

(a) To correct manifest error in the ordinance or zoning map;

(b) Because of changed or changing conditions in a particular neighborhood or community as a whole; and

(c) To promote and forward the purposes of the adopted Town Land Use Plan.

(2) It is the further intent of this chapter that if amended it will promote the general health, safety and welfare of the citizens of the town.

(B) Amendment initiation.

(1) A request to amend this chapter may be initiated by:

(a) The Board of Commissioners, upon its own motion;

(b) The Planning Board, Board of Adjustments or any other duly appointed town body;

(c) The Town Manager, Planner or other official of the town; and

(d) Any property owner or agent thereof, upon submittal of an application to the Town Manager.

(2) All requests and applications for amendments to the zoning ordinance shall be acted upon as provided by this chapter.

(C) *Acceptance of request.* Any request initiated as provided in § 152.029(A),(B) shall be referred to the Planning Board, and any other appropriate board for its consideration. The request shall be heard in public hearings and acted upon in accordance with the procedures of this section.

(D) Application submittal requirements.

(1) Applications for amendments to this chapter shall all be filed with the Town Manager or his or her designee. Applicants shall pay any administrative fee established by the Town at the time of application.

(2) The Town Manager shall prescribe the form(s) upon which applications will be made, as well as any other materials or information deemed necessary pursuant to, but not limited to, the items listed below:

(a) A legal description (metes and bounds) of the property;

(b) The alleged error in this chapter, if any, which would be remedied by the proposed amendment;

(c) The changed or changing conditions, if any, of neighborhoods or areas in the town which make the proposed amendment reasonably necessary in order to promote the public health, safety and general welfare;

(d) The manner in which the proposed development will carry out the purposes of the adopted Land Use Plan;

(e) All other circumstances, factors and reasons which applicant offers in support of the proposed amendment; and

(f) Any other information required on the form by the planning department. No application will be accepted by the Town Planner no later than 25 calendar days prior to public hearing.

(E) *Planner recommendation analysis.* Upon receipt of an amendment request or completed application, the Town Manager shall cause an analysis to be made of the request or application to determine conformity with the intent of this section and based on his or her findings, shall prepare a written report. The report and shall be made available no later than seven days prior to the public hearing.

(F) *Public hearings.* The Board of Commissioners and the Planning Board, meeting in joint session, shall hold a joint public hearing on the requests and applications at the next regularly scheduled public hearing in order to receive comments, testimony, and exhibits pertaining to the amendment. Public hearings on amendments to this chapter will be held by the Planning Board and Board of Commissioners on the first Monday of each month as required. A record of the public hearing will be kept by the Town Clerk and submitted to the Planning Board and Board of Commissioners as soon as possible, following the public hearing. If the Mayor, in consultation with the Planning Board Chairperson, finds that an emergency exists, the Board of Commissioners may schedule a public hearing at a date other than those times specified above. Notice of the date, time, place, and subject of public hearing shall be published in a newspaper of general circulation in the planning area once a week or two consecutive weeks, with the first notice published not less than ten days nor more than 25 days prior to the day of the hearing. No amendment shall be adopted by the Board of Commissioners until after public notices and hearing.

(G) *Review and recommendations of the Planning Board.* At its next regular meeting following the public

hearing, as discussed in § 152.029(F), the Planning Board will consider the planner's recommendation, written public comment and testimony during the public hearing. The Planning Board shall then prepare and submit a written recommendation to the Board of Commissioners as soon as practical, but not later than 35 days following the date of the Planning Board public hearing. Failure of the Planning Board to submit a recommendation to the Board of Commissioners within the prescribed time limit shall be construed as a favorable recommendation.

(H) *Board of Commissioners action.* At its first monthly meeting following receipt of the recommendations from the Planning Board, the Board of Commissioners will approve, deny or table each request of application for amendment of this chapter. The Board will consider the Planning Board's recommendation, written public comment, and testimony during the public hearing, and the planner's recommendations, in its decision. Additional testimony, not presented at the public hearing, will be considered at the Mayor's discretion.

(I) *Effect of denial or withdrawal on subsequent applications.* When the Board of Commissioners shall have denied an application for an amendment or the application shall have been withdrawn by the applicant by written notice after the publication of the first public hearing required, the Town Planner shall not accept another application for the same or similar amendment affecting the same property or portion thereof, until the expiration of a 12-month period extending from the date of denial or withdrawal as appropriate. Nothing in this section, however, shall prohibit the Board of Commissioners or Planning Board from initiating an amendment for any property at any time.

(J) *Protests.* In case, however, of a protest against the change, signed by the owners of 20% or no more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet there from, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise.

(K) *Protest petition form, requirements, time for filing.* No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change of amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Board of Commissioners may by ordinance require that all protest petitions be on a form prescribed and furnished by the town, and the form may prescribe any reasonable information deemed necessary to permit the town to determine the sufficiency and accuracy of the petition.

(L) *Manufactured Home Park Ordinance.* All future manufactured home communities shall have a minimum lot size of 10,000 square feet for each lot and a maximum density of four units per acre. House numbers shall be posted on each unit. All Manufactured homes located on existing nonconforming lots shall be grandfathered. If a grandfathered Manufactured home park is sold by the existing owner, the park will remain grandfathered.

(M) *Older Manufactured home units.* All Manufactured homes located within the town's jurisdiction, older than 1976, shall require a special use permit.

(N) *Residential units allowed per building lot.* There shall be no more than one principal residential building on a lot except as may be defined in § 152.084 on planned unit developments, and the Agricultural Residential Zone as provided for as follows:

(1) Two detached principle residential units may be situated on one lot provided:

(a) At least one of the units is a manufactured dwelling and one of the units is a single-family detached home (built according to State Building Code standards);

(b) The lot is at least two acres in area; and

(c) The second unit placed on the lot must be 50 feet from any state-maintained right-of-way and 25 feet from the initial dwelling unit and any property lines.

(2) There may be more than one single-family detached residential unit on a lot if the average area of the property per residence is greater than ten acres and the residential units are situated in such a manner that the distance between units shall not be less than the applicable setback distances required in the Agricultural-Residential Zoning District for residential unit situated upon adjoining lots.

(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013; Amended 6-14-2018)

§ 152.030 CONDITIONAL ZONING.

(A) *Application procedures.*

(1) Property may only be rezoned to a conditional zoning district in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan that complies with the requirements of this code and a master plan that specifies any proposed rules, regulations, and conditions and any proposed ordinances that will govern the development and use of the property in conjunction with the requirements of this code and/or in lieu of specified portions of this code.

(2) The Board of Commissioners may allow less information or require more information to be submitted according to the needs of a particular application, but the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in this section should be submitted.

(3) In the course of evaluating the proposed use, the Administrator, Planning Board, or Board of Commissioners may request additional information from the applicant. This information may include the following:

(a) Proposed number and general location of all structures;

(b) Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;

(c) Existing and approximate topography, if available, at four-foot contour intervals or less;

(d) Scale of buildings relative to abutting property;

(e) Height of structures;

(f) Exterior features of proposed development;

(g) Proposed number and location of signs; and

(h) Any other information needed to demonstrate compliance with this code.

(4) The site plan and any supporting text shall constitute part of the petition for all purposes under this section.

(5) The Administrator or his or her designee may require the petitioner to submit more than one copy of the petition and site plan in order to have enough copies available to circulate to other town departments or other government agencies for review and comment.

(B) *Required Community Meeting Before Public Hearing.*

(1) Before a public hearing may be held on a petition for a conditional zoning district, the petitioner must file with the Land Use Administrator a written report of at least one community meeting held by the petitioner. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting.

(2) At a minimum, notice of the meeting shall be given to the same property owners that are entitled to first class mail notification of the public hearing on the conditional zoning district application per G.S. § 160A-384.

(3) In the event the petitioner has not held at least one meeting pursuant to this section, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held.

(4) The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of Commissioners but shall not be subject to judicial review.

(C) *Approval of Conditional Zoning District.*

(1) Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

(2) Written statements received by Town Staff prior to a public hearing for a text or map amendment shall be provided to the Board of Commissioners to the extent permitted by G.S. § 160A-385.

(D) *Conditions on Approval of Petition.*

(1) In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the petition.

(2) Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to town ordinances and all relevant officially adopted plans. Conditions and site-specific standards may also address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The Board of Commissioners may approve conditions that vary, lower or impose higher standards than those that would ordinarily apply were the property at issue rezoned to something other than a conditional zoning district.

(3) The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the petitioner may be incorporated into the petition.

(E) *Effect of Approval.*

(1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the town Zoning Map.

(2) If a petition is approved, the petitioner shall comply with all requirements of the Town of Robbins Code of Ordinances, including those for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property.

(3) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the town Zoning Map by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example a Thoroughfare Business District subject to Conditional Zoning would be designated as "TBD-CZ").

(4) Town staff shall create an index of all Conditional Zoning Districts, which shall be updated regularly and shall be made available for public inspection.

(F) *Modification of Approval.*

(1) Changes to an approved petition for conditional zoning or to the conditions attached to an approved petition for conditional zoning shall be treated the same as amendments to the text of this ordinance or to the official Zoning Map and shall be processed in accordance with the requirements of this article. Notwithstanding the foregoing, the Town Board may, as part of the conditions imposed on the conditional district, include a list of modifications that may be approved by the Land Use Administrator or other appropriate town staff without further review by the Board of Commissioners.
(Ord. passed 6-14-2018)

§ 152.031 APPEALS, VARIANCES AND INTERPRETATIONS.

(A) Appeals.

(1) An appeal from any final order or decision of the Administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the Town Manager, and the date and time of filing shall be entered on the notice by the Town Manager.

(2) An appeal must be taken within 30 days after the date of the decision or order appealed from.

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

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

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

(B) Variances.

(1) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. Applications shall be handled in the same manner as applications for special use permits in conformity with the provisions of § 152.045(C), (D) and (K).

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

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

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

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

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

(e) The hardship is not the result of the applicant's own actions; and

(f) The variance will neither result in the extension of a nonconforming situation in violation of §§ 152.060 through 152.067 nor authorize the initiation of a nonconforming use of land.

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

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

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

(C) Special exception permits.

(1) An application for a special exception permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Town Manager or his or her designee.

(2) All of the provisions of this section applicable to the processing of variance applications shall also apply to special exception permit requests, except the provisions of § 152.031(B) and (C).

(3) The Board of Adjustment may issue a special exception permit for the purposes and under the circumstances set forth in the remaining divisions of this section if it concludes, in addition to any other findings required below, that:

(a) Issuance of the permit will not create a threat to the public health or safety; and

(b) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties. If the applicant presents a petition signed by the owners of all properties entitled to receive notice of the hearing on the application pursuant to § 152.032(B), and stating that the property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the Board may (but shall not be required to) make the required finding. The Board may also make the required finding based on other competent evidence.

(4) The Board of Adjustment may issue a special exception permit under this section to allow a reduction of up to 50% in the required distances that buildings must be set back from lot boundary lines under § 152.143(A), provided that:

(a) The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts, where the building in question has existed for at least three years prior to application for the special exception permit.

(b) In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building separation requirement established by the State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the State Building Code.

(c) Reductions may be allowed under this division only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

(5) The Board of Adjustment may issue a special exception permit to authorize a structure to encroach upon a setback required under § 152.143 if it finds that:

(a) The proposed encroachment results from an addition to or an extension of an existing residential structure in a residential district that already is nonconforming with respect to the requirements of § 152.143; and

(b) The proposed addition or extension will not encroach upon any required front, rear or side yard to a greater extent than the existing structure on that lot.

(D) Interpretation.

(1) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If the questions arise in the context of an appeal from a decision of the Zoning Administrator, they shall be handled as provided in division (A) above.

(2) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. 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 center lines of alleys, streets, highways, streams or railroads shall be construed to follow the center lines;

(b) Boundaries indicated as approximately following lot lines, town limits or extraterritorial boundary lines, shall be construed as following the lines, limits or boundaries;

(c) Boundaries indicated as following shore lines shall be construed to follow the shore lines, and in the event of change in the shore line shall be construed as following the shore lines;

(d) Where a district boundary divides a lot or where distances are not specifically indicated on the official zoning maps, 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 to that portion of the street or alley added thereto by virtue of the vacation or abandonment.

(4) Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in § 152.237.

(E) *Requests to be heard expeditiously.* As provided in § 152.045(S), the Board of Adjustment shall hear and decide all appeals, variance requests and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with § 152.032, and obtain the necessary information to make sound decisions.

(F) Burden of proof in appeals, variances and special exceptions.

(1) When an appeal is taken to the Board of Adjustment in accordance with division (A), the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(2) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in division (B)(2) above, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

(3) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the

conclusions set forth in division (C) above, as well as the burden of persuasion on those issues, remains with the applicant seeking the special exception permit.

(G) Board action on appeals, variances and special exceptions.

(1) With respect to appeals, a motion to reverse, affirm or modify the order, requirement, decision or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (excluding vacant seats).

(2) Before granting a variance, the Board must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the six required findings stated in § 152.031(B)(2). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in § 152.031(B)(2) shall include a statement of the specific reasons or findings of fact supporting the motion.

(3) A motion to deny a variance may be made on the basis that any one or more of the six criteria set forth in § 152.031(B)(2) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (excluding vacant seats).

(4) Before granting a special exception permit, the Board shall vote affirmatively on each of the findings required under division (C) above. A motion to deny a special exception may be made on the basis that any one or more of the findings required by division (C) above are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reason or findings of fact that support it.

(Ord. passed 11-18-2010)

§ 152.032 HEARING PROCEDURES FOR APPEALS AND APPLICATIONS.

(A) Hearing required on appeals and applications.

(1) Before making a decision on an appeal or an application for a variance, special use permit or conditional use permit, or a petition from the staff to revoke a special use permit or conditional use permit, the Board of Adjustment or the Board of Commissioners as the case may be, shall hold a hearing on the appeal or application.

(2) Subject to division (A)(3) below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

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

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

(B) *Notice of hearing.* The Administrator shall give notice of any hearing required by division (A) above as follows:

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

(2) Notice shall be given to neighboring property owners by mailing a written notice not later than ten days before the hearing to those persons who have listed for taxation real property any portion of which is located within 150 feet of the lot that is the subject of the application or appeal. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. The signs shall be posted not less than seven days prior to the hearing;

(3) In the case of conditional use permits, notice shall be given of other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than seven nor more than 15 days prior to the hearing; and

(4) The notice required by this section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

(C) Evidence.

(1) The provisions of this section apply to all hearings for which a notice is required.

(2) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.

(3) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

(D) Modification of application at hearing.

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

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

(E) Record of proceedings.

(1) A tape recording shall be made of all hearings, and the recordings shall be kept for at least two years. Accurate minutes shall also be kept of all the proceedings, but a transcript need not be made.

(2) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town for at least two years.

(F) Written decision.

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

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

(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

§ 152.033 ENFORCEMENT AND REVIEW.

(A) *Complaints regarding violations.* Whenever the Administrator receives a written, signed complaint alleging a violation of this chapter, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

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

(C) Procedures upon discovery of violations.

(1) If the Administrator finds that any provision of this chapter is being violated, he or she shall send a written notice to the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.

(2) The final written notice (and the initial written notice may be the final notice) shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed to the Board of Adjustment in accordance with § 152.031(A) above.

(3) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in § 152.999.

(D) Permit revocation.

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

(2) Before a conditional use or special use permit may be revoked, all of the notice and hearing and other requirements of § 152.032 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

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

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

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

(4) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special use or conditional use permit after the permit has been revoked in accordance with this section.

(E) Judicial review.

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

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

(a) A written copy of the Board's decision (see § 152.032(E)) has been filed in the office of the Administrator; and

(b) A written copy of the Board's decision (see § 152.032(E)) has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for the copy at the hearing of the case.

(3) A copy of the writ of certiorari shall be served upon the town. (Ord. passed 11-18-2010)

PERMITS AND FINAL PLAT APPROVAL

§ 152.045 ZONING, SPECIAL USE AND CONDITIONAL USE PERMITS.

(A) Permits required.

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

(a) Zoning permit issued by the Administrator;

(b) Special use permit issued by the Board of Adjustment; or

(c) Conditional use permit issued by the Board of Commissioners.

(2) Zoning permits, special use permits, conditional use permits and sign permits are issued under this chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. The plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in § 152.046(A), all development shall occur strictly in accordance with the approved plans and applications.

(3) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional use permit issued by the Board of Commissioners for major subdivisions or after final plat approval by the Administrator for minor subdivisions (see § 152.046).

(4) A zoning permit, conditional use permit, special use permit or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All the permits issued with respect to tracts of land in excess of one acre (except sign permits and zoning permits for single-family and two-family residential uses) shall be recorded in the County Register of Deeds after execution by the record owner as provided in division (R) below.

(B) *No occupancy, use or sale of lots until requirements fulfilled.* Issuance of conditional use, special use or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move or substantially alter buildings or other substantial structures or make necessary improvements to a subdivision. However, except as provided in divisions (H), (P) and (Q), the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a conditional use or special use permit have been complied

with.

(C) Who may submit permit applications.

(1) Applications for zoning, special use, conditional use or sign permits or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of the persons (who may make application in the name of the owners, lessees or contract vendees).

(2) The Administrator may require an applicant to submit evidence of his or her authority to submit the application in accordance with the division (C)(1) above, whenever there appears to be a reasonable basis for questioning this authority.

(D) Applications to be complete.

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

(2) Subject to division (D)(3) below, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter.

(3) In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks and the like) are set forth in one or more of the appendices to this chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plan provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this chapter. However, when this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on the element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in § 152.033.

(4) The presumption established by this chapter is that all of the information set forth in Appendix A, which is on file in the office of the Town Clerk, is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Commissioners or Board of Adjustment , the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in Appendix A, which is on file in the office of the Town Clerk, should be submitted.

(5) The Administrator shall make every effort to develop application forms, instructional sheets, checklists or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the Administrator to determine compliance with this chapter, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

(E) Staff consultation before formal application.

(1) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, pre-application consultation between the developer and the staff is encouraged or required as provided in this section.

(2) Before submitting an application for a conditional use permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the Administrator a sketch plan of the subdivision, drawn approximately to scale (one inch equals 100 feet). The sketch plan shall contain:

(a) The name and address of the developer;

(b) The proposed name and location of the subdivision;

(c) The approximate total acreage of the proposed subdivision;

(d) The tentative street and lot arrangement;

(e) Topographic lines; and

(f) Any other information the developer believes necessary to obtain the informal opinion of the staff as to proposed subdivision's compliance with the requirements of this chapter. The Administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

(3) Before submitting an application for any other permit, developers are strongly encouraged to consult with the staff concerning the application of this chapter to the proposed development.

(F) Staff consultation after application submitted.

(1) Upon receipt of a formal application for a zoning, special use or conditional use permit, or minor plat approval, the Administrator shall review the application and confer with the applicant to ensure that he or she understands the staff's interpretation of the applicable requirements of this chapter, that he or she has submitted all of the information that he or she intends to submit, and that the application represents precisely and completely what he or she proposes to do.

(2) If the application is for special use or conditional use permit, the Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he or she intends to make it. However, as provided in divisions (K) and (L), if the Administrator believes that the application is incomplete, he or she shall recommend to the appropriate board that the application be denied on that basis.

(G) Zoning permits.

(1) A completed application form for a zoning permit shall be submitted to the Administrator by filing a copy of the application with the Administrator. Each application for a certificate of zoning compliance shall be accompanied by two sets of plans drawn to scale, one of which shall be returned to the applicant upon approval. The plan shall show the following:

(a) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

(b) The location of the lot with respect to adjacent right-of-way;

(c) The shape, dimensions and location of all buildings, existing and proposed, on the lot;

(d) The nature of the proposed use of the building or land, including the extent and location of the use, on the lot;

(e) The location and dimensions of off-street parking and loading space and the means of ingress and egress to the space; and

(f) Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this chapter.

(2) The Administrator shall issue the zoning permit unless he or she finds, after reviewing the application and consulting with the applicant as provided in division (E) above that:

(a) The requested permit is not within his or her jurisdiction according to the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk;

(b) The application is incomplete; or

(c) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in §§ 152.060 through 152.067.

(3) If the Administrator determines that the development for which a zoning permit is requested will have or may have substantial impact on surrounding properties, he or she shall:

(a) At least ten days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 150 feet of the lot that is the subject of the application, informing them that:

1. An application has been filed for a permit authorizing identified property to be used in a specified way;

2. All persons wishing to comment on the application should contact the Administrator by a certain date; and

3. Persons wishing to be informed of the outcome of the application should send a written request for the notification to the Administrator.

(b) Shall require the developer to submit a sketch plan of proposed development, drawn approximately to scale (one inch equals 50 feet). The sketch plan shall contain:

1. The name and address of the developer;

2. The proposed name and location of the development;

3. The approximate total acreage of the proposed development;

4. The tentative street and lot arrangement;

5. Topographic lines; and

6. Any other information the Administrator and/or the developer believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this chapter. The Administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

(4) Before submitting an application for any other permit, developers are strongly encouraged to consult with the staff concerning the application of this chapter to the proposed development.

(5) The Administrator may issue a temporary certificate of zoning compliance for rallies, carnivals, parades and similar uses. The certificates shall be issued for a fixed period of time, but not to exceed 90 days, shall be subject to the limitations as the Administrator may impose to protect the character of the district affected, and may be considered for re-application. A fee set by the Board of Commissioners shall be charged for the processing of the application.

(H) *Authorizing use of occupancy before completion of development.* In cases when, because of weather

conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period (not to exceed 24 months) determined by the Administrator.

(I) Special use permits and conditional use permits.

(1) An application for a special use permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator.

(2) An application for a conditional use permit shall be submitted to the Board of Commissioners by filing a copy of the application with the Administrator.

(3) Subject to division (I)(4) below, the Board of Adjustment or the Board of Commissioners, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

(a) The requested permit is not within its jurisdiction according to the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk;

(b) The application is incomplete; or

(c) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in §§ 152.060 through 152.067).

(4) Even if the permit-issuing board finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

(a) Will materially endanger the public health or safety; or

(b) Will substantially injure the value of adjoining or abutting property.

(5) Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in division (I)(4) above shall be upon the party or parties urging this position, unless the information presented by the applicant in his or her application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(6) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any reasons set forth in division (I)(4) above rests on the party or parties urging that the requested permit should be denied.

(J) Recommendations on special use permit applications.

(1) When presented to the Board of Adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the staff's proposed findings concerning the application's compliance with division (D) above, and the other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

(2) If the staff proposes a finding or conclusion that the application fails to comply with division (D) above, or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(K) Recommendations on conditional use permit applications.

(1) Before being presented to the Board of Commissioners for final approval, an application for a conditional use permit shall be scheduled before the Planning Board for review in accordance with this section. The Board of Commissioners may not render a final decision on a conditional use permit application until the Planning Board has had an opportunity to consider the application pursuant to standard agenda procedures.

(2) When presented to the Planning Board, the application shall be accompanied by a report setting forth the staff's proposed findings concerning the application's compliance with division (D) above, and other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the Board of Commissioners. If the staff report proposes a finding or conclusion that the application fails to comply with division (D) above, or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(3) The Planning Board shall consider the application and the attached staff report in a timely fashion, and may, in the Chairperson's discretion, hear from the applicant or members of the public. Notice to the adjoining property owners is provided for in § 152.025(B)(5) above.

(4) After reviewing the application, the Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings and conditions, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore.

(5) In response to the Planning Board's recommendations, the applicant may modify this application prior to submission to the Board of Commissioners, and the staff may likewise revise its recommendations.

(L) *Board of Commissioners action on conditional use permits.* In considering whether to approve an application for a conditional use permit, the Board of Commissioners shall proceed according to the following format:

(1) The Board of Commissioners shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board of Commissioners that the application is complete.

(2) The Board of Commissioners shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes, the Board of Commissioners need not make further findings concerning the requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Board of Commissioners to be unsatisfied through this process.

(3) If the Board of Commissioners concludes that the application fails to comply with one or more requirements of this chapter, the application shall be denied. If the Board of Commissioners concludes that all the requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in division (I)(4) above. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

(M) *Board of Adjustment action on special use permits.* In considering whether to approve an application for a special use permit, the Board of Adjustment shall proceed in the same manner as the Board of Commissioners when considering conditional use permit applications (division (L) above), except that the format of the Board of Adjustment's proceedings will differ as a result of the four-fifths voting requirement set forth in § 152.026(C)(1) above.

(1) The Board of Commissioners shall consider whether the application is complete. If the Board of Commissioners concludes the application is incomplete and the applicant refuses to provide the necessary

information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by two members of the Board of Commissioners, shall constitute the Board of Commissioners' finding on this issue. If a motion to this effect is not made and concurred in by at least two members, this shall be taken as an affirmative finding by the Board of Commissioners that the application is complete.

(2) The Board of Commissioners shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes by the necessary four-fifths vote, the Board of Commissioners need not make further findings concerning the requirements. If such a motion fails to receive the necessary four-fifths vote or is not made, then a motion shall be made that the applicant be found not in compliance with one or more requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application, and the vote of the number of members equal to more than one-fifth of the Board of Commissioners membership (excluding vacant seats) in favor of such a motion shall be sufficient to constitute the motion a finding of the Board of Commissioners. It shall be conclusively presumed that the application complies with all requirements not found by the Board of Commissioners to be unsatisfied through this process. As provided in § 152.045(I)(3), if the Board of Commissioners concludes that the application fails to meet one or more of the requirements of this chapter, the application shall be denied.

(3) If the Board of Commissioners concludes that all the requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in § 152.045(I). A like motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since a like motion is not in favor of the applicant, it is carried by a simple majority vote.

(N) Additional requirements on special use and conditional use permits.

(1) Subject to division (N)(2) below, in granting a special or conditional use permit, the Board of Adjustment or Board of Commissioners, respectively, may attach to the permit the reasonable requirements in addition to those specified in this chapter that will ensure that the development in its proposed location:

(a) Will not endanger the public health or safety;

(b) Will not injure the value of adjoining or abutting property;

(c) Will be in harmony with the area in which it is located; and

(d) Will be in conformity with the official zoning map, land use plan, thoroughfare plan or other plans officially adopted by the Board of Commissioners.

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

(3) Without limiting the foregoing, the Board of Commissioners may attach to a permit a condition limiting the permit to a specified duration.

(4) All additional conditions or requirements shall be entered on the permit.

(5) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(6) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any reasons set forth in divisions (J)(3) or (4) above.

(O) Authorizing use, occupancy or sale before completion of development under special use or conditional use permits.

(1) In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Board of Commissioners to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 24 months and subject to division (H)(2) above.

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

(a) A performance bond or other security to the Board of Commissioners is furnished;

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

(c) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by § 152.999 and §152.033(D).

(3) With respect to subdivisions in which the developer is selling only undeveloped lots, the Board of Commissioners may authorize final plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the subdivide provides a performance bond or other security satisfactory to the Board of Commissioners to ensure that all of these requirements will be fulfilled within not more than 24 months after final plat approval.

(P) Completing developments in phases.

(1) If a development is constructed in phases or stages in accordance with this section, then, subject to

division (P)(3) below, the provisions of divisions (B) and (O) above shall apply to each phase as if it were the entire development.

(2) As a prerequisite to taking advantage of the provisions of division (P)(1) above, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.

(3) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his or her application for development approval, the developer shall submit a proposed schedule or completion of the improvements. The schedule shall relate completion of the improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

(a) If the improvement is one required by this chapter then the developer may utilize the provisions of divisions (O)(1) or (2) above; and

(b) If the improvement is an amenity, not required by this chapter, or is provided in response to a condition imposed by the Board of Commissioners, then the developer may utilize the provisions of division (O)(2) above.

(Q) Expiration of permits.

(1) Special use and conditional use permits shall expire automatically after two years and zoning permits and sign permits shall expire automatically after six months, if after the issuance of the permits:

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

(b) Less than 10% of the total cost of all construction, erection, alteration, excavation, demolition or similar work on any development authorized by the permits has been completed on the site. With respect to phased development (see § 152.045(Q)), this requirement shall apply only to the first phase.

(2) If, after some physical alteration to land or structures begins to take place following the 24 month vested period, and the work is discontinued for a period of one year, then the permit authorizing the work shall immediately expire. However, expiration of the permit shall not affect the provisions of division (R) below.

(3) The permit-issuing authority may extend for the period as defined in the Vested Rights Ordinance the date when a permit would otherwise expire pursuant to divisions (Q)(1) or (2) above if it concludes that: the permit has not yet expired; the permit recipient has proceeded with due diligence and in good faith; and conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All the extensions may be granted without resort to the formal processes and fees required for a new permit.

(4) For purposes of this section, the permit within the jurisdiction of the Board of Commissioners or the Board of Adjustment is issued when the Board of Commissioners votes to approve the application and issue the permit. A permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:

(a) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

(b) The Zoning Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under [statutory citation].

(5) Notwithstanding any of the provisions of §§ 152.060 through 152.067, this section shall be applicable to permits issued prior to the date this section becomes effective.

(R) Effect of permit on successors and assigns.

(1) Zoning, special use, conditional use and sign permits authorize the permittee to make use of land and structures in a particular way. The permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(a) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under the permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(b) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in division (R)(2) below) of the existence of the permit at the time they acquired their interest.

(2) Whenever a zoning, special use or conditional use permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the County Register of Deeds and indexed under the record owner's name as grantor.

(S) Amendments to and modifications of permits.

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

(2) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. The permission may be obtained without a formal application, public hearing or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

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

(4) The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in divisions (S)(1), (2) and (3) above.

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

(T) Reconsideration of Board of Commissioners action.

(1) Whenever the Board of Commissioners disapproves a conditional use permit application, or the Board of Adjustment disapproves an application for a special use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, the action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

(a) Circumstances affecting the property that is the subject of the application have substantially changed; or

(b) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time period for an appeal to superior court (see § 152.033(E) above). However, such a request does not extend the period within which an appeal must be taken.

(2) Notwithstanding division (T)(1) above, the Board of Commissioners or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

(U) *Applications to be processed expeditiously.* Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this chapter.

(V) *Maintenance of common areas, improvements and facilities.* The recipient of any zoning, special use, conditional use or sign permit, or his or her successor, shall be responsible for maintaining all common areas,

improvements or facilities required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping or shading must be replaced if they die or are destroyed.
(Ord. passed 11-18-2010)

§ 152.046 MAJOR AND MINOR SUBDIVISIONS.

(A) *Regulation of subdivisions.* Major subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a conditional use permit as provided in § 152.045 above, and sale of lots is permitted after final plat approval as provided in division (C) below. Minor subdivisions only require a one-step approval process; final plat approval (in accordance with division (B) below).

(B) No subdivision without plat approval.

(1) No person may subdivide his or her land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide his or her land unless and until a final plat of the subdivision has been approved in accordance with the provisions of divisions (D) or (E) below, and recorded at the County Register of Deeds.

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

(C) Minor subdivision approval.

(1) The Administrator shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(2) The applicant for minor subdivision plat approval, before complying with division (C)(3) below shall submit a preliminary plan to the Administrator for a determination of whether the approval process authorized by this section can be and should be utilized. The Administrator may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.

(3) Applicants for minor subdivision approval shall submit to the Administrator a copy of a plat conforming to the requirements set forth in divisions (D)(2) and (3) (as well as two prints of the plat), except that a minor subdivision plat shall contain the following certificates in lieu of those required in division (D) below:

(a) Certificate of approval for minor subdivision:

I hereby certify that the subdivision plat shown hereon is a minor subdivision and has been found to comply with the subdivision regulations of the town. The plat has been approved for recording in the Office of the Moore County Register of Deeds.

_____
Date

_____
Town Manager

(b) Certificate of approval by owner:

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, and that the subdivision shown is in all respects in compliance with Chapter 4 of the Robbins Unified Development Ordinance, subject to its being recorded in the Moore County Register of Deeds within 60 days of the date below.

_____

Date

_____

Owner/Agent

(c) A certificate of survey and accuracy, in the form stated in division (E)(3) below (protection against defects).

(d) Certification of Private Roads Minor Subdivision/Extraterritorial Jurisdiction.

I hereby certify that the road shown on this plat is a private road and the town assumes no responsibility for maintenance. As a subdivide, I agree to disclose to lot purchasers a statement outlining maintenance responsibilities for this road that will satisfy the Town's emergency access requirement.

_____

Date

_____

Owner/Agent

(4) The Administrator shall take expeditious action on an application for minor subdivision plat approval as provided in § 152.045(T) above. However, either the Administrator or the applicant may at any time refer the application to the major subdivision approval process.

(5) Not more than a total of three lots may be created out of one tract using the minor subdivision plat approval process within a three-year period.

(6) Subject to division (C)(4) above, the Administrator shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in division (B) above of the application or the proposed subdivision fails to comply with division (C)(5) above, or any other applicable requirement of this chapter.

(7) If the subdivision is disapproved, the Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(8) Approval of any plat is contingent upon the plat being recorded within 60 days after the date the certificate of approval is signed by the Administrator or his or her designee.

(9) Plats which are considered neither minor subdivisions nor major subdivisions shall also be reviewed by the Administrator and shall contain the following certification:

Certificate of Plat Being Exempt From the Subdivision Regulations

I hereby certify that the subdivision plat shown hereon is exempt from the town Subdivision regulations by definition. The subject lot(s) do not meet the requirements of the town Unified Development Ordinance. The plat has been approved for recording in the Office of the Moore County Register of Deeds.

_____
Date

_____
Town Manager

(D) Major subdivision approval process.

(1) The applicant for a major subdivision plat approval shall submit a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the County Register of Deed's Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equal not more than 100 feet. The applicant shall also submit five prints of the plat.

(2) In addition to the appropriate endorsements, as provided in division (E) below, the final plat shall contain the following information:

(a) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the County Register of Deeds office;

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

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

(d) The name of the surveyor and his or her registration number and the date of survey;

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

(f) All of the additional information required by G.S. § 47-30. Every plat shall contain the following information:

1. An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, state grid or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to old deed or plat bearings, the date and the source (if known) the index was originally determined shall be clearly indicated.

2. The azimuth or courses and distances as surveyed of every line shall be shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required.

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

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

5. Where a subdivision of land is set out on the plat, all streets and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the

field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.

6. Where control corners have been established in compliance with G.S. §§ 39-32.1, 39-32.2, 39-32.3 and 39-32.4, as amended, the location and pertinent information as required in the reference statute shall be plotted on the plat. All other corners which are marked by monument or natural object shall be so identified on all plats, and all corners of adjacent owners in the boundary lines of the subject tract which are marked by monument or natural object must be shown with a distance from one or more of the subject tract's corners.

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

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

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

10. A vicinity map shall appear on the face of the plat.

(3) The Town Manager, shall approve the proposed plat unless it is found that the plat or the proposed subdivision fails to comply with one or more of the requirements of this chapter or that the final plat differs substantially from the plans and specifications approved in conjunction with the conditional use permit that authorized the development of the subdivision.

(4) If the final plat is disapproved by the Town Manager, the applicant shall be furnished with a written statement of the reasons for the disapproval.

(5) Approval of a final plat is contingent upon the plat being recorded within 60 days after the approval certificate is signed by the Town Manager or his or her designee.

(E) *Endorsements on major subdivision plats.* All major subdivision plats shall contain the endorsements listed in divisions (E)(1), (2) and (3) below. The endorsements listed in division (E)(4) shall appear on plats of all major subdivisions located outside the corporate limits of the town but within the planning jurisdiction.

(1) Certificate of approval:

I hereby certify that all streets shown on this plat are within the town's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond, or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 4 of the Robbins Unified Development Ordinance, and therefore this plat has been approved by the Robbins Planning Board subject to its being recorded in the Moore County Register of Deeds within 60 days of the date below.

_____

Date

_____

Planning Board Chair

(2) Certificate of ownership and dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the town, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private and that I will maintain all the areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when the other use is approved by the Robbins Board of Commissioners in the public interest.

_____
Date

_____
Owner (Notarized)

(3) Certificate of survey and accuracy:

I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision((a deed description recorded in Book _____, Page _____ of the Moore County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries surveyed are shown as broken lines plotted from information found in Book _____, Page_____, and that this map was prepared in accordance with [statutory citation]. Witness my original signature, registration number and seal this_____day of_____, 20_____.

Seal/Stamp _____

(Notarized) _____

_____
Registered Land Surveyor Registration Number

(4) Division of Highways District Engineer certificate:

I hereby certify that all streets shown on this plat are within the town planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond, or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 4 of the Robbins Unified Development Ordinance, and therefore this plat has been approved by the Robbins Planning Board subject to its being recorded in the Moore County Register of Deeds within 60 days of the date below.

_____
Date

_____
Planning Board Chair

(F) *Plat approval not acceptance of dedication offers.* Approval of a plat does not constitute acceptance by the town of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the town may accept any such offer of dedication by resolution of the Board of Commissioners or by actually exercising control over and maintaining the facilities.

(G) Protection against defects.

(1) When pursuant to § 152.045(P) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted pursuant to § 152.045(P) shall guarantee that any defects in the improvements or facilities that appear within one year after the dedication of the facilities or improvements is accepted shall be corrected by the developer.

(2) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in the facilities or improvements that occur within one year after the offer of dedication of the facilities or improvements is accepted.

(3) An architect or engineer retained by the developer shall certify to the town that all facilities and improvements to be dedicated to the town have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the town of the offer of dedication of the facilities or improvements.

(4) For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the town to make repairs in the facilities over and above the normal amount of maintenance that they would require. If the defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this chapter.

(H) *Maintenance of dedicated areas until acceptance.* As provided in § 152.045(V) above, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until the offer of dedication is accepted by the appropriate public authority. (Ord. passed 11-18-2010)

NONCONFORMING SITUATIONS

§ 152.060 DEFINITIONS.

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

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

EFFECTIVE DATE OF THIS CHAPTER. Whenever this chapter refers to the effective date of this chapter, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.

EXPENDITURE. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

NONCONFORMING LOT. A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

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

NONCONFORMING SIGN. A sign (see § 152.255 for definition) that, on the effective date of this chapter does not conform to one or more of the regulations set forth in this chapter, particularly §§ 152.255 through 152.272.

NONCONFORMING SITUATION. A situation that occurs when, on the effective date of this chapter, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a ***NONCONFORMING SITUATION*** may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter. Nonconforming signs shall not be regarded as ***NONCONFORMING SITUATIONS*** for purposes of this chapter, but shall be governed by the provisions of §§ 152.256, 152.257, 152.266, 152.271(D) and 152.272.

NONCONFORMING USE. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a ***NONCONFORMING USE***.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a ***NONCONFORMING USE***.)
(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

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

(A) Unless otherwise specifically provided in this chapter and subject to the restrictions and qualifications set forth in §§ 152.062 through 152.067 below, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.

(B) Nonconforming projects may be completed only in accordance with the provisions of § 152.067 below. (Ord. passed 11-18-2010)

§ 152.062 NONCONFORMING LOTS.

(A) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in §§ 152.063 through 152.067 below, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a conforming lot.

(B) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (§ 152.142 below) cannot reasonably be complied with, then the entity authorized by this chapter to issue a permit for the proposed use (the Administrator, Board of Adjustment or Board of Commissioners) may allow deviations from the applicable setback requirements if it finds that:

(1) The property cannot reasonably be developed for the use proposed without the deviations;

(2) These deviations are necessitated by the size or shape of the nonconforming lot; and

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

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

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

(E) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his or her successors in interest may take advantage of the provisions of this section. This division (E) shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where the lot is located and within 500 feet of the lot are also nonconforming. The intent of this division is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require the combination when that would be out of character with the way the neighborhood has previously been developed.
(Ord. passed 11-18-2010)

§ 152.063 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

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

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

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

(B) Subject to division (D) below, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate the use. However, subject to § 152.067 below (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(C) Subject to § 152.067 below (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if 10% or more of the earth products had already been removed on the effective date of this chapter.

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

(E) Notwithstanding subsection (A), any structure used for single-family residential purposes and maintained as a non-conforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing conformities with respect to such matters as setback and parking requirements. This subsection is subject to the limitations stated in section 152.066 (abandonment and discontinuance of nonconforming situations.) This subsection does not apply to a manufactured home, either as a standalone home outside of a manufactured home park or as a home within a manufactured home park.

(F) Notwithstanding division (A) above, whenever: there exists a lot with one or more structures on it; and

a change in use that does not involve any enlargement of a structure is proposed for the lot; and the parking or loading requirements of §§ 152.285 through 152.297 that would be applicable as a result of the proposed change cannot be satisfied on the lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with § 152.294 below if: parking requirements cannot be satisfied on the lot with respect to which the permit is required: and the satellite parking is reasonably available. If the satellite parking is not reasonably available at the time the zoning or special or conditional use permit is granted then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

(Ord. passed 11-18-2010; Revision passed. 6-8-2017)

§ 152.064 REPAIR, MAINTENANCE AND RECONSTRUCTION.

(A) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e. work estimated to cost more than 50% of the appraised valuation of the structure to be renovated, may be done only in accordance with a zoning permit issued pursuant to this section.

(B) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 50% of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with all applicable requirements of this section. This subsection does not apply to structures other than manufactured homes used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Subsection 152.063(e). This subsection applies to manufactured homes located within a manufactured home park. Subsection (C) applies to standalone manufactured homes not located in a manufactured home park.

(C) A standalone manufactured home located outside of a manufactured home park shall not be repaired or replaced if the cost to repair or replace the structure would exceed 50% of the appraised value of the damaged structure.

(D) For purposes of subsections (A), (B), and (C) above:

(1) The ***COST OF RENOVATIONS OR REPAIR OR REPLACEMENT*** shall mean the fair market value of the materials and service necessary to accomplish the renovation, repair or replacement;

(2) The ***COST OF RENOVATION OR REPAIR OR REPLACEMENT*** shall mean the total cost of all the intended work and no person may seek to avoid the intent of subsections (A), (B), and (C) above by doing the work incrementally; and

(3) The ***APPRAISED VALUATION*** shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser licensed in the State of North Carolina.

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

(1) No violation of § 152.063 will occur;

(2) The permittee will comply to the extent reasonably possible with all provisions of this chapter applicable to the existing use (except that the permittee shall not lose his or right to continue a nonconforming use). As set forth in subsection (C) above, the right to continue a using a nonconforming standalone manufactured home located outside of a manufactured home park shall be lost if the cost to repair or replace the structure would exceed 50% of the appraised value; and

(3) Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting the requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.
(Ord. passed 11-18-2010; Revisions passed 6-8-2017)

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

(A) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning, special use, or conditional use permit in accordance with § 152.045(A) may not be made except in accordance with divisions (B) through (D) below. However, this requirement shall not apply if only a sign permit is needed.

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

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

(1) The intended change will not result in a violation of § 152.063; and

(2) All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting the requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this division to construct a building or add to an existing building if additional nonconformity's would thereby be created.

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

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

(2) All of the conditions applicable to the permit authorized in division (C) above are satisfied; and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied.
(Ord. passed 11-18-2010)

§ 152.066 ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS.

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

(B) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is: discontinued for a consecutive period of 180 days; or discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the pre-existing use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformity need not be corrected.

(C) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(D) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this section begins to run on the effective date of this chapter. (Ord. passed 11-18-2010)

§ 152.067 COMPLETION OF NONCONFORMING PROJECTS.

(A) All nonconforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all nonconforming projects that are at least 10% completed in terms of the total expected cost of the project on the effective date of this chapter may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this division shall apply only to the particular phase under construction.

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

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

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

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property;

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

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

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

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

(C) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under division (B) above. In addition to the matters and subject to the guidelines set forth in divisions (B)(1) through (6) above, the permit-issuing authority shall, in determining whether a developer would be unreasonably prejudiced if no allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

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

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

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

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

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

(F) The permit-issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of this chapter, so that construction work is not needlessly interrupted. (Ord. passed 11-18-2010)

§ 152.068 NONCONFORMING FREESTANDING SIGNS.

(A) All nonconforming freestanding signs in the CBD and TBD districts erected prior to February 14, 2013, shall be deemed to be lawful nonconforming signs. The signs may be maintained and repaired, and may be replaced, provided that a new sign does not exceed the height, area or other dimensions of the original nonconforming sign.

(B) Any lawful freestanding nonconforming sign that is removed and not replaced or otherwise no longer used for a consecutive period of 180 days or is discontinued for any period of time without a present intention to reinstate the nonconforming use shall lose its lawful nonconforming use status, and thereafter no sign may be erected in lieu of the removed or discontinued sign except in conformity with thischapter.
(Ord. 228, passed 2-14-2013)

ZONING DISTRICTS AND ZONING MAP

§ 152.080 RESIDENTIAL.

(A) The following residential districts are hereby established: R-20, R-10, R-8. Each district is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of this districts are explained in the remainder of this section.

(B) The RA-40 and RA-20 districts are designed to accommodate agricultural and residential uses normally associated with:

(1) Agricultural uses normally associated with large tracts of uninhabited land near the fringe of urban areas; and

(2) Single-family residential developments in areas not served by town or county water and sewer facilities and that are not yet appropriate for development at higher densities

(C) The R-20 and R-10 Districts are designed primarily to accommodate single-family detached residential uses, excluding manufactured homes, at medium densities in areas served by town water and sewer facilities. Two-family and multi-family residences are allowed in the R-10 district.

(D) The R-8 District is designed to accommodate single-family detached, two-family and multi-family dwelling units, except for manufactured homes.

§ 152.081 COMMERCIAL.

(A) The following commercial districts are hereby established: CBD and TBD.

(B) The CBD (Central Business District) is designed to accommodate a wide variety of commercial activities oriented towards pedestrians and which will result in the most intensive and attractive use of the town's central business district.

(C) The TBD (Thoroughfare Business District) is designed to accommodate commercial development on a scale that is less intensive than that permitted in a CBD District. A lesser intensity of development is achieved through setback, height, and minimum lot size requirements that are more restrictive than those applicable to the CBD zone. The types of uses permissible in these zones are generally similar to the types permissible in a CBD zone, except that additional autoManufactured-oriented businesses not allowed in the NBD zone are permissible

in these zones. The dimensional restrictions in the zone are also designed in appropriate areas to encourage the renovation for commercial purposes of buildings that formerly were single-family residences.

(D) The O-I (Office/Institutional District) is designed to accommodate a mixture of residential uses and uses that fall primarily within the 1.0, 4.0, 5.0 and 7.0 classifications in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk. The O-I District is intended to provide land areas for office and institutional uses where proximity to residential, public, commercial and other land uses, and existing and projected traffic patterns make it desirable to locate office and institutional uses. The areas will also generally constitute transition or buffer zones between major arterial or more intensively developed commercial areas and residential districts.

(E) The NBD (Neighborhood Business District) is intended to provide areas for the convenience of adjacent residential areas, and to permit only USES as are necessary to satisfy limited basic shopping needs which occur daily or frequently. No industry, industrial or wholesale business shall be allowed.

(Ord. passed 11-18-2010)

§ 152.082 INDUSTRIAL DISTRICTS.

The following districts are hereby established primarily to accommodate enterprises engaged in the industrial, processing, creating, repairing, renovation, painting, cleaning or assembling of goods, merchandise or equipment:

(A) *H-I (Heavy Industrial District).* This zoning district is intended to provide an area where heavy industrial activities like manufacturing, processing, repairing and assembling can take place. Proximity to railroad transportation will likely be important for these activities. Because of the dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions inherent in some industrial activities, screening and other conditions may be applied to certain uses. The zoning district allows commercial and residential uses but with conflicts being resolved in favor of industrial uses. Criteria for lands that are included in this zoning district are those areas that are adjacent to major arterials or other industrial users, and of sufficient size to allow heavy commercial activities. They should also be buffered from lower density users; and

(B) *L-I (Light Industrial District).* The Light Industrial Zoning District is established to protect and promote a suitable environment for light industrial purposes, including accessibility to major transportation routes as well as availability of adequate utilities and other public services. It is primarily designated for light manufacturing, assembling, wholesaling, warehousing and related uses. Industrial uses that cause obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, glare, fire hazards or other objectionable environmental conditions are prohibited in this zoning district.

(Ord. passed 11-18-2010)

§ 152.083 WATERSHED PROTECTION OVERLAY DISTRICT.

(A) The town has within its jurisdiction, a portion of the watershed area and critical area of the Bear Creek Watershed. This watershed has been classified a WS-III by the Environmental Management Commission. The governing board has chosen the low density option for development within the watershed area and elects to use the Special Intensity Allocation (SIA) on a case by case basis. This area is displayed on the town official zoning map, and the following regulations apply to these areas in addition to regulations stated in the Town Unified Development Ordinance.

(1) G.S. § 143-214.5 provides for a cooperative program of water supply watershed management and protection to be administered by local governments consistent with minimum statewide management requirements established by the Environmental Management Commission. In order to promote the public health, safety and welfare, the governing board of the town adopts these Watershed Protection regulations effective for all areas designated Watershed Protection Overlay District on the official zoning map.

(2) If, at the time of application for a zoning permit, it is determined that the property lies in a water

supply watershed, as shown on the official zoning map, a watershed protection permit will be required. Requirements outlined in § 152.045(G) will be followed when application for a watershed protection permit is made.

(B) The watershed protection district is established as a district in which the primary use of the land is reserved for the protection of waterways, flood control, future thoroughfare right-of-way, public recreation, and similar open space uses. In promoting the general purpose of this chapter, the specific intent of this district is to:

(1) Restrict private development of land;

(2) Comply with federal and state flood controls and watershed laws, regulations and policies;

(3) Encourage the preservation of and continued use of land for conservation purposes;

(4) Discourage the continuance of existing uses that would not be permitted uses in the district; and

(5) Facilitate long-range public facilities and thoroughfare planning.

(C) Boundary of the town Watershed Overlay District: Beginning at the intersection of the center line of State Road No. 1002 with Cabin Creek at the west corner of the boundary of the town extraterritorial zoning limits and running thence from the beginning, along the center of State Road No. 1002 and with the zoning limits line in an easterly direction about 600 yards to the intersection of State Road No. 1002 with State Road No. 1434; thence continuing as the centerline of State Road No. 1002, leaving the zoning line, in an easterly direction about 1,200 yards to the intersection of State Road No. 1002 with a gravel road leading north to the town Charlie S. Brooks Reservoir; Thence along the center of the gravel road, in a northerly direction, about 600 yards to the intersection of the gravel road with the Aberdeen, Carolina and Western Railroad; thence as a straight line in a northeast direction about 200 feet to a P.K. nail in the south end of the concrete dam as shown on a plat of the Charlie B. Brooks Reservoir recorded in plat cabinet 5, slide 284 in the County Registry; thence as a straight line, in a northerly direction about 400 yards to the south end of State Road No. 1451 as maintained by the State Department of Transportation this date; thence along the center line of State Road No. 1451, in a northwest direction, about 1,100 yards to the intersection of State Road No. 1451 with the extraterritorial zoning limits line of the town; thence as the western extraterritorial zoning limits line, in a southerly direction, about 2,100 yards to the beginning, encompassing approximately 415 acres, more or less.

(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

Cross-reference:

Watershed Protection Overlay District, see Ch. 151

§ 152.084 PLANNED UNIT DEVELOPMENT.

(A) There are hereby established four different planned unit development (PUD) districts as described in this section. Each PUD district is designed to combine the characteristics of at least three and possibly four zoning districts.

(1) One element of each PUD district shall be the medium-density residential element. In this district the density shall correspond to the R-10 residential districts as described in § 152.080(C) above. Within that portion of the PUD zone that is developed for medium density residential purposes, all development must be in accordance with the regulations applicable to the medium density residential district to which the particular PUD zoning district corresponds, excluding planned residential developments.

(2) A second element of each PUD district shall be the higher density residential element. In this district the density shall correspond to the R-8 residential districts as described in § 152.080(D) above. Within that portion of the PUD zone that is developed for higher density residential purposes, all development must be in accordance with the regulations applicable to the higher density residential district to which the PUD district corresponds.

(3) A third element of each PUD district shall be the commercial element. Here there are three possibilities, each in corresponding to one of the following commercial districts identified in Section CBD or TBD. Within that portion of a PUD district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the PUD district corresponds.

(4) An industrial/processing element may be a fourth element of any PUD district. There are two alternatives. The first is that uses permitted within the I (Industrial) district would be permitted within the PUD district. The second alternative is that uses permitted only within the I (Industrial) zoning districts would not be permitted. If an I (Industrial) element is included, then within that portion of the PUD district that is developed for purposes permissible in an I (Industrial) district, all development must be in accordance with the regulations applicable to the I (Industrial) district.

(B) In accordance with the description set forth in division (A) above, the PUD districts shall carry the following designations to indicate their component elements:

(1) R-10, R-8, TBD and L-I (Industrial);

(2) R-8, TBD and L-I (Industrial);

(3) R-10, TBD and L-I (Industrial); and

(4) R-10, TBD and L-I (Industrial).

(C) No area of less than 25 acres may be zoned as a PUD district, and then only upon the request of the owner or owners of all the property intended to be covered by the zone.

(D) As indicated in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, a planned unit development is the only permissible use of a PUD zone and planned unit developments are permissible only in those zones.

(E) Planned unit developments are subject to the requirements set forth in § 152.121, medium density residential district to which the particular PUD zoning district responds, excluding planned residential developments.

(Ord. passed 11-18-2010)

§ 152.085 FLOODPLAIN AND FLOODWAY DISTRICTS.

(A) The floodplain and floodway districts are hereby established as “overlay” districts, meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying districts only if and to the extent the use is also permitted in the applicable overlay district. The floodplain and floodway districts are further described in §§ 152.230 through 152.241.

(B) The following conditional use districts are hereby established: R-8-C, R-10-C, R-20-C, RA-20-C, RA-40-C, CBD-C, TBD-C, NBD-C, H-I and L-I (Industrial)-C, LF-C.

(Ord. passed 11-18-2010)

§ 152.086 CONDITIONAL ZONING DISTRICTS.

(A) For each general zoning district, there is hereby established a parallel conditional zoning district. In a conditional zoning district the standards and permitted uses applicable to the parallel general use district may be varied in accordance with the provisions of section 152.030 of this code.

(B) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the town Zoning Map by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters “CZ” (for example a Thoroughfare Business District subject to Conditional Zoning would be designated as “TBD-CZ”). Additionally, conditional zoning may also be applied to PUD districts.
(Ord. passed 6-14-18)

§ 152.087 LANDFILL DISTRICT.

(A) The LF-1 (Landfill-1) Zoning District is hereby established.

(B) The LF-1 Zoning District is designed to accommodate landfills.

(C) The above zoning district is normally associated with or characterized as follows:

(1) Large tracts of uninhabited land;

(2) Surrounded by similar uses;

(3) Not within development zones established by the town’s land development plans;

(4) In areas where municipal water and sewer are not reasonably available; and

(5) Not permitted if the use is prohibited by another provision of the town’s code of ordinances or Unified Development Ordinance.

(D) The standards set forth in Ord. passed 11-18-2010, Appendix G, available for inspection in the office of the Town Clerk, place further limitation on the characteristics of uses located within the above zoning district.
(Ord. passed 11-18-2010)

§ 152.088 OFFICIAL ZONING MAP.

(A) For the purposes of this chapter, the town and the extraterritorial jurisdiction are hereby divided into several zoning districts whose location and boundaries are shown on the official zoning map for the town which is hereby adopted by reference and declared to be a part of this chapter.

(B) This zoning map and all notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this chapter, the same as if the information set forth on the map were all fully described and set out herein. The zoning map properly attested is on file in the Town Hall at 101 North Middleton Street and is available for inspection by the public. The official zoning map, dated May 21, 1992, is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with § 152.089.

(C) The Ordinance Administrator or his or her representative shall be responsible for the maintenance and revision of the official zoning map. The Ordinance Administrator shall make the necessary changes on the official zoning map within seven calendar days after notification that a zoning change has been made by the Board of Commissioners.

(D) In order that the purpose of this chapter may be accomplished, the zoning districts are hereby established within the zoning jurisdictional area described in divisions (A) and (B) and are hereby given the

following designations.

Zoning District	*Designation*	*Color Code*
Residential District	R20	Light purple
Residential District	R10	Yellow
Residential District	R8	Orange
Central Business District	CBD	White
Thoroughfare Business District	TBD	Red
Office and Institutional	O-I	-
Neighborhood Business District	NBD	-
Watershed Protection District	WPD	Green
Residential Agricultural District ETJ	RA20	Pink
Residential Agricultural District ETJ	RA40	Gray
H-I (Heavy Industrial)	H-I	Dark purple
L-I (Light Industrial)	L-I	White with dark purple stripes running diagonally through

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

(1) Unless otherwise specifically indicated, where district boundaries are shown on the zoning map as approximately parallel or following the center lines of streets, highways, railroad rights-of-way, utility easements or stream beds, or the lines extended, then the lines shall be construed to be the district boundaries.

(2) Where district boundaries are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundaries.

(3) Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that the extension shall not include any part of the lot which lies more than 50 feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.

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

(5) The Board of Adjustment shall be empowered to interpret the intent of the zoning map as to the location of district boundaries in case any further uncertainty exists.

(6) Whereas the extraterritorial jurisdictional boundary line divides a lot, the county will have

jurisdiction over these lots where more than 50% of the parcel lies in the county jurisdiction, and the town will have jurisdiction over parcels with more than 50% in its jurisdiction.
(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013; Amended 6-14-2018)

§ 152.089 AMENDMENTS TO OFFICIAL ZONING MAP.

(A) Amendments to the official zoning map are accomplished using the same methods as apply to other amendments to this chapter, as set forth in §§ 152.330 through 152.336.

(B) The Administrator shall update the official zoning map as soon as possible following amendment.

(C) No unauthorized person may alter or modify the official zoning map.

(D) The Ordinance Administrator shall keep copies of superseded prints of the zoning map for historical reference.
(Ord. passed 11-18-2010)

TABLE OF PERMISSIBLE USES

§ 152.100 DEFINITIONS.

The following definitions shall be used in administering the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE. A use incidental to, and on the same lot as, a principal use.

AGRICULTURAL USE. The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce; provided however, that the operation of the accessory uses shall be secondary to that of normal agricultural activities.

AIRPLANE HANGAR. A building used for storage of aircraft, the location for which is either on municipal airport property or property adjoining a municipal airport. This use shall be permitted in accordance with the Table of Permissible Uses provided an “Agreement Regarding Airport Access”, allowing access to town property, runways and taxiways, has been fully executed.

ANTENNA. Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

BAR (NIGHT CLUBS). A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Also known as the ***100-YEAR FLOOD***.

BOARDING HOUSE. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or ***BOARDING HOUSE*** is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guest.

BUFFER YARD. Open space setbacks which separate site improvements from adjacent property lines and street right-of-way. These may contain natural materials including but not limited to vegetation, ground cover, mulch and the like. Fencing, paving, gravel, buildings, dumpsters, storage, curb and gutter and the like, are all prohibited within the ***BUFFER YARD***.

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

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

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

CONSUMER RECYLCING COLLECTION CENTER. Facilities intended to serve as collection points for household recyclables and small amounts of recyclable materials generated by commercial uses, such as discarded paper and cardboard from offices.

CONVENIENCE STORE. A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Quick Check", "FastFare" and "7-11" chains.

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

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

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

HALFWAY HOUSE. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, eleven of whom live together as a single house keeping unit.

HANDICAPPED OR INFIRM HOME. A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally handicapped or infirm, together with no more than two persons providing care or assistance to those persons, all living together as a single housekeeping unit. Persons residing in the homes, including the aged and disabled, principally need residential care rather than medical treatment.

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

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment which: is clearly incidental and subordinate to the use of the dwelling unit as a residence; is carried on only within the main dwelling and does not alter or change the exterior character of appearances of the dwelling; iii) is located in a residential district; and is created and operated as a sole proprietorship.

HOME OCCUPATION, RURAL. An accessory use to customary farming operation or a non-farm household located in a rural area assigned for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from accessory buildings located within 100 linear feet of the dwelling unit occupied by the family conducting the home occupation.

INERT DEBRIS BENEFICIAL FILL. Operation that does not require State Division of Waste Management permits, that only fills valley, holes and the like, for purpose of leveling up land for future construction (a site plan must be submitted). The filling operation must be part of land preparation for immediate future development. The fill material shall be solid waste that consists solely of material that is virtually inert (non-reactive under normal conditions), that is likely to retain its physical and chemical structure under expected conditions of disposal including but not limited to brick, concrete, cement, cinderblock, asphalt, gravel, rock soil and similar materials that are not painted, treated, contaminated by petroleum products, nor biodegradable.

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

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

JUNKYARD. An establishment or place of business which is maintained, operated, or used for storing,

keeping, buying, or selling of junk, or for the maintenance or operation of an automobile graveyard. Any establishment or place of business storing five (5) or more junked motor vehicles outside of an enclosed building is a junkyard.

KENNEL. A commercial operation that: provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian); or engages in the breeding of animals for sale.

LOADING AND UNLOADING AREA. The portion of the vehicle accommodation area used to satisfy the requirements of § 152.296.

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

(1) The minimum width of a home shall be 22 feet heated living space;

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

(3) The exterior siding consists of wood, hardboard or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

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

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

(6) The home shall be placed so that the apparent entrance or front of the home faces or parallels the principal street frontage, except where the lot size exceeds one acre.

MANUFACTURED HOME. A transportable structure, exceeding 40 feet in length and eight feet in width, designed to be used as a year round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Standards Act of 1974 which became effective June 15, 1976.

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

MANUFACTURED HOME, CLASS B. Any Manufactured home that does not meet the definition criteria of a Manufactured Home or Manufactured Home, Class A.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set fourth in the State Building Code applicable to site-built homes and composed of components substantially assembled in an industrial plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a Manufactured home (except that the modular home meets the [state or local building code applicable to site-built homes]), or a series of panels or room sections transported on a truck and erected or joined together on the site.

MOTEL. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for autoManufactured travelers and having a parking space adjacent to a sleeping room. An autoManufactured court or a tourist court with more than one unit or a motor lodge shall be deemed a ***MOTEL***.

NURSING CARE HOME. A facility maintained for the purpose of providing skilled nursing care and medical

supervision at a lower level than that available in a hospital to not more than nine persons.

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

OFFICE. A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

PARK. Any public or private land available for recreational, educational, cultural or aesthetic use.

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

PLANNED UNIT DEVELOPMENT (PUD). A development constructed on a tract of at least 25 acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PUD district.

PLANNING JURISDICTION. The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development.

PUBLIC WATER SUPPLY SYSTEM. Any water supply system furnishing portable water to 10 or more dwelling units or businesses or any combination thereof.

RECYCLING OPERATION. An establishment or place of business which is maintained, operated or used for collecting and recycling materials. Recycling operations include, but are not limited to, consumer recycling collection centers.

REOCCURRING SPECIAL EVENTS. Circuses, fairs, carnivals, festivals or other types of special events that: run for longer than one day but not longer than 14 days; are intended to or likely to attract substantial crowds; and reoccur up to four times a year (see § 156 for additional requirements).

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

RESIDENCE, MULTI-FAMILY. A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall.

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

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

RESIDENCE, MULTI-FAMILY DOWNTOWN APARTMENTS. Multiple dwelling units located within the central business district intended for renter occupancy only and that share means of egress and other essential facilities.

RESIDENCE, MULTI-FAMILY DOWNTOWN CONDOMINIUMS. Multiple dwelling units located within the central business district intended for owner occupancy, with the interior space individually owned but the land beneath each unit and all common areas are owned proportionately by each unit owner in the development. Walls between units are constructed in accordance with State Building Code requirements.

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

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

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

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

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

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

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

RESTAURANT. An establishment that serves food and beverages primarily to persons seated within the building. This includes cafés, tea rooms and outdoor cafés.

SALVAGE YARD. Any nonresidential property not otherwise regulated by this ordinance as a junkyard or recycling operation that is used for the storage, collection and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery. For the limited purposes of the portion of this ordinance pertaining to “Floodways, Floodplains, Drainage and Erosion,” (i.e. § 152-230, et seq.), this definition includes junkyards and recycling operations.

SHELTER HOUSE. Short-term housing for not more than nine women and children in need of safe and secure dwelling with no more than two on site managers. Residents are responsible for the care of their children. This is not to be considered a treatment facility and shall be permitted in accordance with the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, provided there is not a similar facility on the same lot.

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

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

STRUCTURE. Anything constructed or erected.

TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE. A residence (which may be a
Manufactured home) that is: located on the same lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by the disaster; or located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in the permanent residence when the work is completed; or located on a nonresidential construction site and occupied by persons having construction or security responsibilities over the construction

site.

TEMPORARY VEHICLE STORAGE, ACCESSORY USE. The storage area for an establishment or place of business that is maintained, used or operated for storing, parking, sales, repair and/or processing of inoperative, wrecked, towed and/or damaged vehicles located outside of an enclosed structure for less than 90 days. The storage area shall be customarily associated with but not limited to; motor vehicle sales or rental, installation of motor vehicle parts or accessories, motor vehicle repair and maintenance, motor vehicle painting and body work, commercial garages, and automobile service stations. ***VEHICLES*** may include but not limited to motor vehicles, automobiles, trailers, trucks, tractor-trailer, boats, recreational vehicles, and motorcycles. This definition does not include junkyard, automobile salvage yard or automobiles graveyard operation. Staking, dismantling and/or disassembling vehicles in order to sell the parts is not permitted under this definition.

THEATER: A structure less than 10,000 square feet in size used for dramatic, operatic, motion pictures, or other performance for which entrance money may or may not be received (could add “no meals served” and “no audience participation”).

TOWER. Any structure whose principal function is to support an antenna.

TRACT. The term is used interchangeably with the term ***LOT***. Particularly in the context of subdivisions, where one ***TRACT*** is subdivided into several ***LOTS***.

TRAVEL TRAILER. A structure that: is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definition criteria of a Manufactured home.

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

UTILITY FACILITIES. Any above-ground structures or facilities (other than buildings, unless the buildings are used as storage incidental to the operation of the structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by (the appropriate provision of state law) and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals. Except from this definition are utility lines and supporting structures listed in § 152.105(B) below.

UTILITY FACILITIES, COMMUNITY OR REGIONAL. All utility facilities other than neighborhood facilities.

UTILITY FACILITIES, NEIGHBORHOOD. Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where the facilities are proposed to be located.

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

ZONING PERMIT. A permit issued by the Land Use Administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

(Ord. passed 11-18-2010, Amended 6-14-2018)

§ 152.101 USE OF THE DESIGNATIONS P, S, C.

(A) Subject to § 152.102 below, when used in connection with a particular use in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, the letter “P” means that the use is permissible in the indicated zone with a zoning permit issued by the Administrator. The letter “S” means a special use permit must be obtained from the Board of Adjustment, and the letter “C” means a conditional use permit must be obtained from the Board of Commissioners. A blank space in the Table of Permissible Uses means that a particular use is prohibited. (Amended 6-14-18)

(B) When used in connection with residential uses (use classification 1.000), the designation “PSC” means that the developments of less than five dwelling units must be pursuant to a zoning permit, developments of five or more but less than 13 dwelling units need a special use permit, and developments of 13 or more dwelling units require a conditional use permit.

(C) When used in connection with nonresidential uses, the designation “PS” or “PC” means that the developments require a zoning permit if the lot to be developed is less than one acre in size and a special or conditional use permit, respectively, if the lot is one acre or larger in area.

(D) Use of the designation PSC for combination uses is explained in § 152.107 below. (Ord. passed 11-18-2010)

§ 152.102 BOARD OF ADJUSTMENT JURISDICTION OVER USES OTHERWISE PERMISSIBLE WITH A ZONING PERMIT.

Notwithstanding any other provisions of this chapter, whenever the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk (interpreted in the light of § 152.101 above, and the other provisions of this chapter) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special use permit shall nevertheless be required if the Administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.
(Ord. passed 11-18-2010)

§ 152.103 PERMISSIBLE USES AND SPECIFIC EXCLUSIONS.

(A) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the town’s planning jurisdiction. Therefore, because the list of permissible uses set forth in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(B) Notwithstanding division (A) above, all uses that are not listed in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, even given the liberal interpretation mandated by division (A) above, are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(C) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution or storage of any highly combustible or explosive materials in violation of the town’s Fire Prevention Code;

(2) Stockyards, slaughterhouses, rendering plants;

(3) Use of a travel trailer as a temporary or permanent residence (Situations that do not comply with this subdivision on the effective date of this chapter are required to conform within one year.); and

(4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. (Situation that do not comply with this subdivision on the effective date of this chapter are required to conform within 30 days).

(Ord. passed 11-18-2010)

§ 152.104 ACCESSORY USES.

(A) Section 152.100 classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use: constitutes only an incidental or insubstantial part of the total activity that takes place on a lot; or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to the principal uses, even though the facilities, if developed apart from a residential development, would require a special use permit.

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

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

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

(C) Without limiting the generality of divisions (A) and (B) above, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses.

(1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as the building to carry on administrative or artistic activities of a commercial nature, so long as the activities do not fall within the definition of a home occupation.

(2) Hobbies or recreational activities of a noncommercial nature.

(3) The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.

(4) Yard sales or garage sales, so long as the sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.

(D) Without limiting the generality of divisions (A) and (B) above, the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.

(1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

(2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the following principal use classifications: 1.100, 1.200 or 1.400.

(Ord. passed 11-18-2010)

§ 152.105 PERMISSIBLE USES NOT REQUIRING PERMITS.

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

(A) Streets;

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

(C) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.
(Ord. passed 11-18-2010)

§ 152.106 CHANGE IN USE.

(A) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(1) The change involves a change from one principal use category to another;

(2) If the original use is a combination use or planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development changes to such an extent that the parking requirements for the overall use are altered;

(3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes;

(4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change; or

(5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business).

(B) (1) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use.

(2) Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(C) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.
(Ord. passed 11-18-2010)

§ 152.107 COMBINATION USES.

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

(1) A conditional use permit if any of the principal uses combined requires a conditional use permit;

(2) A special use permit if any of the principal uses combined requires a special use permit but none requires a conditional use permit; or

(3) A zoning permit in all other cases. This is indicated in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, by the designation PSC in each of the columns adjacent to the classification.

(B) When a combination use consists of a single-family detached residential subdivision that is not architecturally integrated and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion asif it were a separate lot.

(C) When a combination use consists of a single-family detached, architecturally integrated subdivision and two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit.
(Ord. passed 11-18-2010)

§ 152.108 MORE SPECIFIC USE CONTROLS.

Whenever a development could fall within more than one use classification in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, the classification that most closely and most specifically describes the development controls.
(Ord. passed 11-18-2010)

§ 152.109 TABLE OF PERMISSIBLE USES.

The table of permissible uses is available for inspection in the office of the Town Clerk
(Ord. passed 11-18-2010; Amended 6-14-2018)

SUPPLEMENTARY USE REGULATIONS

§ 152.120 PLANNED RESIDENTIAL DEVELOPMENTS.

(A) Planned residential developments (PRDs) are permissible only on tracts of at least five acres located within an A-R, R-10 or R-6 zoning district.

(B) The overall density of a tract developed by a PRD shall be determined as provided in § 152.141 below.

(C) Permissible types of residential uses within a PRD include single-family detached dwellings, two-family residences and multi-family residences.

(D) To the extent practicable, the two-family and multi-family portions of a PRD shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties.

(E) In a planned residential development, the screening requirements that would normally apply where two-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development, but all screening requirements shall apply between the tract so developed and adjacent lots. (Ord. passed 11-18-2010)

§ 152.121 PLANNED UNIT DEVELOPMENTS.

(A) In a planned unit development, the developer may make use of the land for any purpose authorized in a particular PUD zoning district in which the land is located, subject to the provisions of this chapter. Section 152.084 describes the various types of PUD zoning districts.

(B) Within any lot developed as a planned unit development, not more than 35% of the total lot area may be developed for higher density residential purposes (R-10 or R-8, as applicable), not more than 20% of the total lot area may be developed for purposes that are permissible only in a TBD, zoning district and not more than 10% of the total lot area may be developed for uses permissible only in the I(Industrial) zoning district (assuming the PUD zoning district allows the uses at all).

(C) The plans for the proposed planned unit development shall indicate the particular portions of the lot that the developer intends to develop for higher density residential purposes, lower density residential purposes, purposes permissible in a commercial district (as applicable, and purposes permissible only in an I (Industrial) District (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, higher density residential (R-10 or R-8), commercial or I (Industrial) uses. However, only one permit, a planned unit development permit, shall be issued for the entire development.

(D) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by and of the mechanisms provided in §
§ 152.045 and 152.046 above to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of integrate and well-planned, primarily residential development. (Ord. passed 11-18-2010)

§ 152.122 TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCES.

(A) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

(B) Permits for temporary residences to be occupied pending the construction repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the Administrator may renew the permit for one additional period not to exceed three months if he or she determines that the renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make the building habitable.
(Ord. passed 11-18-2010)

§ 152.123 SPECIAL EVENTS AND THEATERS.

(A) In deciding whether a permit for a special event should be denied for any reason specified in
§ 152.045(I)(4), or in deciding what additional conditions to impose under § 152.045(O), the Board of Commissioners shall ensure that:

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity;

(2) The amount of noise generated shall not disrupt the activities of adjacent land uses;

(3) The applications shall guarantee that all litter generated by the special event be removed at no expense to the town; and

(4) The Board of Commissioners shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(B) In cases where it is deemed necessary, the Board of Commissioners may require the applicant to post a bond to ensure compliance with the conditions of the conditional use permit.

(C) If the permit applicant requests the town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the town a fee sufficient to reimburse the town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to confer the costs incurred.

(D) In the event that a theater land use proposes activities to occur outside of a building, a special events permit may be required if the Zoning Administrator determines that increased impacts to nearby commercial and residential properties could occur due to noise, litter or traffic.
(Ord. passed 11-18-2010; Amended 6-14-18)

§ 152.124 SEXUALLY ORIENTED BUSINESSES.

All sexually oriented businesses must comply with the requirements set forth in the “Ordinance to Regulate Sexually Oriented Businesses” found in Appendix F of Ord. passed 11-18-2010, which is on file in the office of the Town Clerk.

(Ord. passed 11-18-2010)

§ 152.125 MULTI-FAMILY DOWNTOWN DEVELOPMENT.

Conditional use permit approval will be required for all downtown residential developments. The following items are required and must be submitted with the conditional use permit application:

(A) A site plan (produced by a registered land surveyor or state certified engineer) including phasing, building height, dimensions, landscaping, parking and the like;

(B) Detailed floor plan (produced by a state certified engineer) of each level of a structure to be utilized including separations, dimensions, entrances, exits and the like;

(C) Illustration of the physical design features or themes used to unify the development and to provide compatibility to neighboring developments. Possible features used to unify the design include but are not limited to: building style, building materials, colors, windows, facades, signage, landscaping, and streetscape design;

(D) Minimum number of square feet per unit:

(1) One-bedroom: 600;

(2) Two-bedroom: 900; and

(3) Three-bedroom: 1,200.

(E) Each dwelling unit shall be self-sufficient and include the following rooms or items: complete kitchen, full bath, living, bed and washer/dryer hookups. Community laundry facilities shall not be permitted. Laundry shall not be visible from adjoining property or right-of-way;

(F) Each dwelling shall have central heating and air conditioning (window unit air conditioners shall not be permitted). Mechanical equipment such as heat pumps, heating units, central air conditioning units must be screened from public view by means of fencing, berms, false facades or dense landscaping;

(G) Every bedroom must have a rescue window. If roof access is allowed a fire escape must be installed. If building is located in primary fire district it must meet all applicable requirements. One use shall not be allowed to ingress or egress through another use;

(H) At least 33% or 1,200 square feet, whichever is greater, of the first floor space (located along the street front) must be reserved for commercial or office use;

(I) Must meet ADA requirements including ADA-compliant curb ramps;

(J) The on-site pedestrian circulation system must be lighted to a level where residents can safely use the system at night. The lighting shall be subject to the lighting standards;

(K) Sufficient garbage disposal facilities are required and shall be properly screened. Outdoor storage shall not be permitted (junk, trash or debris shall not be visible from an adjoining property or right-of-way);

(L) One parking space for each bedroom. Each space shall be restricted to the appropriate residence. Signage designating restricted parking shall be installed. A ten-year contractual agreement for parking must

always be maintained if the residential development is to continue operation;

(M) Parking lot must be paved;

(N) Parking lot must be shaded by deciduous trees that are at least 12 inches in diameter when fully mature;

(O) Broken screen Type C is required along all streets;

(P) A property maintenance code must be submitted that details responsibility and restrictive covenants;

(Q) Historic preservation procedures should be ensured for properties designated on the National Register of Historic Places;

(R) Final plat, site plan, building plan, zoning permit and building permit approval by town staff shall be required prior to any construction; and

(S) All other applicable development regulations provided in the UDO shall apply. (Ord. passed 11-18-2010)

§ 152.126 TEMPORARY VEHICLE STORAGE, ACCESSORY USE.

(A) Special use permit, site plan and zoning permits approval shall be required.

(B) A buffer yard of ten feet shall be maintained along the entire perimeter of the storage area.

(C) Minimum vegetation for the buffer yard shall be eight large evergreen trees, ten small evergreen trees and 36 large evergreen shrubs per 100 linear feet of buffer or fraction thereof.

(D) Trees must be at least six feet tall at the time of planting

(E) Storage area shall not be visible from any adjacent property or public right-of-way. Stored items shall not project above required vegetation. The vegetation shall be complete visual barrier.

(F) Storage area shall be set back at least 50 feet from the street right-of-way or two times the distance from the street right-of-way line as required for the district in which it is located, which ever is greater.

(G) Only one entrance is permitted into the storage area. The entrance shall be less than 18 feet wide. A gate that is completely opaque and at least 8 feet in height (measure from the nearest adjacent grade) shall secure the entrance.

(H) Storage area shall be graded and surface with asphalt or concrete. (Ord. passed 11-18-2010)

§ 152.127 LANDFILLS.

All landfills must comply with the requirements set forth in the “Landfill Ordinance” found in Appendix G of Ord. passed 11-18-2010, on file in the office of the Town Clerk.
(Ord. passed 11-18-2010)

§ 152.128 REOCCURRING SPECIAL EVENTS.

(A) In deciding whether a permit for a re-occurring special event should be denied for any reason specified in§ 152.045(J)(4), or in deciding what additional conditions to impose under § 152.045(P), the Board of

Commissioners shall ensure that:

(1) The hours of operation allowed shall be from 8:00 a.m. to 11:00 p.m.;

(2) Noise and lighting shall be in accordance with §§ 152.230 through 152.241 and §§ 152.211 and 152.212;

(3) The applicant shall guarantee that all litter generated and temporary structures constructed by the special event be removed at no expense to the town. Applicant shall restore property to original condition within ten days of even completion, or be subject to fines levied by the town;

(4) The Board of Commissioners shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners to access their properties;

(5) Event will not substantially interrupt vehicular or pedestrian traffic in the immediate area nor block traffic lanes or close streets;

(6) The maximum frequency of the special event shall not exceed four occurrences within any 12-month period and the maximum duration of the special event shall not exceed 14 days per occurrence;

(7) No associated activity or storage area, temporary structure, tent, booth, stand, mechanical ride or apparatus or the like shall be located or operated within 250 feet of any occupied residential dwelling;

(8) The use shall be subject to development standards for the district and use;

(9) Signage shall be allowed in accordance with §§ 152.255 through 152.272;

(10) Prior to any special event, a site plan of sufficient detail to insure compliance with required standards shall be submitted to the Planning Department for review and approval; and

(11) Obtain all state (mass gathering, NCDOL Elevator Division Inspection and the like), county (Environmental Health Division Inspection, Fire Marshall Inspection and the like) and town (zoning, building inspections, business license, sign, water connection and the like) approvals or permits prior to any special event.

(B) In cases where it is deemed necessary, the Board of Commissioners may require the applicant to post a bond to ensure compliance with the conditions of the conditional use permit.

(C) If the permit applicant requests the town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the town a fee sufficient to reimburse the town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to confer the costs incurred.

(D) Special events initially permitted by a conditional use permit may receive a zoning permit for a recurrence of the event at the same site and at a later time without the approval of a new conditional use permit provided:

(1) The reoccurring event is essentially identical in scope, size, and character as the previously permitted
event;

(2) The previously permitted event generated no significant complaints from the public regarding noise, glare, traffic, odor or other public nuisance;

(3) The previously permitted event concluded not more than 24 months prior to the reoccurring event;

and

(4) The zoning permit application and all supporting documentation for the reoccurring event are approved by the town prior to the event.

(E) In the event that any of the above conditions are not fulfilled, a new conditional use permit shall be required.

(F) Special events sponsored in whole or in part by the town which are officially sanctioned by the Board of Commissioners shall be a permitted use.

(Ord. passed 11-18-2010)

§ 152.128.1 ELECTRONIC GAMING OPERATIONS

In addition to the regulations provided for elsewhere in this ordinance, including but not limited to those found in Code of Ordinances Chapter 111, "Game Rooms," electronic gaming operations shall be subject to the following requirements:

(A) Spacing Requirements.

(1) Each electronic gaming operation must be a minimum of 500 feet from any building being used as a dwelling.

(2) Each electronic gaming operation must be a minimum of 2,000 feet from any other electronic gaming operation.

(3) For the purposes of this subsection, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling or other electronic gaming operation; and

(B) Electronic gaming operations are prohibited in or as a part of any check cashing facility;

(Ord. passed 12-14-2017)

§ 152.128.2 SOLAR FARMS

As used in this section, the "applicant" shall refer to the conditional use permit applicant and any subsequent owner and operator of a solar farm. Solar farms shall be subject to the following additional requirements:

(A) Application Requirements. In addition to the other submission requirements of this ordinance, the applicant shall submit the following documents as part of its application for a conditional use permit:

(1) A decommissioning plan;

(2) A vegetation management plan;

(3) A map showing a radius of five (5) nautical miles from the center of the solar farm with any airport operations within this area highlighted;

(4) A map or site plan showing the location of the electrical disconnect switch;

(5) The report generated by the Solar Glare Hazard Analysis Tool ("SGHAT") for subsection (J); and

(6) A maintenance and cleaning plan.

If the conditional use permit is approved, these documents shall be deemed part of the permit.

(B) Decommissioning Plan.

(1) The decommissioning plan shall include, at a minimum, the following items:

(i) The conditions upon which decommissioning will be initiated (for example, the end of the land lease, no power production for six (6) months, etc.);
(ii) A requirement that all non-utility owned buildings, solar panels, fencing, other structures and equipment, roads, foundations, and other appurtenances shall be removed.
(iii) A requirement that the property shall be restored to its condition prior to development of the solar farm;
(iv) The timeframe for completing decommissioning activities;
(v) A description of any agreement with the landowner regarding decommissioning;
(vi) The party currently responsible for the decommissioning; and
(vii) Plans for updating the decommissioning plan.

(2) The decommissioning plan shall be fully executed by the applicant.

(3) The decommissioning plan shall be recorded with the Moore County Register of Deeds within thirty (30) days of approval of the conditional use permit.

(C) Surety. Prior to the issuance of any zoning compliance perimits, the applicant shall provide the Town a bond, irrevocable letter of credit, or other surety approved by the Robbins Board of Commissioners. Said surety shall be in favor of the Town of Robbins in an amount equal to 125% of the estimated cost to fully execute the Decommissioning Plan, including, but not limited to, the removal of the solar panels, cabling, electrical components, and any other associated facilities. The applicant may demonstrate the estimated cost by submitting an estimate sealed by a North Carolina licensed engineer or signed by a North Carolina licensed general contractor. If the solar farm owner elects to use a letter of credit, it shall be issued by a bank with a branch office in Moore County or a county adjacent to Moore County. The surety shall remain in full force and effect until the Decommissions Plan has been fully executed.

(D) Vegetation Management. For weed and other vegetation management, the applicant shall only use organic herbicides or other methods that do not require herbicides. All proposed vegetation management strategies shall be identified and described in the vegetation management plan.

(E) Security. The solar farm shall be secured by appropriate gates and locks, which shall be maintained in good working condition for the life of the solar farm including through the completed decommissioning of the site.

(F) Emergency Management.

(1) The applicant shall provide the Town Police and Fire Rescue Departments the all necessary entrance lock combinations and/or keys necessary to access the property in an emergency. Should the lock be changed at any time in the future, the applicant shall promptly provide the Town Police and Fire Rescue Departments the codes, other information, or keys necessary to access the Property.

(2) The applicant shall provide and maintain current contact information for the solar farm operator with the Town Police and Fire Rescue Departments.

(3) The electrical disconnect switch shall be clearly identified and unobstructed

(4) The applicant will work with the Town Fire Rescue Department and other local first responders to provide support and training on how to handle emergencies that might occur on the property in connection with the operation of a solar farm.

(G) Setback. All buildings, solar panels, other structures and equipment, and other appurtenances associated with the solar farm, except for perimeter fencing, shall be setback a minimum of 200 feet from all dwellings. This standard may be lowered upon a demonstration that no adverse effects, including negative aesthetic effects, to neighboring and nearby properties will occur.

(H) Vegetated Buffer. There shall be a minimum 100-foot vegetated buffer around the entire perimeter of the property. The buffer shall be an opaque screen, Type A, as described in § 152.313, except that fencing and/or walls may not be used as part of the screen. Existing vegetation may be used to fully or partially satisfy this requirement, and this standard may be lowered upon a demonstration that no adverse effects, including negative aesthetic effects, to neighboring and nearby properties will occur.

(I) Maximum Height. The maximum height of all buildings, solar panels, other structures and equipment, and other appurtenances associated with the solar farm shall be twenty (20) feet.

(J) Aviation Notification.

(1) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the solar farm shall be sent to the NC Commanders Council at least forty-five days (45) days before the conditional use permit hearing. Notification shall include the proposed location of solar farm (i.e. map, coordinates, address, or parcel ID), type of equipment being used, and the area of proposed solar farm. Proof of delivery of the notification and date of delivery shall be submitted to the Town prior to the hearing on the permit application.

(2) The latest version of the Solar Glare Hazard Analysis Tool shall be used per its user's manual to evaluate the possible solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Town of Robbins, shall be sent to the authority indicated below at least forty-five (45) days before the conditional use permit hearing. Proof of delivery of the notification and date of delivery shall be submitted to the Town prior to the hearing on the permit application:

i. Airport operations at airports in the National Plan of Integrated Airport Systems ("NPIAS") within five (5) nautical miles of the center of the solar farm. This information shall be provided to the Federal Aviation Administration's ("FAA") Airport District Office ("ADO") with oversight of North Carolina or other applicable regulatory authorities; and

ii. Airport operations at airports not in the National Plan of Integrated Airport Systems, including military airports, within five (5) nautical miles of the center of solar farm. This information shall be provided to the NC Commanders Council for military airports, to the management of the airport for non-military airports, and to any other applicable regulatory authorities.

(3) If there are any design changes to the equipment or operations of the solar farm (for example, module tilt or module reflectivity changes) after the initial submittal to the Town, the Solar Glare Hazard Analysis Tool shall be rerun, and the new full report shall be promptly sent to the contacts specified in this subsection.

(K) Maintenance and Cleaning Plan. The applicant shall submit a plan that shows applicant's schedule and methods for maintaining and cleaning the buildings, solar panels, other structures and equipment, and other appurtenances to the solar farm, including if applicable a list of all solvents and cleaning chemicals that will be used.

(L) Noise. Noise created by the inverter(s) shall not exceed 40 dBA, as measured from the property line.

(M) Spacing from Other Solar Farms. The property line of a solar farm shall be no closer than 2,000 feet from the property line of any other solar farm, regardless of whether the other solar farm is within the zoning jurisdiction of the Town of Robbins, Moore County, or some other local government.

(N) Completion. The construction of the solar farm must be completed within eighteen (18) months of the issuance of a zoning compliance permit for the project.

(O) Annual Report. On or before July 1st of each year, the applicant shall provide the Town an energy production report to verify the continued energy production at the facility.

§ 152.129 INDUSTRIAL/PROCESSING PERFORMANCE STANDARDS.

(A) Smoke.

(1) For the purpose of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information circular 8333, May 1967, shall be used. The Ringlemann number referred to in this section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No. 1 indicates a 20% density of the smoke observed.

(2) All measurements shall be taken at the point of emission of the smoke.

(3) In the CBD, TBD and all PUD districts, no classification use may emit from a vent, stack, chimney or combustion process any smoke that is visible to the naked eye.

(4) In the I (Industrial) District, no 3.0 classification use may emit from a vent, stack, chimney or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 1 except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period.

(B) Noise.

(1) No 3.0 classification use in any permissible business district may generate noise that tends to have an annoying or disruptive effect upon: uses located outside the immediate space occupied by the 3.0 use if that use is one of several located on a lot; or uses located on adjacent lots.

(2) Except as provided in division (B)(6) below, the table set forth in division (B)(5) establishes the maximum permissible noise levels for classification uses in the I Districts. Measurements shall be taken at the boundary line of the lot where the classification use is located, and as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the 3.0 classification use is located.

(3) A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.

(4) The standards established in the table set forth in division (B)(5) below are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals.

(5) Table of Maximum Permitted Sound Levels, dB(A).

Zoning	***Res. And PUD***	***Commercial***	***Light Industry***	***Heavy Industry***
Decibels low	50	55	60	65
Decibels high	50	60	65	70

(6) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(a) in excess of the figures listed in § 152.129(B)(5).

(7) Except that this higher level of permissible noise shall not apply from 7:00 p.m. to 7:00 a.m. when

the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(C) Odor.

(1) For purposes of this section, the ***ODOR THRESHOLD*** is defined as the minimum concentration in air of a gas, vapor or particulate matter that can be detected by the olfactory systems of a panel of healthy observers.

(2) No 3.0 classification use in any district may generate any odor that reaches the odor threshold, measured at:

(a) The outside boundary of the immediate space occupied by the enterprise generating the odor; or

(b) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

(D) Air pollution.

(1) Any 3.0 classification use that emits any "air contaminant" as defined in G.S. § 143-215.107 as amended, shall comply with applicable state standards concerning air pollution, as set forth in G.S. § 143-211.

(2) No zoning, special use or conditional use permit may be issued with respect to any development covered by division (D)(1) above, until the State Department of Environmental Management Air Quality Section has certified to the permit-issuing authority that the appropriate state permits have been received by the developer, or the developer will be eligible to receive the permits and that the development is otherwise in compliance with applicable air pollution laws.

(Ord. passed 11-18-2010; Ord. 229, passed 2-14-2013)

§ 152.130 FENCES

Fences shall not be constructed in whole or in pat of the following materials:

(A) Shipping containers; or

(B) Debris, junk , rubbish, or scrap materials, including but not limited to white goods, hot tubs or other large household items.

(Ord. passed 6-8-2017)

§ 152.131 JUNKYARDS AND SALVAGE YARDS.

(A) All junkyards and salvage yards existing as of the effective date of this ordinance shall comply with the requirements of this section within two (2) years from the effective date of the ordinance or shall be discontinued entirely. A failure to bring an existing junkyard or salvage yard into compliance within this section shall constitute a violation(s) of this ordinance and shall immediately void any and all lawful nonconforming status such uses may have under this ordinance.

(B) All portions of a junkyard or salvage yard not located inside an enclosed building shall be enclosed behind an opaque screen. Opaque screens may be one of the following:

(1) A wall or fence that meets the following requirements:
   (a) The wall or fence may not be made of chain link fencing, including chain link fencing interwoven with plastic strips or slats.
   (b) The wall or fence shall be at least six (6) feet high as measured from the finished grade on the outside of the fence or wall.

(2) An opaque screen of trees, shrubs or other woody plants that meets the following requirements:
   (a) A buffer yard of ten (10) feet shall be maintained along the entire perimeter of the storage area.

(b) Minimum vegetation for the buffer yard shall be eight (8) large evergreen trees, ten 10) small evergreen trees and thirty-six (36) large evergreen shrubs per one hundred (100) linear feet of buffer or fraction thereof.

(c) Trees must be at least six (6) feet tall at the time of planting.

(3) A combination of walls, fences and/or plantings meeting the requirements of subsections (1) and (2) above. If the requirements of subsections (1) and (2) are in conflict, the stricter requirements apply.

(C) The storage area shall not be visible from any adjacent property or public right-of-way. Stored items shall not project above required vegetation, and the vegetation shall be a complete visual barrier.

(D) Only one (1) entrance is permitted into the storage area. The entrance shall be less than eighteen (18) feet wide. A gate that is completely opaque and at least 8 feet in height (measure from the nearest adjacent grade) shall secure the entrance.

(E) The storage area shall be graded and surfaced with asphalt or concrete.

(F) For the purposes of this section, a carport does not constitute an acceptable screen, garage or enclosed building.

(Ord. passed 6-14-2018)

§ 152.132 RECYCLING OPERATIONS.

(A) Except for consumer recycling collection centers and recycling operations accessory to a principle use, all recycling operations shall be conducted entirely within an enclosed building.

(B) Recycling operations are permitted subject to the following requirements:

(1) All aspects of the recycling operation, except the movement of delivery trucks on and off the site, shall be conducted entirely within an enclosed building. Further, nothing related to the operation, including but not limited to recyclable materials, waste and scrap materials, fluids, and chemicals, may be stored outside. All such items shall be stored within a fully enclosed building;

(2) These facilities may accept materials for recycling that have a commercial value, including but not limited to junked motor vehicles, scrap metal and other items typically sent to salvage yards and junkyards. These facilities shall not accept any construction and demolition debris that cannot and will not be recycled, wood debris or other materials suitable for a land-clearing and inert debris landfill, or hazardous wastes;

(3) Materials may be collected for onsite recycling or for shipping to an off-premises location;

(4) All fluids, chemicals, parts or other components that are removed onsite shall be processed and disposed of in strict compliance with applicable federal, State and local laws; and

(5) In addition to the noise and other performance standards established in this ordinance and elsewhere in the Code of Ordinances, no facility shall produce noises that can be heard by persons of ordinary hearing and sensitivity standing at the property line of the lot upon which the recycling operation is located.

(6) The storage area shall be graded and surfaced with asphalt or concrete.

(C) Recycling operations accessory to a principal use. This use is intended to allow businesses that generate large amounts of recyclable materials to process the materials onsite and/or prepare them for shipping elsewhere. An example of this use would be a cardboard breakdown area located behind a grocery store. These operations are subject to the following requirements:

(1) All materials recycled shall be generated exclusively by the principal onsite use. No off-site materials may be accepted or processed;

(2) The storage area shall be graded and surfaced with asphalt or concrete; and

(3) The recycling operation shall be fully screened in the same manner as dumpsters in accordance with § 152.217, “Sites for Screening of Dumpsters.”

(D) Consumer recycling collection centers. These operations are subject to the following requirements:

(1) The facility shall serve solely as a collection and transfer station. No processing of recyclable materials may occur onsite;

(2) No tipping fee or other fees may be charged for the collection of recyclable materials. However, a private solid waste company or local government may limit access to the facility to those persons for whom the company or government provides solid waste and recycling services; and

(3) The storage area shall be graded and surfaced with asphalt or concrete

(Ord. passed 6-14-2018)

DENSITY AND DIMENSIONAL REGULATIONS

§ 152.140 MINIMUM LOT SIZE.

Subject to the provisions of § 152.144 below, all lots in the following zones shall have at least the amount of square footage indicated in the following table:

Zoning District	***Minimum Square Feet per Lot***
RA-40	40,000
RA-20	20,000
R-20	20,000
R-10	10,000
R-8	8,000
CBD	No minimum
TBD	15,000
I	1 acre 43,560
WP	2 acres 87,120

(Ord. passed 11-18-2010)

§ 152.141 RESIDENTIAL DENSITY.

(A) Subject to §§ 152.060 through 152.067, division (B) below and the provisions of § 152.143, every lot developed for residential purposes shall have the number of square feet per dwelling unit as indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

Zoning District	***Square Feet per Dwelling Unit***
RA-40	40,000
RA-20	20,000
R-20	20,000
R-8	8,000
WP	2 acres

(B) (1) Two-family attached residences shall be allowed as a permitted use by the Administrator in the R-8, R-10, RA-20 and RA-40 districts with a minimum lot area of 150% of the minimum square feet requirement for the respective district.

(2) With respect to multi-family development with three or more dwelling units, the minimum lot size shall be determined by adding an additional 50% of the required minimum square footage for each additional dwelling unit.

(3) Example: 20-unit multi-family complex R-10 zone 10,000 + (19 x 5000 square feet=95,000) = 105,000 square feet required.

(Ord. passed 11-18-2010)

§ 152.142 MINIMUM LOT WIDTHS.

(A) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to constructing it as a building that:

(1) Could be used for purposes that are permissible in that zoning district; and

(2) Could satisfy any applicable setback requirements for that district.

(B) Without limiting the generality of the foregoing standard, the following table indicates minimum lot widths that are recommended and are deemed presumptively to satisfy the standard set forth in division (A) above. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at the opposite sides of the lot.

Zoning District	*Minimum Lot Width (in Feet)*
RA-40	-
RA-20	-
R-20	100
R-10	75
R-8	50
CBD	No minimum
TBD	100
I	-
WP	-

(C) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.(Ord. passed 11-18-2010)

§ 152.143 BUILDING SETBACK REQUIREMENTS.

(A) Subject to §§ 152.144 and 152.145 and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth in this section.

Building Setback Lines				
Zoning District	*Front Yard*	*Side Yard*	*Corner Side Yard*	*Rear Yard*
RA-40	50	15	25	35
RA-20	30	15	25	25
R-20	30	20	30	30
R-10	30	20	30	30
R-8	25	10	25	25
CBD	0	0 20	-	10
TBD	50	15* 10**	-	25 15
I	15	15	-	20

WP	50	25	50	25

(1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from the right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

(2) As used in this section, the term ***LOT BOUNDARY LINE*** refers to lot boundaries other than those that abut streets.

(3) As used in this section, the term ***BUILDING*** includes any substantial structure which by nature of its size, scale, dimensions, bulk or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

(a) Gas pumps and overhead canopies or roofs; and

(b) Fences running along lot boundaries adjacent to public street rights-of-way if the fences exceed six feet in height and are substantially opaque.

(4) Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that: has a principal function that is something other than the support of the sign (e.g., a fence); but does not constitute a building as defined in this chapter, only if the sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where the sign is located.

(B) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the

nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

(C) Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole and the like).

(D) Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:

(1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if the road were a public street; and

(2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled “Minimum Distance from Lot Boundary Line”) shall be measured from the inside boundary of the traveled portion of the private road.

(Ord. passed 11-18-2010)

§ 152.144 ACCESSORY BUILDING SETBACK REQUIREMENTS.

(A) All accessory buildings in residential districts (i.e., those established by § 152.080 above) must comply with the street right-of-way and side lot boundary setbacks set forth in § 152.143 above but (subject to the remaining provisions of this division (A)) shall be required to observe only a four-foot setback from rear lot boundary lines.

(1) Where the high point of the roof or any appurtenance of an accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.

(2) A point of access to a roof shall be the top of any parapet wall or the laced point of a roof's surface, whichever is greater. Roofs with slopes greater than 75% are regarded as walls.

(B) Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as follows:

Height Limitations of Buildings By Zoning District	
Zoning District	***Maximum Height of Building***
RA-40	35
RA-20	35
R-20	35

Height Limitations of Buildings By Zoning District	
Zoning District	***Maximum Height of Building***
R-10	35
R-8	35
CDB	40
TBD	35
I	40
WP	40

(C) Subject to division (D) below, the following features are exempt from the district height limitations set forth in division (B) above:

(1) Chimneys, church spires, elevator shafts and similar structural appendages not intended as places of occupancy or storage;

(2) Flagpoles and similar devices; and

(3) Heating and air conditioning equipment, solar collectors and similar equipment, fixtures and devices.

(D) The features listed in division (C) above are exempt from the height limitations set forth in division (B) above if they conform to the following requirements:

(1) No more than one-third of the total roof area may be consumed by the features.

(2) The features described in division (C)(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which features extend above the roof surface of the principal

building to which they are which they are attached.

(3) The permit-issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in divisions (B)(1) and (3) from view.

(E) Notwithstanding division (B) above, in any zoning district the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multifamily residential building containing four or more dwelling units may not exceed 35 feet unless the Fire Chief certifies to the permit issuing authority that the building is designed to provide adequate access for firefighting personnel or the Building Inspector certifies that the building is otherwise designed to be equipped to provide adequate protection against the dangers of fire.

(F) Towers and antennas are allowed in all zoning districts to the extent authorized in the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk. (Ord. passed 11-18-2010)

§ 152.145 CLUSTER SUBDIVISIONS.

(A) In any single-family residential subdivision in zones indicated below, a developer may create lots that are smaller than those required by § 152.140 above if the developer complies with the provisions of this section and if the lots so created are not smaller than the minimums set forth in the following table:

Minimum Square Feet Per Lot for Residential Cluster Subdivisions	
Zoning District	***Minimum Square Feet per Lot***
R-8	4,500
R-10	7,500
R-20	15,000
RA-20	15,000
RA-40	20,000

(B) The intent of this section is to authorize the developer to decrease lot sizes and leave the land “saved” by so doing as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size of lots required by
§ 152.140 above.

(C) The amount of usable open space that must be set aside shall be determined by:

(1) Subtracting from the standard square footage requirement set forth in § 152.140 from the amount of square footage of each lot that is smaller than the standard; and

(2) Adding together the results obtained in division (C)(1) above for each lot.

(D) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space that satisfies the definition of usable open space set forth in § 152.162, and if the usable open space is otherwise in compliance with the provisions of §§ 152.285 through 152.297.

(E) The setback requirements of §§ 152.142 and 152.143 shall apply in cluster subdivisions. (Ord. passed 11-18-2010)

§ 152.146 MULTI-FAMILY RESIDENTIAL SUBDIVISIONS.

(A) In any multi-family residential subdivision, the developer may create lots and construct buildings without regard to any minimum lot size, lot width or setback restrictions except that:

(1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(2) Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this chapter.

(B) The number of dwelling units in a multi-family residential subdivision may not exceed the maximum density authorized for the tract as defined in the residential density section.

(C) To the extent reasonably practicable, in multi-family residential subdivisions the amount of land "saved" by creating lots that are smaller than the standards set forth in § 152.141 shall be set aside as usable open space.

(D) The purpose of this section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

(E) An as-built final plat is required prior to the issuance of any certificate of occupancy. (Ord. passed 11-18-2010)

§ 152.147 DENSITY ON LOTS WHERE PORTION DEDICATED TO TOWN.

(A) Subject to the other provisions of this section, if: any portion of a tract lies within an area designated on any officially adopted town plan as part of a proposed public park, greenway or bikeway; and before the tract is developed, the owner of the tract, with the concurrence of the town, dedicates to the town that portion of the tract so designated, then, when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.

(B) If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in the subdivision may be reduced in accordance with the provisions of §§ 152.145 and 152.146, except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the town in accordance with division (A) above.

(C) If the proposed use of the remainder is a two-family or multi-family project, the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

(D) If the portion of the tract that remains after dedication as provided in division (A) is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its prorated share of the "density bonus" provided for in divisions (B) and (C) above. (Ord. passed 11-18-2010)

RECREATIONAL FACILITIES AND OPEN SPACE

§ 152.160 MINI-PARKS REQUIRED.

(A) Subject to division (C) below, all residential developments shall provide (through dedication or reservation; (see §§ 152.163 and 152.164) recreational areas in the form of mini-parks in an amount equal to .0025 acres (108.9 square feet) per person expected to reside in that development (as determined in accordance with division (B) below. The recreational areas shall be provided in addition to the open space areas required by § 152.162.

(B) For purposes of this section, one-bedroom dwelling units shall be deemed to house an average of 1.4 persons, two-bedroom units 2.2 persons, three-bedroom units 3.2 persons, and units with four or more bedrooms four persons. In residential subdivisions that are not approved as architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit shall be deemed to house an average of 3.2 persons. Each lot that is large enough to accommodate more than one dwelling unit shall be deemed to house 2.2 persons for each dwelling unit that can be accommodated.

(C) The Board recognizes that mini-parks must be of a certain minimum size to be usable and that the mini-parks will not serve the intended purpose unless properly maintained. Therefore, residential developments that are small enough so that the amount of required mini-park space does not exceed 2,000 square feet are exempt from the provisions of this section. However, as used in the foregoing sentence, the term development refers to the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the development is constructed in phases or stages. In addition, subdivided residential developments of less than 25 dwelling units shall also be exempt from the provisionsof this section.

(Ord. passed 11-18-2010)

§ 152.161 MINI-PARKS: PURPOSE AND STANDARDS.

(A) The purpose of the mini-park is to provide adequate active recreational facilities to serve the residents of the immediately surrounding neighborhood within the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the mini-park requirements of this chapter: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides and play apparatus.

(B) Each development shall satisfy its mini-park requirements by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than 5% of the residents of any development are likely to be children under 12, then at least 15% of the mini-park must be satisfied by the construction of “tot lots” (i.e., areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents).

(C) The total acreage of mini-parks required by § 152.183 shall be divided into mini-parks of not less than 2,000 square feet nor more than 30,000 square feet.

(D) Mini-parks shall be attractively landscaped and shall be provided with sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences.

(E) Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to service.

(F) Each mini-park shall be constructed on land that is relatively flat, dry and capable of serving the purposes intended by this chapter.

(Ord. passed 11-18-2010)

§ 152.162 USABLE OPEN SPACE.

(A) Except as provided in division (C) below, every residential development shall be developed so that at least 5% of the total area of the development remains permanently as usable open space.

(B) For purposes of this section, ***USABLE OPEN SPACE*** means an area that:

(1) Is not encumbered with any substantial structure;

(2) Is not devoted to use as a roadway, parking area or sidewalk;

(3) Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in division (B)(4) below;

(4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation;

(5) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to § 152.164 below; and

(6) Consists of land no more than 50% of which lies within a floodplain or flowery as those terms are defined in § 152.230.

(C) Subdivided residential developments of less than 25 dwelling units are exempt from the requirements of this section unless the town agrees that it will accept an offer of dedication of the open space, and in that case the offer of dedication shall be made.

(Ord. passed 11-18-2010)

§ 152.163 OWNERSHIP AND MAINTENANCE OF RECREATIONAL AREAS AND REQUIRED OPEN SPACE.

(A) Except as provided in § 152.164 below, recreation facilities and usable open space required to be provided by the developer in accordance with this chapter shall not be dedicated to the public but shall remain under the ownership and control of the developer (or his or her successor) or a homeowners association or similar organization that satisfies the criteria established in § 152.165 below.

(B) The person or entity identified in division (A) above as having the right of ownership and control over the recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(Ord. passed 11-18-2010)

§ 152.164 DEDICATION OF OPEN SPACE.

(A) If any portion of any lot proposed for residential development lies within an area designated on the officially adopted recreation master plan as a neighborhood park or part of the greenway system or bikeway system, the area so designated (not exceeding 5% of the total lot area) shall be included as part of the area set aside to satisfy the requirement of § 152.162 above. This area shall be dedicated to public use.

(B) If more than 5% of a lot proposed for residential development lies within an area designated as provided in division (A) above, the town may attempt to acquire the additional land in the following manner:

(1) The developer may be encouraged to resort to the procedures authorized in §§ 152.144 or 152.145, and to dedicate the common open space thereby created; or

(2) The town may purchase or condemn the land. (Ord. passed 11-18-2010)

§ 152.165 HOMEOWNERS ASSOCIATIONS.

Homeowners associations or similar legal entities that, pursuant to § 152.163 above, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in a manner so that:

(A) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;

(B) The association or similar legal entity has clear legal authority to maintain and exercise control over the common areas and facilities; and

(C) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of the common areas and facilities.
(Ord. passed 11-18-2010)

§ 152.166 FLEXIBILITY IN ADMINISTRATION AUTHORIZED.

(A) The requirements set forth in this section concerning the amount, size, location and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Board of Commissioners as standards that presumptively will result in the provision of that amount of recreational activities and open space that is consistent with officially adopted town plans. The Board of Commissioners recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this section may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing body is authorized to permit minor deviations from these standards whenever it determines that: the objectives underlying these standards can be met without strict adherence to them; and because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

(B) Whenever the permit-issuing board authorizes some deviation from the standards set forth in this section pursuant to division (A) above, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.
(Ord. passed 11-18-2010)

STREETS AND SIDEWALKS

§ 152.180 STREET CLASSIFICATION.

(A) In all new subdivisions, streets that are dedicated to public use shall be classified as provided in division (B) below.

(1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

(2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and

(3) Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(B) The classification of streets shall be as follows.

(1) *Minor.* A street whose sole function is to provide access to abutting properties it serves or is designed to serve not more than nine dwellings units and is expected to or does handle up to 75 trips per day.

(2) *Local.* A street whose sole function is to provide access to abutting properties it serves or is designed to serve at least ten but no more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day.

(3) *Cul-de-sac.* A street that terminates in a vehicular turnaround.

(4) *Subcollector.* A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

(5) *Collector.* A street whose principal function is to carry traffic between minor, local and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

(6) *Arterial.* A major street in the town's street system that serves as an avenue for the circulation of traffic into, out or around the town and carries high volumes of traffic.

(7) *Marginal access street.* A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

(Ord. passed 11-18-2010)

§ 152.181 ACCESS TO LOTS.

(A) Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(B) All lots within the zoning jurisdiction of the town (with the exception of § 152.181(C) shall access a state or town maintained street directly with the exception of private developments where street maintenance will remain in private ownership. Streets within private developments however shall be paved and constructed to either state or town standards and approved by a certified engineer of the state.

(C) Three subdivision lots developed for single-family residential purposes may be allowed within the extraterritorial jurisdiction provided every lot has frontage on a perpetual easement/private drive not less than 30-feet in width that meets a state maintained road. This easement/drive must have a 12 feet traversable roadway with adequate graveling and otherwise sufficient to allow reasonable access for emergency vehicles as outlined in
§ 152.181(A) above. A subdivider or his/her successor in interest shall not create any further subdivision lots of this type out of the same original parcel of land for a period of 36 months after subdivision approval of lots with this type of access. Plats for the lots shall be certified in accordance with § 152.046(D)(3)(e).

(Ord. passed 11-18-2010)

§ 152.182 ACCESS TO ARTERIAL STREETS.

Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

(Ord. passed 11-18-2010)

§ 152.183 ENTRANCES TO STREETS.

(A) All driveway entrances and other openings onto streets within the town's planning jurisdiction shall be constructed so that:

(1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians or vehicles traveling in abutting streets; and

(2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(B) Specifications for driveway entrances are set forth in Appendix C to this chapter, which is on file in the office of the Town Clerk. If driveway entrances and other openings onto streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed prima facie evidence of compliance with the standard set forth in division (A) above.

(C) For purposes of this section, the term prima facie evidence means that the permit issuing authority may (but is not required to) conclude from this evidence alone that the proposed development complies with division (A) above. (Ord. passed 11-18-2010)

§ 152.184 COORDINATION WITH SURROUNDING STREETS.

(A) The street system of a subdivision shall be coordinated with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(B) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

(C) Sub-collector, local and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of the streets by substantial through traffic.

(D) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of the streets, pending their extension when the turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this division (D), no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

(Ord. passed 11-18-2010)

§ 152.185 RELATIONSHIP OF STREETS TO TOPOGRAPHY.

(A) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff objectives set forth in §§ 152.230 through 152.241, and the street grades shall conform as closely as practicable to the original topography.

(B) As indicated in § 152.186 below, the maximum grade at any point on a street constructed without curb and gutter shall be 6%. On streets constructed with curb and gutter the grade shall not exceed 6% unless no other practicable alternative is available. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety.

(Ord. passed 11-18-2010)

§ 152.186 STREET WIDTH, SIDEWALK AND DRAINAGE REQUIREMENTS IN SUBDIVISIONS.

(A) Street rights-of-way are designed and developed to serve several functions: to carry motor vehicle traffic, and in some cases, allow on-street parking; to provide a safe and convenient passageway for pedestrian traffic; and to serve as an important link in the town's drainage system. In order to fulfill these objectives, all public streets shall be constructed to meet either the standards set forth in divisions (B) or (C) below.

(B) The following classifications of streets should be encouraged to be constructed with six foot wide shoulders and drainage swales on either side in lieu of curb and gutter, so long as the street grade does not exceed a grade of 6%. The streets shall be constructed to meet the criteria indicated in the table that follows as well as specifications referenced in § 152.187. No sidewalks shall be required.

Street Type	*Minimum Right-of-Way*	*Minimum Pavement Width*
Minor	45 feet	18 feet
Local	45 feet	18 feet
Collector	50 feet	20 feet

(C) Except as otherwise provided in division (B) above, all streets shall be constructed with curb and gutter and shall conform to the other requirements of this division (C). Only standard 90-degree curb may be used, except that roll-type curb shall be permitted along minor and local streets within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90-degree curb is used, and from the center of the curb where roll-type curb is used.

Street Type	*Min. Row Width*	*Min. Pavement*	*Sidewalk*
Minor	40 feet	20 feet	Not Required
Local	40 feet	24 feet	One Side
Subcollector	50 feet	26 feet	One Side
Collector	50 feet	34 feet	One Side

(D) The sidewalks required by this section shall be at least four feet in width and constructed according to the specifications set forth in Appendix C, which is on file in the office of the Town Clerk, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) The walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) The walkways would be more environmentally desirable or more in keeping with the overall design of the development.

(E) Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds or other roads or facilities and that the access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least ten feet in width to provide the access.

(Ord. passed 11-18-2010)

§ 152.187 GENERAL LAYOUT OF STREETS.

(A) Sub-collector, local and minor residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(B) Cul-de-sacs and loop streets are encouraged so that through traffic on residential streets is minimized. Similarly, to the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(C) All permanent dead-end streets (as opposed to temporary dead-end streets, see § 152.184(D) above, shall be developed as cul-de-sacs in accordance with the standards set forth in division (D) below. Except where no other practicable alternative is available, the streets may not extend more than 550 feet (measured to the center of the turnaround).

(D) The rights-of-way of a cul-de-sac shall have a radius of 50 feet. The radius of the paved portion of the turnaround (measured to the outer edge of the pavement) shall be 35 feet, and the pavement width shall be 12 feet without curb and gutter or 18 feet with curb and gutter. The unpaved center of the turnaround area shall be landscaped.

(E) Half streets (i.e., streets of less than the full required rights-of-way and pavement width) shall not be permitted except where the streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this chapter.

(F) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available.

(Ord. passed 11-18-2010)

§ 152.188 STREET INTERSECTIONS.

(A) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. Not more than two streets shall intersect at any one point, unless the Public Works Director certifies to the permit-issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

(B) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street. In any event, where a centerline offset (job) occurs at an intersection, the distance between centerline of the intersecting streets shall be not less than 150 feet.

(C) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

(Ord. passed 11-18-2010)

§ 152.189 CONSTRUCTION STANDARDS AND SPECIFICATIONS.

Construction and design standards and specifications for streets, sidewalks and curbs and gutters shall be designated by the Town Manager or his or her designee, using Appendix C, which is on file in the office of the Town Clerk, as a guide.

(Ord. passed 11-18-2010)

§ 152.190 PUBLIC STREETS AND PRIVATE ROADS IN SUBDIVISIONS.

(A) Except as otherwise provided in this section, all lots created after the effective date of this section shall abut a public street at least to the extent necessary to comply with the access requirement set forth in § 152.181. For purposes of this division (A), the term ***PUBLIC STREET*** includes a preexisting public street as well as a street created by the subdivide that meets the public street standards of this chapter and is dedicated for public use. Unless the recorded plat of a subdivision clearly shows a street to be private, the recording of such a plat shall constitute an offer of dedication of the street.

(B) A subdivision in which the access requirement of § 152.181 is satisfied by a private road that meets neither the public street standards nor the standards set forth in § 152.189 below may be developed so long as,

since the effective date of this chapter, not more than three lots have been created out of that same tract.

(1) The intent of this division (B)(1) is primarily to allow the creation of not more than three lots developed for single-family residential purposes. Therefore, the permit-issuing authority may not approve any subdivision served by a private road authorized by this division (B)(1) in which one or more of the lots thereby created is intended for: two-family or multi-family residential use; or any other residential or nonresidential use that would tend to generate more traffic than that customarily generated by three single-family residences.

(2) To ensure that the intent of this division is not subverted, the permit-issuing authority may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential subdivision served by a private road be smaller than the permissible size of lots on which two-family or multi-family developments could be located or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.

(C) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notation:

(1) "Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Unified Development Ordinance".

(2) "The policy of the town is that, if the town improves streets: that were never constructed to the standards required in the Unified Development Ordinance for dedicated streets; and on which 75% of the dwelling units were constructed after the effective date of this chapter, then 100% of the costs of the improvements shall be assessed to abutting landowners".

(D) The recorded plat of any subdivision that includes a private road shall clearly state that the road is a private road. Further, the initial purchases of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road. (Ord. passed 11-18-2010)

§ 152.191 ROAD AND SIDEWALK REQUIREMENTS IN UNSUBDIVIDED DEVELOPMENTS.

(A) Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of this chapter dealing with parking (§§ 152.285 through 152.297) and drainage (§§ 152.230 through 152.241). To the extent not otherwise covered in the foregoing sections, and to the extent that the requirements set forth in this section for subdivisions may be relevant to the roads in unsubdivided developments, the requirements of this section may be applied to satisfy the standard set forth in the first sentence of this division.

(B) Whenever a road in an unsubdivided development connects two or more subcollector, collector or arterial streets in such a manner that any substantial volume of through traffic is likely to make use of this road, the road shall be constructed in accordance with the standards applicable to subdivision streets and shall be dedicated. In other cases when roads in unsubdivided developments within the town are constructed in accordance with the specifications for subdivision streets, the town may accept an offer of dedication of the streets.

(C) In all unsubdivided residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, an on-site activity centers such as parking areas, laundry facilities and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling apartments.

(D) Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds or other roads or facilities and that the access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet to provide the access.

(E) The sidewalks required by this section shall be at least four feet wide and constructed according to the specifications set forth in the Appendix, which is on file in the office of the Town Clerk, except that the permit-issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) The walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) The walkways could be more environmentally desirable or more in keeping with the overall design of the development.

(Ord. passed 11-18-2010)

§ 152.192 ATTENTION TO HANDICAPPED STREET AND SIDEWALK CONSTRUCTION.

Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the State Building Code.
(Ord. passed 11-18-2010)

§ 152.193 STREET NAMES AND HOUSE NUMBERS.

(A) Street names shall be assigned by the developer subject to the approval of the permit issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the town's planning jurisdiction, regardless of the use of different suffixes (as those set forth in division (B) below).

(B) Street names shall include a suffix such as the following:

(1) *Circle.* A short street that returns to itself;

(2) *Court or place.* A cul-de-sac or dead-end street;

(3) *Loop.* A street that begins at the intersection with one street and circles back to end at another intersection with the same street; and

(4) *Street.* All public streets not designated by another suffix.

(C) Building numbers shall by assigned by the town. (Ord. passed 11-18-2010)

§ 152.194 BRIDGES.

All bridges shall be constructed in accordance with the standards and specifications of the State Department of Transportation, except that bridges on roads not intended for public dedication may be approved if designed by a licensed architect or engineer.
(Ord. passed 11-18-2010)

§ 152.195 UTILITIES.

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in §§ 152.205 through 152.217 below. (Ord. passed 11-18-2010)

UTILITIES

§ 152.205 UTILITY OWNERSHIP AND EASEMENT RIGHTS.

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone or cable television facilities and intends that the facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to the utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain the facilities.
(Ord. passed 11-18-2010)

§ 152.206 LOTS SERVED BY TOWN/COUNTY OWNED WATER OR SEWER LINES.

(A) Whenever it is legally possible and practicable in terms of topography to connect a lot with town water and sewer lines by running a connection line not more than 200 feet from the lot to the lines, then no use requiring water or sewage disposal service may be made of the lot unless connection is made to the line.

(B) Connection to the water or sewer line is not legally possible if, in order to make connection with the line by a connection line that does not exceed 200 feet in length, is necessary to run the connection line over property not owned by the owner of the property to be served by the connection, and, after diligent effort, the easement necessary to run the connection line cannot reasonably be obtained.

(C) For purposes of this section, a lot is "served" by a town owned water or sewer line if connection is required by this section.
(Ord. passed 11-18-2010)

§ 152.207 SEWAGE DISPOSAL FACILITIES REQUIRED.

Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of the use or subdivision and that complies with all applicable health regulations of the county.
(Ord. passed 11-18-2010)

§ 152.208 DETERMINATION OF COMPLIANCE.

(A) Determination of compliance with § 152.207 above shall be determined by either the Division of Environmental Management, County Health Department, the Public Works Director or any combination of the above listed offices. A planned unit development permit, special use permit, planned residential development or zoning permit may be issued by the town upon review by the agency of the basic design elements of the proposed sewage disposal system to determine compliance with § 152.207 above. However, construction of the system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by the agency.

(B) The type of development and relevant certifying agency are listed as follows.

(1) If: The use is located on a lot that is served by the town sewer system or previously approved, privately owned package treatment plant, and the use can be served by a simple connection to the system (single residence) rather than the construction of an internal collection system (shopping center). Then: No further

certification is necessary.

(2) If: The use (other than a subdivisions) is located on a lot that is served by the town sewer system but service to the use necessitates construction of an internal collection system as in the case of a shopping center; and: the internal collection system is to be transferred to and maintained by the town. Then: The Public Works Director must certify to the town that the proposed internal collection system meets the town's specifications and will be accepted by the town. (A "permit to construct" must be obtained from the Division of Environmental management.) The internal collection system is to be privately maintained. Then: The Public Works Director must certify that the proposed collection system is adequate.

(3) If: The use (other than a subdivision) is to be served by a privately operated sewage treatment system not previously approved with 3,000 gallons or less design capacity, the effluent from which does not discharge to surface waters: Then: The County Health Department must certify to the town that the proposed system complies with all applicable state and local health regulations. The applicant must obtain a subsurface sewage disposal permit from the County Health Department prior to issuance of a zoning permit.

(4) If: The use (other than a subdivision) is to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity of more than 3,000 gallons or that discharges effluent into surface waters: Then: The Division of Environmental Management must certify to the town that the proposed system complies with all applicable state regulations. (A "permit to contract" and a "permit to discharge" must be obtained from DEM.)

(5) If: The proposed use is a subdivision, and: lots within the subdivision are to be served by simple connection to existing town lines or lines of a previously approved private system: Then: No further certification is necessary; lots within the subdivision are to be served by the town system but the developer will be responsible for installing the necessary additions to the town system: Then: The Public Works Director must certify to the town that the proposed system meets the town' specifications and will be accepted by the town. (A "permit to construct" must be issued from the Division of Environmental Management.)

(C) Lots within the subdivision are to be served by a sewage treatment system that has not been approved, that has a design capacity of 3,000 gallons or less, and that does not discharge into surface waters: then: the County Health Department must certify that the proposed system complies with all applicable state and local health regulations. If each lot within the subdivision is to be served by a separate site disposal system, the County Health Department must certify that each lot shown on a major subdivision preliminary plat can probably be served, and each lot and a major or minor subdivision final plat can be served by an on-site disposal system.

(D) Lots within the subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3,000 gallons or that discharges effluent into surface waters: Then: The Division of Environmental Management must certify that the proposed system complies with all applicable state regulations. (A "permit to construct" and a "permit to discharge" must be obtained from DEM. (Ord. passed 11-18-2010)

§ 152.209 WATER SUPPLY SYSTEMS REQUIRED.

Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of the use or subdivision and that complies with all applicable health regulations. (Ord. passed 11-18-2010)

§ 152.210 DETERMINATION OF COMPLIANCE.

(A) Primary responsibility for determining whether a proposed development will comply with the standard set forth in § 152.209 above often lies with an agency other than the town, and the developer must comply with the detailed standards and specifications of the other agency. The relevant agencies are listed in division (B) below. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this chapter may rely upon a preliminary review by the agency of the basic design elements of the proposed water supply system to determine compliance with § 152.209. However, construction of the system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by the agency.

(B) The type of development and relevant certifying agency are listed as follows:

(1) If: The use is located on a lot that is served by the town water system or a previously approved, privately owned public water supply system and the use can be served by a simple connection to the system (as in the case of a single-family residence) rather than the construction of an internal distribution system (as in the case of a shopping center complex): Then: No further certification isnecessary.

(2) If: The use (other than a subdivision) is located on a lot that is served by the town water system but service to the use necessitates construction of an internal distribution system (as in the case of a shopping center or apartment complex); and the use (other than subdivision) is located on a lot that is served by the town water system but service to the use necessitates construction of an internal distribution system (as in the case of a shopping center or apartment complex: Then: The Public Works Director must certify to the town that the proposed internal distribution system meets town specifications and will be accepted by the town; the internal distribution system is to be privately maintained: Then: The Public Works Director must certify that the proposed collection system is adequate.

(3) If: The use (other than a subdivision) is located on a lot not served by the town system or a previously approved, privately owned public water supply system; and

(a) The use is to be served by a privately owned public water supply system that has not previously been approved: Then: The Division of Health Services must certify that the proposed system complies with all applicable state and federal regulations. The Division of Environmental Management must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located in certain areas designated by DEM. The Public Works Director must also approve the distribution for possible future addition to the town system.

(b) The use is to be served by some other source (such as an individual well): Then: The County Health Department must certify that the proposed system meets all applicable state and local regulations.

(4) If: The proposed use of a subdivision; and: lots within the subdivision are to be served by simple connection to existing town lines or lines of a previously approved public water supply system: Then: No further certification is necessary; lots within the subdivision are to be served by the town system but the developer will be responsible for installing the necessary additions to the system: Then: The Public Works Director must certify to the Town that the proposed system meets town specifications and will be accepted by the town. Lots within the subdivision are to be served by a privately owned public water supply system that has not previously been approved: Then: The Division of health Services must certify that the proposed system complies with all applicable state and federal regulations. The Division of Environmental Management must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located within certain areas designated by DEM. The Public Works Director must also approve the distribution lines for possible future additions to the town system. Lots within the subdivision are to be served by individual wells: Then: The County Health Department must certify to the town that each lot intended to be served by a well can be served in accordance with applicable health regulations.

(Ord. passed 11-18-2010)

§ 152.211 LIGHTING REQUIREMENTS.

(A) Subject to division (B) below, all public streets, sidewalks and other common areas or facilities in subdivisions created after the effective date of this chapter shall be sufficiently illuminated to ensure the security of property and the safety of persons using the streets, sidewalks and other common areas or facilities.

(B) To the extent that fulfillment of the requirement established in division (A) above would normally require street lights installed along public streets, this requirement shall be applicable only to subdivisions located within the corporate limits of the town.

(C) All roads, driveways, sidewalks, parking lots and other common areas and facilities in un-subdivided

developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using the roads, driveways, sidewalks, parking lots and other common areas and facilities.

(D) All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety or persons and security of the buildings.
(Ord. passed 11-18-2010)

§ 152.212 DARK SKY ILLUMINATION REQUIRED.

These provisions are intended to control the use of outdoor artificial illuminating devices emitting rays into the night sky which have a detrimental effect on astronomical observations, and which create glare. It is the intention of this chapter to encourage good lighting practices such that lighting systems are designed to conserve energy and money, to minimize glare, to protect the use and enjoyment of surrounding property, and to increasing nighttime safety, utility, security and productivity.

(A) The provisions of this section shall apply to any application for site plan or subdivision plat approval for a nonresidential use.

(B) (1) All non-exempt outdoor lighting fixtures shall be limited to the types of fixtures specified in division (D)(1) below, and shall have shielding and filtration as required by this chapter.

(2) Light source locations shall be chosen to minimize the hazards of glare. The ratio of spacing to mounting height shall not exceed a four to one ratio.

(3) All poles or standards used to support outdoor lighting fixtures shall be anodized or otherwise coated to minimize glare from the light source.

(C) In order to minimize glare and hazardous conditions, illumination levels shall not exceed the levels set forth in (develop table)____for any use permitted by this chapter.

(D) Street lights shall be installed by the Applicant for approval of any major subdivision, as defined by this chapter. The applicant shall design the proposed street lighting system in accordance with the criteria set forth in divisions (D)(1) and (2) below.

(1) Street lights shall have a minimum size of 5,000 lumen, unless a larger size lamp is needed for highway safety purposes and/or road intersections, as determined by the town's street light committee.

(2) Street light poles shall be designed so as to be placed in accordance with NCDOT or town standards. Placement of the street light poles shall be on or near side property lines.
(Ord. passed 11-18-2010; Ord. 225, passed 12-13-2012)

§ 152.213 TELEPHONE SERVICE.

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of the use and every lot within the division. Compliance with this requirement shall be determined as follows.

(A) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to the power line (as opposed to a more complex distribution system, such would be required in an apartment complex or shopping center), then no further certification is necessary.

(B) If the use is a subdivision or is not located on lot a served by an existing telephone line or a substantial

internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.
(Ord. passed 11-18-2010)

§ 152.214 UTILITIES.

(A) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, the utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(B) All utility facilities shall be constructed in a manner so as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

(C) To the extent practicable (reasonably achievable under the circumstances) all new utility installations are required to comply with the following goals.

(1) All water lines and underground utilities should follow roads.

(2) Stream crossings should be the minimal number necessary to deliver water, electricity, telecommunications and the like to the service area.

(3) All water and utility crossings should be perpendicular to stream flow.

(4) No new sewer lines or structures should be installed or constructed in the 100-year floodplain nor within 50 feet of wetlands associated with the 100-year floodplain.

(5) Sewer lines should be located outside of the protected buffer areas.

(6) Sewer lines closest to streams or crossings should be constructed of ductile iron.

(7) Sewer lines should parallel streams and be at a maximum distance from streams and tributaries.

(8) Sewer line crossings should be kept to a minimum and are limited to crossing major stream or creek confluences.

(9) Only aerial or directional boring is allowed when new sewer lines are crossing streams.

(10) Manholes or similar access structures should not be allowed within buffer area. (Ord. passed 11-18-2010)

§ 152.215 AS-BUILT DRAWINGS REQUIRED.

Whenever a developer installs or causes to be installed any utility line in any public right of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the town with a copy of a drawing that shows the exact location of the utility lines. The drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing the development.
(Ord. passed 11-18-2010)

§ 152.216 FIRE HYDRANTS.

(A) Every development (subdivided or un-subdivided) that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within the development.

(B) The presumption established by this chapter is that to satisfy the standard set forth in division (A) above, fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than 500 feet of hose connected to the hydrant. However, the Fire Chief may authorize or require a deviation from this standard if in his or her professional opinion another arrangement more satisfactorily complies with the standard set forth in division (A) above.

(C) The Fire Chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter.

(D) The Fire Chief shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the Fire Chief, all hydrants shall have two two-and-one-half-inch hose connections and one four and one-half-inch connection. The two-and-one-half-inch hose connections shall be located at least 21.5 inches from the ground level. All hydrant threads shall be national standard threads.

(E) Water lines that serve hydrants shall be at least six-inch lines, and, unless no other practicable alternative is available, no such lines shall be dead-end lines. (Ord. passed 11-18-2010)

§ 152.217 SITES FOR AND SCREENING OF DUMPSTERS.

(A) Every development that, under the town's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide a site for the dumpsters that are:

(1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties or public rights-of-way; and

(2) Constructed according to specifications established by the Public Works Director to allow for collection without damage to the development site or the collection vehicle.

(B) All the dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

(1) Persons located with any dwelling unit on residential property other than that where the dumpster is located;

(2) Occupants, customers or other invitees located within any building or nonresidential property other than that where the dumpster is located, unless the other property is used primarily for purposes permitted exclusively in an I (Industrial Zoning District); and

(3) Persons traveling on any public street, sidewalk or other public way.

(C) When dumpster screening is required under this section, the screening shall be constructed, installed and located to prevent or remedy the conditions requiring the screening.
(Ord. passed 11-18-2010)

§ 152.230 DEFINITIONS.

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

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

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Also known as the ***100-YEAR FLOOD***.

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies.

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

BUILDING. See ***STRUCTURE***.

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 products.

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

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

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/or the unusual and rapid accumulation of runoff of

surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

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

FLOOD INSURANCE STUDY (FIS). An examination, evaluation and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source. As used in this chapter, the term refers to the special flood hazard area (SFHA) as designated on the FIRM and FIS prepared by the FEMA and the State of North Carolina with an effective date of February 2, 2007, a copy of which is on file in the planning department. Also known as a flood prone area.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

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

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

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.

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

HAZARDOUS WASTE FACILITY. As defined in G.S. § 130A-9, a facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste.

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

HISTORIC STRUCTURE. Any structure that is:

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

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

(3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program". Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

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

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. ***MARKET VALUE*** may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

MEAN SEA LEVEL. For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to those structures.

NON-ENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

POST-FIRM. Construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map for the area.

PRE-FIRM. Construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map for the area.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

PUBLIC WATER SUPPLY SYSTEM. Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.

RECREATIONAL VEHICLE (RV). A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas or is the bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all special flood hazard areas.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

SALVAGE YARD. Any nonresidential property used for the storage, collection and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SOLID WASTE DISPOSAL FACILITY. As defined in G.S. § 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in §§ 152.025 through 152.028.

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

building.

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of ***SUBSTANTIAL IMPROVEMENT***. For eligibility for increased cost of compliance (ICC) benefits for repetitive losses, substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: any correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or, any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief from the requirements of this chapter.

VEGETATIVE BUFFER. An area measured from the water's edge (on each side) at full pond (lake) or normal levels (rivers and streams) that is not to be developed and left in its natural state, except as may be specifically authorized by the UDO and/or the permitting authority.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 152.045 and 152.046 is presumed to be in violation until a time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur.

(Ord. passed 11-18-2010)

§ 152.231 ARTIFICIAL OBSTRUCTIONS WITHIN FLOODWAYS PROHIBITED.

(A) No artificial obstruction may be located within any floodway, except as provided in § 152.232.

(B) For purposes of this section, an artificial obstruction is any obstruction, other than a natural obstruction, that is capable of reducing the flood carrying capacity of a stream or may accumulate debris and thereby reduce the flood-carrying capacity of a stream. A natural obstruction includes any rock, tree, gravel or analogous natural matter that is a obstruction and has been located within the floodway by a non-human cause.
(Ord. passed 11-18-2010)

§ 152.232 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

See agreement with County Planning and Building Inspections.
(Ord. passed 11-18-2010)

§ 152.233 CONSTRUCTION WITHIN FLOODWAYS, NON-ENCROACHMENT AREAS AND FLOODPLAINS.

(A) No building, zoning, special use or conditional use permit may be issued for any development within a floodway, non-encroachment area or the special flood hazard area (100-year floodplain). Notwithstanding the foregoing, development may be authorized within the floodplain where either: a valid permit was issued prior to the effective date of this section; or an existing lot of record is rendered undevelopable due to the prohibition on new development within the floodplain. In situations where development is allowed, the property shall be developed in a way that at has the least impact as possible on the floodplain, e.g., a house shall encroach into the floodplain only to the extent that it must in order to meet setbacks and the like. In addition, no permits shall be issued for any development within a floodplain until the permit-issuing authority has reviewed the plans for any such development to assure that:

(1) The proposed development is consistent with the need to minimize flood damage;

(2) All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided to minimize or reduce exposure to flood hazards;

(4) All necessary permits have been received from those agencies from which approval is required by federal or state law;

(5) With respect to Manufactured home or Manufactured home parks that are nonconforming because they are located within a floodplain, Manufactured home may be relocated in the parks only if they comply with the provisions of division (F) below;

(6) One residential accessory structure per residential structure shall be allowed within the floodplain provided they are firmly anchored to prevent flotation;

(7) Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or if over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required;

(8) The proposed structures are designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structures;

(9) The structures are constructed with materials and utility equipment resistant to flood damage;

(10) The structures are constructed by methods and practices that minimize flood damage;

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

during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers and the like), hot water heaters, and electric outlets/switches;

(12) Openings below flood level are required for elevated structures; and

(13) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood-proofed to at least the regulatory flood protection elevation and certified according this chapter.

(B) No building may be constructed and no substantial improvement of an existing building may take place within any floodway or non-encroachment area.

(C) No new residential building may be constructed and no substantial improvement of a residential building may take place within any floodplain unless the lowest floor (including basement) of the building or improvement is elevated to or above the base flood level.

(D) No new nonresidential building may be constructed and no substantial improvement of a nonresidential building may take place within any floodplain unless the lowest floor (including basement) of the building or improvement is elevated or flood-proofed to or above the base flood level. Where flood-proofing is used in lieu of elevation, a registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the base flood at the location of the building and that the walls below the base flood level are substantially impermeable to the passage of water.

(E) Notwithstanding any other provision of this chapter, no Manufactured home may be located or relocated with that portion of the floodplain outside of the floodway or non-encroachment area, unless the following criteria are met:

(1) Ground anchors for tie downs are provided;

(2) The following tie-down requirements are met: over-the-top ties are required at each of the four corners of the Manufactured home, with one additional tie per side at an intermediate location, for Manufactured homes less than 50 feet long. Two additional ties per side are required for Manufactured homes more than 50 feet long; frame ties are required in conjunction with each over-the-top tie; and all components of the anchoring must be capable of carrying a force of 4,800 pounds;

(3) Lots or pads are elevated on compacted fill or by any other method approved by the Administrator so that the lowest habitable floor of the Manufactured home is at or above the base flood level. However, no new fill may be added to comply with this section; and

(4) Load-bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than ten feet apart, and if the support height is greater than 72 inches, the support must contain steel reinforcement.

(F) No fill dirt may be added within any floodway, non-encroachment area or floodplain.

(G) The fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of the enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage

areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and

(3) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding.

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow flood waters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers or other coverings or devices, provided they permit the automatic flow of flood waters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(H) Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure;

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new constructions.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(Ord. passed 11-18-2010)

§ 152.234 SPECIAL PROVISIONS FOR SUBDIVISIONS.

(A) An applicant for a conditional use permit authorizing a major subdivision and an applicant for minor subdivision final plat approval shall be informed by the County Planning Department of the use and construction restrictions contained in §§ 152.231 and 152.233 if any portion of the land to be subdivided lies within a floodway, non-encroachment area or floodplain.

(B) Final plat approval for any subdivision containing land that lies within a floodway, non-encroachment area or floodplain may not be given unless the plat shows the boundary of the floodway, non-encroachment area or floodplain and contains in clearly discernible print the following statement: “Use of land within a floodway, non encroachment area, or floodplain is substantially restricted by §§ 152.230 through 152.241 and relevant sections of the State Building Code.”

(C) Subject to the following sentence, a conditional use permit for a major subdivision and final plat approval for any subdivision may not be given if:

(1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots;

(2) Any portion of one or more of the proposed lots lies within a floodway, non-encroachment area or floodplain; and

(3) It reasonably appears that one or more lots described in divisions (C)(1) and (2) above could not practicably be used as a residential building site because of the restrictions set forth in §§ 152.231 and 152.233. The foregoing provision shall not apply if the developer demonstrates to the reasonable satisfaction of the authority issuing the permit or approving the final plat that the proposed lots are not intended for sale as residential building lots.

(D) In areas with floodplains without established base flood elevations (BFE), all subdivisions, manufactured home parks and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. The BFE data shall be adopted by reference to be utilized in implementing this chapter.

(Ord. passed 11-18-2010)

§ 152.235 WATER SUPPLY AND SANITARY SEWER SYSTEMS IN FLOODWAYS AND FLOODPLAINS.

(A) Whenever any portion of a proposed development is located within a floodway or floodplain, the agency or agencies responsible for certifying to the town the adequacy of the water supply and sewage disposal systems for the development (as set forth in §§ 152.208 and § 152.210 above) shall be informed by the developer that a specified area within the development lies within a floodway or floodplain.

(B) Thereafter, approval of the proposed system by that agency shall constitute a certification that:

(1) The water supply system is designed to minimize or eliminate infiltration of flood waters into it;

(2) The sanitary sewer system is designed to eliminate infiltration of flood waters into it and discharges from it into flood waters; and

(3) Any on-site sewage disposal system is located to avoid impairment to it or contamination from it during flooding.

(Ord. passed 11-18-2010)

§ 152.236 ADDITIONAL DUTIES OF FLOOD PLAIN ADMINISTRATOR RELATED TO FLOOD INSURANCE AND FLOOD CONTROL.

The Administrator shall:

(A) For the purpose of the determination of applicable flood insurance risk premium rates within Zone AE on the town's flood insurance rate map provided by the FEMA:

(1) Obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures;

(2) Obtain, for all structures that have been floodproofed (whether or not the structures contain a basement) the elevation (in relation to mean sea level) to which the structure was floodproofed; and

(3) Maintain a record of all the information.

(B) Notify, in riverine situations, adjacent communities and the State Department of Insurance prior to any alteration or relocation of a watercourse, and submit copies of the notification to the Federal Insurance Administrator;

(C) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(D) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied;

(E) Obtain an elevation certificate (FEMA Form 81-31), for any structure that is located within a special flood hazard area. A final as-built elevation certificate is required after construction is completed and prior to certificate of occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to certificate of occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of occupancy;

(F) Obtain a flood-proofing certificate (FEMA Form 81-65) if nonresidential flood-proofing is used to meet the regulatory flood protection elevation requirements. A flood-proofing certificate, with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by the review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of occupancy;

(G) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection;

(H) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to

ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;

(I) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

(J) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked; and

(K) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(Ord. passed 11-18-2010)

§ 152.237 LOCATION OF BOUNDARIES OF FLOODPLAIN AND FLOODWAY DISTRICTS.

As used in this chapter, the terms ***FLOODPLAIN*** and ***FLOODWAY*** refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts whose boundaries are established on the map identified in § 152.236, which boundaries are intended to correspond to the actual physical location of floodways and floodplains. (These overlay districts thus differ from other zoning districts whose boundaries are established solely according to planning or policy, rather than physical, criteria.) Therefore, the Administrator is authorized to make necessary interpretations as to the exact location of the boundaries of floodways or floodplains if there appears to be a conflict between a mapped boundary and actual field conditions. The interpretations, like other decisions of the Administrator, may be appealed to the Board of Adjustment in accordance with the applicable provisions of this chapter.

(Ord. passed 11-18-2010)

§ 152.238 NATURAL DRAINAGE SYSTEM UTILIZED TO EXTENT FEASIBLE.

(A) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing manmade drainage ways shall remain undisturbed.

(B) To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting manmade drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering the drainage ways.

(Ord. passed 11-18-2010)

§ 152.239 DEVELOPMENTS MUST DRAIN PROPERLY.

(A) All developments must be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an

approved sedimentation or storm water runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless the retention presents a danger to health or safety.

(B) No surface water may be channeled or directed into a sanitary sewer.

(C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(D) Use of drainage swales rather than curb and gutter and storm sewers in subdivisions is provided for in § 152.186. Private roads and access ways within un-subdivided developments shall utilize curb and gutter storm drains to provide adequate drainage if the grade of the roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require the construction.

(E) Construction specifications for drainage swales, curbs and gutters, and storm drains are contained in Appendix C, which is on file in the office of the Town Clerk.
(Ord. passed 11-18-2010)

§ 152.240 STORM WATER MANAGEMENT.

All development shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of the developments. More specifically:

(A) No development may be constructed or maintained so that the development unreasonably impedes the natural flow of water from higher adjacent properties across the development, thereby unreasonably causing substantial damage to the higher adjacent properties;

(B) No development may be constructed or maintained so that surface waters from the development are unreasonably collected and channeled onto lower adjacent properties at locations or at volumes as to cause substantial damage to the lower adjacent properties;

(C) New developments exceeding 7% imperviousness shall install storm water controls designed to maintain pre-development hydrographic conditions, including flow volumes. Storm water control facilities shall be maintained by the developer or homeowners association;

(D) New developments should use the State Division of Water Quality Stormwater Best Management Practices (BMP) Manual;

(E) New developments should use infiltration practices (e.g., reduced road widths, rain gardens, parking lot bio-retention areas, increased sheet flow instead of ditching, and disconnect impervious areas) instead of detention ponds to maintain pre-development hydrographic conditions, including base flow during low flow conditions;

(F) New developments should use the Conservation Reserve Program for lands and restoration of prior converted wetlands;

(G) Direct discharge of storm water into streams shall not be allowed; and

(H) Ditching or piping of storm water should not be allowed within or through the buffers. (Ord. passed 11-18-2010)

§ 152.241 NORTH CAROLINA DIVISION OF WATER QUALITY (DWQ) STORM WATER PERMIT REQUIRED.

(A) Any development that cumulatively disturbs one acre or more of land, including a development that disturbs less than one acre of land that is part of a larger common plan of development or sale within the town corporate limits or extraterritorial jurisdiction shall obtain a general permit to discharge storm water from the DWQ.

(B) If a development is located within the Water Supply Watershed (WS-I-IV) program area, then it will not be required to obtain a general permit to discharge storm water from the DWQ.

(C) Beginning with and subsequent to its effective date, this chapter shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications and grading applications, unless exempt.

(D) Activities that are exempt from permit requirements of § 404 of the Federal Clean Water Act as specified in 40 C.F.R. § 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this chapter.

(E) No development or redevelopment shall occur except in compliance with the provisions of this chapter or unless exempted. No development for which a permit is required pursuant to this chapter shall occur except in compliance with the provisions, conditions and limitations of the permit.

(F) This section is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety and welfare shall control.

(G) All development and redevelopment projects for which complete and full applications were submitted and approved by the town prior to the effective date of this chapter and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment shall be exempt from complying with all provisions of this chapter dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

(H) A phased development plan shall be deemed approved prior to the effective date of this chapter if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

(1) For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved; and

(2) For any subsequent phase of development, sufficient detail so that implementation of the requirements of this chapter to that phase of development would require a material change in that phase of the plan.

(Ord. passed 11-18-2010)

§ 152.242 STORM WATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT.

(A) Prior to the conveyance or transfer of any private lot or building site to be served by a storm water management facility pursuant to this chapter and prior to issuance of any permit for development or redevelopment requiring a storm water management facility pursuant to this chapter, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the storm water management facility. Until the transfer of all property, sites or lots served by the storm water management facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(B) Storm water management facilities that are constructed on public land within public rights-of-way and/or

within public easements shall be maintained by the public body with ownership or jurisdiction of the subject property. The appropriate encroachment permits, easements and maintenance agreements shall be obtained prior to beginning construction.

(C) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the storm water management facilities and shall state the terms, conditions and schedule of maintenance for the storm water management facilities.

(D) The person responsible for maintenance of any storm water management facility installed pursuant to this chapter shall be either a qualified registered professional engineer or a registered landscape architect.

(E) In addition, the owner shall grant the town a right of entry in the event that the town has reason to believe it has become necessary to inspect, monitor, maintain, repair or reconstruct the storm water management facilities. However, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the storm water management facilities.

(F) The operation and maintenance agreement must be approved by the town prior to plan approval and it shall be recorded with the County Register of Deeds prior to final approval. A copy of the recorded operations and maintenance agreement shall be given to the town following its recordation.
(Ord. passed 11-18-2010)

§ 152.243 STORM WATER MANAGEMENT FACILITY APPROVAL PRIOR TO CERTIFICATE OF OCCUPANCY.

(A) Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved storm water management plans and designs, and shall submit actual “as built” plans for all storm water management facilities or practices after final construction is completed.

(B) The plans shall show the final design specifications for all storm water management facilities and practices and the field location, size, depth and planted vegetation of all measures, controls and devices, as installed. The designer of the storm water management measures and plans shall certify, under seal, that the as-built storm water measures, controls and devices are in compliance with the approved storm water management plans and designs and with the requirements of this chapter. A final inspection and approval by the town shall occur before the release of any performance securities.
(Ord. passed 11-18-2010)

§ 152.244 SEDIMENTATION AND EROSION CONTROL.

(A) No zoning, special use or conditional use permit may be issued and final plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity subject to the jurisdiction of the State Division of Environmental Management-Land Quality Section certifying to the town, either that:

(1) An erosion control plan has been submitted to and approved by the Land Quality Office; or

(2) The Land Quality Office has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings However, in this case, construction of the development may not begin (and no building permits may be issued) until the Land Quality Office approves the erosion control plan.

(B) For purposes of this section, land disturbing activity means the clearing and grading of one contiguous acre of land for use by any person in residential, industrial, educational, institutional or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter,

mineral or organic, is transported by water, air, gravity or ice from the site of its origin.
(Ord. passed 11-18-2010)

SIGN REGULATIONS

§ 152.255 PURPOSE; APPLICABILITY; DEFINITIONS.

(A) *Purpose.* It is the purpose of this subchapter to promote the general welfare and appearance of the town by setting standards for the type and placement of signs. The visual beauty of the area is a factor in encouraging economic development and attracting visitors and new residents to the area. The purpose of this chapter is, therefore:

(1) To preserve the scenic natural environment by allowing signs which are consistent with an attractive town appearance;

(2) To provide for the safety of vehicular traffic by limiting visual interference;

(3) To protect the general public from injury caused by distracting and/or improperly placed signs;

(4) To promote the general welfare of the town by providing a pleasing environmental setting; and

(5) To protect property values and promote the economic welfare of the town by encouraging visually appealing, non-distracting forms of information transfer.

(B) *Applicability.* This subchapter shall apply to all signs located within the town corporate limits and extraterritorial jurisdiction (ETJ) unless excluded as per other definitions.

(C) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVERTISING SIGN. A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is attached.

ATTACHED SIGN. A sign which is mounted flush to a building wall or attached to the top of a canopy or the cantilevered portion of a cantilevered roof with the face of the sign parallel to the wall. The sign shall be attached throughout its entire length and shall not extend above the highest point indicated below.

(a) Signs mounted flush to a building wall shall not extend above the highest vertical point of the building.

(b) Signs mounted to a cantilevered roof shall not extend above the cantilevered portion of the roof.

(c) Signs mounted to the top of a canopy shall not extend above the highest point of the top surface of the canopy.

BILLBOARD POSTER BOARD. A sign identifying, advertising and/or directing the public to a business, merchandise, service, entertainment or product which is located at a place other than the property on which the sign is located. These signs are also known as ***OFF-PREMISES, OUTDOOR ADVERTISING SIGNS***.

BUSINESS IDENTIFICATION SIGNS. Flat mounted signs which are placed on multi-use buildings to identify tenants within.

CANOPY SIGN. A sign which is suspended from or attached to the sides, front or underside of a canopy. A ***CANOPY*** is defined as a structure attached to or cantilevered from a building. This may be a roof type canopy which is supported only by its flush attachment to the building, or it may be supported also by columns, braces or poles which extend to the ground.

CONSTRUCTION SIGN. Signs which identify firms and/or builders which are erected on the premise of the construction site during the period of construction.

DIRECTION SIGN. A sign which is located off-premise and indicates the location of public buildings, parks, schools, hospitals and scenic or historic places.

DIRECTORY SIGN. A sign listing the names of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

FESTIVAL SIGNS. Signs, non-illuminated, which are associated with activities recognized by the Board of Commissioners such as Town Springfest, Town Farmers Day.

FREESTANDING SIGN. A sign supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object other than the sign structure for support.

GASOLINE PUMP SIGNS. Signs which are normally associated with the sale of gasoline and the price, self-service and the like, information contained on the pump.

HOLIDAY DECORATIONS. Seasonal decorations are allowed from November 1 to January 3 of the following year. The decorations may be illuminated.

HOME OCCUPATION SIGNS. A sign permitted in association with a legitimate home occupation conducted on the premises of the dwelling unit occupied by the operator of the business.

MARQUEE. A sign of a theater, auditorium, fairground, museum or cablevision central office which advertises present and scheduled events with changeable copy.

NO TRESPASSING/NO LOITERING SIGNS. The signs and similar ones which are placed to inform the public of private regulations.

OCCUPANT/STREET NUMBER SIGN. A sign bearing only the name of the principal occupant of residence or street number of any residential, commercial or other structure.

OFF-PREMISES SIGN. A sign, other than a billboard, that draws attention to or communicates information about a business, service, commodity, accommodation. attraction or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious or other noncommercial message shall also be an ***OFF-PREMISES SIGN***, unless excluded from regulation by § 152.256.

PAINTED WALL SIGN. A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.

POLITICAL SIGNS. The following regulations shall apply solely to political signs, posters and the like:

(a) No signs shall be placed in a public right-of-way;

(b) No signs shall be placed on public utility poles, telephone poles, parking meter poles or any other sign or sign support structure erected by a duly constituted governmental body;

(c) No signs shall be placed on roofs nor painted on roofs;

(d) Portable signs, as defined in this section, shall not be allowed for political use;

(e) Any political sign which is determined to be a hazard or infringement to the public health, safety and welfare is prohibited;

(f) Shall not be required to obtain any sign permit;

(g) The size of the sign shall not exceed 32 square feet in area;

(h) The signs may not be illuminated; and

(i) The signs may not be displayed earlier than 30 days prior to the event (primary elections, election day, early voting and the like) to which they pertain and must be removed within seven days after the event.

PORTABLE SIGN. Any sign designed or intended to be readily relocated. This shall include signs on wheels, trailers, truck beds, a-frames or any other device which is capable of/or intended to be moved from one location to another.

PRIVATE TRAFFIC DIRECTIONAL SIGN. Signs such as in/out, do-not-enter, entrance/exit and the like, which are placed on private property to direct vehicular traffic.

PROJECTING SIGN. A sign which is attached to a building wall with the face of the sign perpendicular to the building wall. The signs shall not project into any street right-of-way and shall be at least eight feet above ground.

PUBLIC SERVICE SIGNS. A sign displayed for the direction or the convenience of the public such as signs for restrooms, public telephones and the like.

REAL ESTATE SIGNS. Signs which advertise the sale or lease of the property on which the sign is located, subject to the following conditions:

(a) A property may have one sign per street frontage, with no more than one sign located on each
frontage.

(b) No signs will be illuminated.

(c) Sizes shall not exceed:

Zoning District	***Maximum Area (Ft.^{2})***	***Maximum Height***
RA-40	4	-
RA-20	4	-
R-20	4	-
R-10	4	-
R-8	4	-
CBD	32	-
TBD	32	-

(d) One directional real estate sign is permitted.

(e) The real estate sign shall be removed by the realtor within three days after closing on the subject property.

(f) One "Agent on Duty" type sign is permitted at each real estate office. The sign shall not exceed 12 square feet in area.

ROOF LINE. The intersection of the roof of a building or structure and the perimeter wall of that building or structure.

ROOF SIGN. Any sign erected, constructed or maintained upon or attached to a roof of any building. Any sign located on a roof of a building or having its major structural supports attached to a roof and projecting above the level of that building's parapet wall or lowest level of the roof adjacent to the sign. Signs erected upon, against or directly above a roof, or on the top of or above the parapet of a building.

SIGN. Any display of any letters, words, numbers, figures, devices, emblems, pictures or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether the display be made on, attached to or as a part of a structure, surface or any other thing, including, but not limited to the ground, a rock, tree or other natural object.

(a) A ***SIGN*** includes all poles, frames and other supports upon which the display are made.

(b) ***SIGNS*** do not include the recognized flag or emblem of any nation, state or town; not merchandise and pictures or models of products incorporated in a window display; nor works of art which in no way identify a product; nor scoreboards located on athletic fields.

TEMPORARY SIGN. A sign or advertising display constructed of cloth, canvas, fabric, plastic, paper, plywood or other light material and intended to be displayed for a short period of time to inform the public of an unusual or special event. This shall include banners, balloons, flags, streamers, spinners, placards, pennants and other wind activated devices.

TIME AND TEMPERATURE SIGN. Sign which display time and temperature in alternating light cycles.

WINDOW SIGNS. Signs which are painted or affixed to the interior of windows.

YARD SALE/OPEN HOUSE SIGNS. A sign which serves to direct the public to the events and is placed off the premise of the event/sale, for a brief period of time.

(1) No more than three signs per event or per premise for sale shall be allowed.

(2) Two may be placed off-premises on private property.

(3) The signs may remain in place for 48 hours only.

(4) The signs shall serve as directional aids and text on the signs shall be limited to yard sale/garage sale or open house/house for sale and an arrow.

(5) Signs shall be placed out of the street right-of-way and shall not be illuminated. (Ord. passed 11-18-2010; Ord. 228, passed 2-14-2013)

§ 152.256 SIGNS EXCLUDED FROM REGULATION.

The following signs are exempt from regulation under this chapter except for those stated in § 152.257(A)

through (F), § 152.260(K):

(A) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as: signs giving property identification names or numbers or names of occupants; signs on mailboxes or newspaper tubes; and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals;

(B) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional or regulatory signs;

(C) Official signs of a noncommercial nature erected by public utilities;

(D) Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device;

(E) Integral decorative or architectural features of buildings or works of art, so long as the features or works do not contain letters, trademarks, moving parts or lights;

(F) Private traffic directional signs as defined in § 152.255 above;

(1) Signs directing and guiding traffic on private property that do not exceed four square feet each;

(2) One identification sign (name or logo of business) is permitted per directional sign;

(3) Identification sign may be allowed on both sides of directional signs; and

(4) Identification sign shall not exceed two square feet in area.

(G) Church bulletin boards, church identification signs and church directional signs that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated;

(H) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs;

(I) Signs proclaiming religious, political or other noncommercial messages (other than those regulated by subdivisions) that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated;

(J) Agri-tourism directional signs:

(1) Sign(s) shall not exceed one per abutting street and 16 square feet in area and that are not internally illuminated;

(2) Shall not be internally illuminated;

(3) Shall not be located within the public right-of-way;

(4) Shall get permission from property owner; and

(5) Agri-tourism farm is defined as a working farm or ranch that welcomes visitors who come to purchase value-added agricultural products, learn about or participate in agricultural themed recreation and/or entertainment, and who pay the farmer a fee for that experience.

(K) Trash receptacle sign:

(1) Two identification sign(s) (name or logo of business) per trash receptacle; and

(2) Sign(s) shall not exceed two square feet in area.

(L) Gasoline pumps signs, as defined in § 152.255 above:

(1) Two identification sign(s) (name or logo of business) per gas pump;

(2) Sign(s) may be allowed on both sides of gas pumps; and

(3) Sign(s) shall not exceed two square feet in area.

(M) Mural society approved painted wall signs;

(N) Outdoor inventory sales signs.

(1) Outdoor inventory sale signs shall be professionally made signs including pole mounted banners, temporary signs, sandwich boards, pennants, flags, streamers, balloons or other windblown devices.

(2) Signs may be displayed where 95% of the standard inventory is located out of doors. Signs shall not be located in the public right-of-way and there is no limit to the numbers of the signs.

(3) All outdoor inventory sales signs, except strings of pennants and streamers, shall not exceed 150 square feet per device.

(4) The height of the signs is limited to 75 feet.

(5) Balloons must be firmly attached to a stationary object.

(O) Hospitals, clinics (nursing care, intermediate care, handicapped care, infirmary care, child care and mentally ill institutions), physician offices, dentist offices and other medical treatment facilities directional signs:

(1) Shall not exceed one sign per abutting street and 16 square feet in area;

(2) Shall not be internally illuminated;

(3) Shall not be located within the public right-of-way; and

(4) Shall get permission from property owner.

(P) On premise professional designed temporary signs less than 12 square feet in area:

(1) One sign per premise;

(2) Shall not be located within the public right-of-way;

(3) Shall include sandwich boards, metal signs and the like; and

(4) Shall not exceed four feet in height. (Ord. passed 11-18-2010)

§ 152.257 PROHIBITED SIGNS.

The following signs are prohibited in the town:

(A) No sign shall be erected which imitates or in any way approximates official highway signs, nor shall

any sign be erected which obscures a sign displayed by a public authority;

(B) No sign shall be erected which displays flashing, blinking or intermittent lights or lights of changing intensity. No moving signs or moving parts of signs will be allowed;

(C) Portable signs, as defined in § 152.255 are prohibited;

(D) Temporary signs, as defined in § 152.255, except those of temporary nature as per § 152.266 below are prohibited;

(E) Displays of letters, logos, trademarks, emblems, pictures and the like on the three-dimensional items as oversize facsimiles of chicken buckets, human figures, tin cans and the like shall be prohibited except as specifically allowed as wooden signs in the CBD district;

(F) No sign shall be erected or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway room any street, alley, drive-way or parking lot;

(G) Commercial identification or advertising signs are prohibited on public utility poles, telephone poles, trees, parking meter poles, fences, benches and refuse containers, except the latter two may display a logotype or advertise business names;

(H) Pavement marking of any kind other than for traffic control are prohibited;

(I) Signs which contain obscene words or words and pictures which offend the public are prohibited;

(J) Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign is prohibited;

(K) No billboards or off-premise advertising as defined in § 152.255 shall hereafter be erected within the town;

(L) Directional signs for restaurants, gasoline stations and the like;

(M) No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property;

(N) No sign shall be placed in a public right-of-way;

(O) No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any form, shape or manner as to interfere with an opening required for legal ventilation;

(P) No sign that violates any provision of any law of the state relative to outdoor advertising shall be erected or permitted;

(Q) Any other sign which does not comply with the regulations of this chapter shall be prohibited; and

(R) Roof signs and signs that project above the roofline are prohibited.

(1) No signs shall be painted on roofs nor placed on roofs.

(2) Signs shall not extend above the roof ridge or parapet line of the building, whichever is lower.

(3) No portion of a wall, marquee or projecting sign shall be permitted to project over the roofline or parapet of the building to which it is attached.

(4) No sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building and no projecting sign shall extend over or above the roof line or parapet wall of a building. (Ord. passed 11-18-2010) Penalty, see § 152.999

§ 152.258 PERMIT PROCEDURE.

No sign shall hereafter be erected, attached, suspended, changed or relocated until permit has been issued by the Administrator. Application for a permit shall be made to the Administrator. The Administrator shall prescribe the form(s) on which applications are made, as well as any other materials which may be necessary to assure compliance with the requirements of this chapter.
(Ord. passed 11-18-2010) Penalty, see § 152.999

§ 152.259 SIGNS WHICH DO NOT REQUIRE A PERMIT.

(A) No permit is necessary for these signs, provided they are not prohibited as defined in § 152.257 above and provided that they comply with the conditions herein described. Signs permissible as per this section shall not be considered in determining total sign area.

(B) However, if a sign exceeds the size or in any other way does not comply with these limitations it shall be subject to all other provisions in this chapter.

(1) Real estate signs, as defined in § 152.255.

(2) Construction signs, as defined in § 152.255.

(a) One such signs may be erected per construction entrance.

(b) The signs may not exceed 32 square feet in area.

(c) The signs shall not be erected prior to the issuance of a building permit and shall be removed within ten days after the issuance of the final occupancy permit.

(3) Window signs, as defined in § 152.255.

(a) Signs attached temporarily to the interior of a building window or glass door.

(b) The signs, individually or collectively, may not cover more than 75% of the surface area of the transparent portion of the window or door to which they are attached.

(4) Political signs, as defined in § 152.255.

(5) Yard sale/open house signs, as defined in § 152.255. (Ord. passed 11-18-2010) Penalty, see § 152.999

§ 152.260 ON PREMISE SIGN REGULATION.

(A) All freestanding signs, support structures and required landscaping areas shall be at least one foot off any right-of-way or easement.

(B) Freestanding signs must be placed in a landscaped area which is at least three feet in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing and/or other suitable

vehicular barrier shall enclose the landscape area.

(C) Signs shall be placed on the premise of the business being advertised and the sign copy shall be used primarily to identify the on-premise business. Use of the sign copy for the general advertising of products, such as “Coke”, “Sprite” and the like shall not be permitted in residential zones and shall be limited to 20% of the sign area in business zones.

(D) A sign may contain changeable copy, however, in no case shall the changeable copy portion of the sign exceed 35% of the total sign area, except that a church shall not be limited.

(E) The area of a sign shall be measured according to the following rules as applicable.

(1) In the case of freestanding, projecting and marquee signs, area consist of the entire surface area on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless the structure or bracing is made part of the sign’s message. Where a sign has two display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign area.

(2) In the case of a sign (other than freestanding, projecting or marquee) whose message is fabricated together with the background which borders or frames that message, sign area shall be the total area of the entire background.

(3) In the case of a sign (other than freestanding, projecting or marquee) whose message is applied to a background which provides no border or frame, sign area shall be the area of the individual words, letters, figures, emblems or other elements of the size message.

(F) Interior lighting for signs, where permitted, shall not exceed 11 watts per bulb (the standard industry size). In the case of the use of exterior lighting by floodlights, the lights must comply with § 152.257(C) above. Non-illuminated interior window signs are permitted. Illuminated interior window signs shall be considered attached signs and shall count as one of the permitted signs and must conform to all regulations of the zoning district in which it is located.

(G) Sign permitted in all zones shall include all applicable signs as listed in § 152.259.

(H) Businesses located on a corner lot may be permitted one attached sign in addition to those otherwise permitted herein.

(I) No freestanding sign shall be placed less than 40 feet from another freestanding sign.

(J) Freestanding signs shall not be located on satellite parcels of real estate, whether the parcel is connected by deed or easement.

(K) All signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(L) Businesses may erect more than the two allowed signs provided that:

(1) The additional signs must be attached or projecting signs;

(2) The combined area of the additional signs must be less than or equal to the permitted area by type of sign. (For example, if a 90 square feet attached sign is permitted, then the business may have two 45 square feet signs or three 30 square feet signs);

(3) The maximum number of additional signs allowed is two;

(4) The additional signs may be illuminated; and

(5) The applicant shall submit a drawing of the proposed locations of the additional signs and meet all applicable requirements of §§ 152.155 through 152.272.
(Ord. passed 11-18-2010)

§ 152.261 SIGNS PERMITTED IN R-8, R-10, R-20 AND RA-40 DISTRICTS.

Residential districts provide for a quiet environment and sound neighborhoods. While some service-oriented businesses are allowed, the general usage is for family life. The intent of this section is therefore to provide for a limited use of signs which are generally not illuminated and which will preserve the family-oriented character of neighborhoods.

(A) Home occupation signs:

(1) One sign per premise;

(2) It may not be illuminated;

(3) The sign must be an attached sign mounted flat on the building; and

(4) The sign may not exceed four square feet in size.

(B) Residential subdivisions and developments and manufactured home park identification sign(s):

(1) The signs are permitted at each entrance to a development;

(2) The sign(s) copy is limited to the name of the development only;

(3) The sign(s) may be freestanding or placed on the entrance wall of the development;

(4) The sign(s) may not exceed 40 square feet in area, or ten feet in height;

(5) It may be illuminated; and

(6) The sign(s) shall be installed on private property subject to an easement for maintenance by the homeowner's association or other entity identified in the covenants.

(C) Signs for businesses:

(1) Each business is permitted one sign chosen from the following categories: attached and freestanding:

(a) Attached signs shall not exceed an area equal to the greater of 16 square feet or one square foot of sign area per linear foot of building frontage. The maximum allowable square footage of attached sign is 40 square feet, regardless of building size; and

(b) Freestanding sign shall not exceed 40 square feet in area, or ten feet in height.

(2) The signs may be illuminated.

(D) All signs shall meet the general requirements of § 152.260 above. (Ord. passed 11-18-2010)

§ 152.262 SIGNS PERMITTED IN THE CBD DISTRICT.

The CBD zoning districts have diverse shops in close proximity to one another, and are oriented primarily to daytime pedestrian use. Flower boxes, benches, shake shingle roofs and natural plantings lend the area a distinctive appearance. The intent of this section is to promote the downtown as a shopping and gathering place and to enhance the town's atmosphere. The use of wooden signs is encouraged, so as to contribute to the warmth, friendliness and appearance of the area.

(A) Freestanding signs.

(1) Each business may have freestanding signage with a maximum cumulative area for all freestanding signs of 32 square feet. This signage may be comprised of one or more signs. For example, a business may have one 32 square foot sign or two 16 square-foot signs.

(2) No freestanding sign shall exceed 20 feet in height, measured from the ground at the base of the sign to the top of the sign.

(3) No sign shall be placed in a public right-of-way.

(4) Nonconforming freestanding signs are regulated by § 152.068.

(B) Advertising signs.

(1) Each business is permitted two signs chosen from the following categories: attached, canopy and projecting. In no case may both signs be in the same category. Signs may be illuminated.

(2) Attached signs shall not exceed an area equal to the greater of 16 square feet or one-half square foot of sign area per linear foot of building frontage. As explanation buildings which are 32 feet across the front or less may have a 16 square foot attached sign. If the building is larger than 32 feet across the front permitted size would be determined by the formula, one-half square feet per linear foot of building. The maximum allowable square footage of attached sign is 48 square feet, regardless of building size.

(3) Projecting signs may not exceed 16 square feet in area.

(4) Canopy signs shall not exceed 16 square feet. Canopy signs may be attached to the canopy at the face of, side of or under canopy. No sign may be attached to the support structures. (Signs attached to the top of the canopy are considered attached signs and must meet the size requirements for attached signs.) Signs which are suspended under a canopy and/or cantilevered roof shall be at least eight feet above the sidewalk at their lowest point. Signs which are attached to the face or side of a canopy may not exceed 12 inches in height and no support structures shall be visible.

(5) To encourage uniqueness and originality, the canopy sign or projecting sign may be of an unusual shape. Examples of these signs would be: a shoe to identify a shoe store, an apothecary jar to identify a drug store, a camera to identify a photo store and the like. These signs must comply with all regulations as stated herein.

(6) All signs shall meet the additional requirements of § 152.260. (Ord. passed 11-18-2010; Ord. 228, passed 2-14-2013)

§ 152.263 SIGNS PERMITTED IN THE TBD DISTRICT.

The TBD zoning districts provide a variety of commercial services. They are oriented to vehicular traffic. The signs allowed permit an efficient means of information transfer consistent with the size of the streets and speed of traffic.

(A) Signs may be illuminated.

(B) Each business is permitted two signs which may be of any type, however, no more than one canopy sign per business. An additional freestanding sign (in addition to the two permitted signs) shall be permitted for those businesses with frontage along multiple street rights-of-way.

(C) Freestanding signs.

(1) Each business may have freestanding signage with a maximum cumulative area for all freestanding signs of 64 square feet. This signage may be comprised of one or two signs. For example, a business may have one sixty-four square foot sign or two 32 sixteen square-foot signs. If a business elects to have two freestanding signs, it shall have no other business signs, except as allowed in division (B).

(2) No freestanding sign shall exceed 30 feet in height, measured from the ground at the base of the sign to the top of the sign.

(3) Additional freestanding signs authorized by division (B) shall not exceed 25 square feet in area and five feet in height.

(4) No freestanding sign shall be placed less than 40 feet from another freestanding sign.

(5) Nonconforming freestanding signs are regulated by § 152.068.

(D) Projecting signs may not exceed 16 square feet.

(E) Canopy signs shall not exceed nine square feet in area. Canopy signs may be attached to the canopy or the face of, side of or under canopy. No sign may be attached to the canopy support structure. Signs which are projecting or are suspended under a canopy and/or cantilevered roof shall be at least eight feet above the sidewalk at their lowest point. Signs which are attached to the face or side of the canopy may not exceed 12 inches in height and no support structures shall be visible.

(F) Attached signs and painted wall signs may not exceed an area equal to one square foot of sign area per linear foot of building frontage or 20 square feet, whichever is greater. For example, a building which is 50 feet across the front may have a 50 square foot attached or painted wall sign. The maximum allowable square footage of attached or painted wall sign is 120 square feet, regardless of building size.

(G) All signs shall meet the general requirements in § 152.260. (Ord. passed 11-18-2010; Ord. 228, passed 2-14-2013)

§ 152.264 SIGNS PERMITTED IN THE INDUSTRIAL DISTRICT.

The above zoning districts in the town are limited to currently existing industrial uses. Each industrial use shall be permitted two advertising signs.

(A) The sign may be attached or freestanding.

(B) It may be illuminated.

(C) Attached signs may not exceed an area equal to one square foot per linear foot of building frontage not to exceed 120 square feet.

(D) Freestanding signs may not exceed 50 square feet in size and 20 feet in height.

(E) An additional freestanding sign (in addition to the two permitted signs) shall be permitted for those businesses with frontage along multiple street rights-of-way.

(F) All signs shall meet the general requirements of 152.260. (Ord. passed 11-18-2010)

§ 152.265 SIGN REGULATIONS FOR COMMERCIAL DEVELOPMENTS.

(A) *Directory signs.* A shopping center, mall or unified business establishment consisting of two or more businesses in one building or in connecting buildings shall be permitted a directory sign which announces the name of the commercial center and/or establishment within. Directory signs may be attached or freestanding and shall conform to the area requirements as follows:

(1) In the CBD zone, the permitted area of an attached directory sign shall not exceed the greater of 20 square feet or one-half square foot per linear foot of total frontage of the building to a maximum of 48 square feet. Freestanding directory signs shall not exceed 20 square feet in area and ten feet in height.

(2) In the TBD zone, an attached directory sign shall not exceed one square foot per linear foot of building frontage to a maximum of 120 square feet. A freestanding directory sign shall not exceed 120 square feet in area. The height of the directory sign shall not exceed 20 feet.

(3) When a shopping center, mall or unified business establishment has in excess of 400 feet on an arterial road(s) and consists of more than five acres, one directory sign per arterial road upon which it fronts is permitted.

(4) Entrances to interior malls may be identified by an attached sign in addition to the other signs permitted to the business establishment. The signs shall be attached to the building over the entrances or beside the entrances only. The signs shall not exceed four square feet in the CBD zone, and 16 square feet in the TBD and O-I zone.

(B) Signs for tenants within shopping centers, malls and unified business establishments.

(1) Businesses within shopping centers, malls and unified business establishments are permitted two signs from the following categories: attached, canopy and projecting.

(2) If the business has an exterior frontage in the commercial development of 80 linear feet or more, the business may be permitted a freestanding sign as one of its two permitted signs.

(3) All signs permitted by division (B)(2) must meet all regulations contained in § 152.260 as pertains to the zone in which they are located.

(4) Area of attached and painted wall signs shall be computed by the linear building frontage feet of each individual establishment.

(C) Signs for business, industrial or office campuses and parks.

(1) The sign(s) are permitted at each entrance to the campus or park.

(2) The sign copy may include the identification of the campus or park, a directory of the businesses or industries within the campus or park, and/or changeable copy.

(3) The sign(s) may not exceed 120 square feet in area.

(4) The height of the sign(s) is limited to the zoning district in which it is located.

(5) The sign(s) may be illuminated.

(6) The sign(s) shall be installed on private property subject to an easement for maintenance by the business owner's association or other entity identified in the covenants.

(Ord. passed 11-18-2010)

§ 152.266 TEMPORARY SIGNS.

Temporary signs must conform to all regulations of this section. These signs shall be required to obtain a temporary sign permit. Information required for temporary sign permits will be name and address of sign owner, date of erection of sign, date for removal of sign and description of sign (size, shape and material of construction).

(A) *Temporary signs for special events or festivals of a religious, charitable, civic or fraternal nature.* Religious charitable, civic or fraternal organizations advertising special events may display temporary signs as defined by § 152.255, provided that:

(1) The size of any such sign shall not exceed 32 square feet in area;

(2) The signs may not be illuminated;

(3) The signs may not be displayed earlier than 30 days prior to the event to which they pertain and must be removed within seven days after the event; and

(4) No limit on number of signs.

(B) *Temporary signs for businesses.* Businesses may display a temporary sign, as defined by § 152.255, provided that:

(1) The size of any such sign shall not exceed 32 square feet in area;

(2) The signs may not be illuminated;

(3) Only one sign per premise is allowed;

(4) A business establishment may receive a permit for a temporary sign location for 180 days during each calendar year;

(5) The permit is valid as long as:

(a) The business establishment does not close or change names;

(b) The location of the sign does not change; and

(c) If the business closes, changes names or the sign is relocated, then a new permit is required.

(6) The sign must be affixed in order to prevent the sign from flapping in the wind;

(7) The sign shall not be located within the public right-of-way;

(8) The sign shall be professionally made and constructed of durable, exterior fabrics which are warranted for their color fastness and durability; and

(9) Repair and/or removal:

(a) An Enforcement Officer can require the immediate repair and/or removal of any banner

deemed unsafe; and

(b) Any banner which becomes worn or tattered shall be removed immediately and may be replaced with a banner which is similar in nature.
(Ord. passed 11-18-2010)

§ 152.267 PERMITTED SIGN FIXTURES.

(A) Pole-mounted banners:

(1) The installation of pole-mounted banners is designed to contribute to the aesthetic enhancement of designated areas. For this purpose, they should provide dynamic and colorful displays that unify the area in which they are to be placed. Pole-mounted banners shall have a unifying theme in their content; and

(2) General requirements:

(a) Any person seeking to erect pole-mounted banners shall submit an application on a form provided by the Planning Department;

(b) The permit for a pole-mounted banner location shall be for an indefinite period of time;

(c) The permit is valid as long as:

1. The business establishment does not close or change names;

2. The location of a banner does not change;

3. If the business closes, changes names or the banner is relocated, then a new permit is

required; and

4. Required attachments:

a. Map showing location of banners;

b. Size of banners;

c. Height of banners; and

d. Verification that the banner's construction is able to withstand the average prevailing winds during the months(s) displayed.

(d) No banner shall be erected until a permit is issued.

1. Maximum copy size: pole-mounted banners are limited in size to 32 square feet.

2. Maximum height: the height of banners is limited to the building height restrictions (

§ 152.144 above) of the zoning district where they are located.

3. Banners shall not be located in the public right-of-way and there is no limit to the numbers

of the banners.

(e) Repair and/or removal:

1. An Enforcement Officer can require the immediate repair and/or removal of any banner deemed unsafe; and

2. Any banner which becomes worn or tattered shall be removed immediately and may be replaced with a banner which is similar in nature.

(f) Construction material:

1. Banners shall be professionally made and constructed of durable, exterior fabrics which are warranted for their color fastness and durability; and

2. Banners shall be able to withstand the average prevailing winds in the months(s) they are to be displayed and must meet standards of the State Building Code.

(7) Mounting devices:

(a) Banner mounting devices shall have structural integrity, be weather resistant, and be crafted of a durable, non-corroding material.

(b) Attachment hardware and mounting devices shall meet the State Building Code specifications.

(B) Wall mounted sign holders:

(1) Only one sign holder per premise is allowed except a theater shall not be limited;

(2) Any person seeking to erect a wall mounted sign holder shall submit an application on a form provided by the Administrator;

(3) The permit for a wall mounted sign holder location shall be for an indefinite period of time;

(4) The permit is valid as long as the location of a holder does not change;

(5) If the holder is relocated, then a new permit is required;

(6) No sign holder shall be erected until a permit is issued;

(7) Maximum copy size: wall mounted sign holders are limited in size to 32 square feet;

(8) Sign holder mounting devices shall have structural integrity, be weather resistant, and be crafted of a durable, non-corroding material; and

(9) Attachment hardware and mounting devices shall meet the State Building Code specifications. (Ord. passed 11-18-2010)

§ 152.268 EXCEPTIONS AND MODIFICATIONS.

Where a business establishment elects to erect only one sign and the sign is to be an attached sign, the permitted area of this sign may be increased as follows:

(A) The permitted area of an attached sign may be increased by 50%;

(B) The attached sign permitted by this section shall meet all other applicable requirements regarding placement, lighting, permit procedures and the like; and

(C) In the event that the business should desire a second sign after the attached sign allowed by this section is erected, no permit for the additional sign shall be issued until the attached sign meets the size requirement of the zone in which it is located.
(Ord. passed 11-18-2010)

§ 152.269 BUSINESS SET BACK FROM ITS MAJOR ACCESS ROAD BY 200 FEET OR MORE.

Where a business establishment is set back from its major road by 200 feet or more, the permitted size of the attached signs may be increased by 10% plus an additional 10% for each 50 feet of distance in excess of 200 feet to a maximum of 100% increase provided that:

(A) This rule shall apply to attached signs only;

(B) This rule shall apply to only one of the two permitted signs;

(C) The attached sign must meet all other applicable requirements regarding placement, lighting, permit procedures and the like as pertains to the zone in which it is located;

(D) If the business has a freestanding sign this rule shall not apply; and

(E) If a business is set back from its major access road by 200 feet or more and has only one sign, the business may choose the modifications of size permitted by this division.
(Ord. passed 11-18-2010)

§ 152.270 SIGNS PERMITTED BY SPECIAL USE PERMIT.

(A) Signs listed in this section may be allowed a special use permit issued by the Town Board of Adjustment, in accordance with the procedures of §§ 152.045 and 152.046.

(B) Businesses, which because of building design, road construction or other circumstances beyond the control of the business establishment, cannot feasibly erect a sign in a permitted location, may be granted a special use permit to place the sign in an otherwise illegal location, provided that:

(1) The business establishment provides sufficient information indicating the circumstances which prevent the location of a sign in a permitted location and a finding by the Board of Adjustment that the circumstances do exist in fact;

(2) The area of the sign shall not exceed the area permitted for the type sign in the zone in which the business is located;

(3) The applicant shall submit a sketch of the proposed sign showing location;

(4) The Board of Adjustment finds that the sign and its location are in harmony with the building and surrounding area; and

(5) The application meets all applicable requirements of §§ 152.255 through 152.272. (Ord. passed 11-18-2010)

§ 152.271 MAINTENANCE OF SIGNS.

All sign supports, braces, poles, wires and anchors thereof shall be kept in good repair. They shall be maintained in safe conditions, free from deterioration, missing parts and peeling paint. Any sign not in compliance with these standards shall be deemed a nuisance and the following action may be taken.

(A) The Administrator shall give written notice to the owner specifying the sign indicated and telling what needs to be done to bring the sign into compliance.

(B) The owner of the sign shall respond to the notice within two weeks and shall have 60 days to complete the repairs. Additional time shall be granted by the Administrator only upon delay of parts when it has been clearly shown that the parts have been ordered.

(C) Failure to complete repairs in the specified time shall result in the Administrator causing the sign to be repaired, removed or altered at the expense of the owner(s). Costs of removal or repair, court costs and attorney fees incurred by the town shall be assessed against the owner(s), to be collected by the town in an action in the nature of a debt.

(D) In the event of a sign which is damaged in excess of 50% of its reproduction value, the sign shall be restored or repaired only in compliance with the provisions of this chapter.

(Ord. passed 11-18-2010)

§ 152.272 RELOCATION OF SIGNS.

Signs for which a sign permit has been issued may be relocated in conformance with the regulations of this chapter upon notification to the Town Planner. Signs which are nonconforming may not be relocated except upon removal of all nonconforming features of the sign.

(Ord. passed 11-18-2010)

PARKING

§ 152.285 DEFINITIONS.

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

CIRCULATION AREA. The portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the ***CIRCULATION AREA***.

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

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

LOADING AND UNLOADING AREA. The portion of the vehicle accommodation area used to satisfy the requirements of § 152.295.

VEHICLE ACCOMMODATION AREA. The portion of a lot that 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).

PARKING AREA AISLES. The portion of the vehicle accommodation area consisting of lanes providing

access to parking spaces.

PARKING SPACE. A portion of the vehicle accommodation area set for the parking of one vehicle. (Ord. passed 11-18-2010)

§ 152.286 NUMBER OF PARKING SPACES REQUIRED.

(A) All developments in all zoning districts other than the CBD district shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. Each application for a building permit or certificate of occupancy as provided for in this chapter shall include information as to the location and dimensions of off-street parking and loading space and the means of exit and entrance to the space. This information shall be in sufficient detail to enable the Administrator to determine whether or not the requirements of this chapter are being met.

(B) The presumptions established by this chapter are that: a development must comply with the parking standards set forth in division (E) below to satisfy the requirement stated in division (A) above; and any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in § 152.287.

(C) Uses in the Table of Parking Requirements, division (E) below, are indicated by a numerical reference keyed to the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, when determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(D) The Board of Commissioners recognizes that the Table of Parking Requirements set forth in division (E) below cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.

(E) Table of Parking Requirements: refer to § 152.287. (Ord. passed 11-18-2010)

§ 152.287 PARKING REQUIREMENTS.

Reference Number in Table of Permitted Uses	***Parking Requirement***
1.11 Single family detached, one per lot	2 spaces per dwelling unit plus 1 space per room
1.12 Single family detached, more than 1 per lot	Rented out (see accessory uses, § 152.100)
1.2 Two family residences	2 spaces for each dwelling unit, except 1-bedroom units require only one space
1.3 Multifamily residences	With respect to multi-family units located in buildings where each dwelling unit has an entrance and living space on the ground floor, the requirement shall be l.5 spaces for each 1-bedroom unit with 2 or more bedrooms. Multi-family units limited to persons of low or moderate-income or the elderly require only 1 space per unit. All other multi-family units require 1 space for each bedroom in each unit plus 1 additional space for every 4 units in the development.

1.43 Child care homes	Spaces for every 5 beds except for use exclusively serving children under 16, in which case 1 space for every 3 beds shall be required
1.51 Rooming/boarding houses	1 space for each bedroom
1.52 Tourist temporary residences	1 space for each room to be rented plus additional space
1.53 Hotels, motels and similar businesses	1 space for each room to be rented plus 1 space for each 2 employees plus (in accordance with other sections of this table) for restaurants or other facilities
1.7 Home occupations	4 spaces for offices of physicians or dentists, 2 spaces for attorneys, for all others 1 space for every 500 square feet of floor space devoted to the home occupation use
2.111 Sales and rental of goods, merchandise and equipment, no storage or display of goods outside a fully enclosed building, high volume traffic	1 space per 200 square feet of gross floor area

Reference Number in Table of Permitted Uses		*Parking Requirement*
2.112	Convenience stores	1 space per 150 square feet of gross floor area
2.21	Sales and rental of goods, merchandise and equipment, storage and display of goods outside fully enclosed building, high volume traffic	1 space per 200 square feet of floor area
2.22	Sales and rental of goods, merchandise and equipment, storage and display of goods outside fully enclosed building, low volume traffic	1 space per 200 square feet of floor area
2.23	Wholesale sales	
3.11	Manufacturing, processing, creating, repairing, renovating, cleaning of goods, merchandise and equipment. All operations conducted within an enclosed building.	1 space for every 2 employees on the maximum shift, 1 space for managerial personnel, 1 visitor space for each 10 managerial personnel, and 1 space for each vehicle used directly in the conduct of the business
3.12	Manufacturing, processing, creating, repairing, renovating, cleaning of goods, merchandise and equipment. All operations conducted within or outside an enclosed building.	Except that, if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area
4.11	Elementary and secondary schools	1.75 spaces per classroom in elementary schools, 5 spaces per classroom in high schools
4.12	Trade or vocational schools	1 space per 100 square feet of gross floor area
4.13	Colleges, universities, community colleges	1 space per 150 square feet of gross floor area
4.2	Churches, synagogues and temples	1 space for every 4 seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential use, plus 1 space for every 200 square feet of gross floor area designed to be used neither for services nor residential purposes
4.3	Libraries, museums, art galleries and similar uses	1 space per 300 square feet of gross floor area
4.4	Social, fraternal clubs and lodges, union halls and similar uses	1 space for each 200 square feet of gross floor area

Reference Number in Table of Permitted Uses		*Parking Requirement*
5.11 where	Recreation, amusement, entertainment the activity is conducted entirely within building such as bowling alleys, skating rinks, indoor tennis and squash courts, indoor athletic and exercise facilities and similar uses	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion; example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation
5.12	Billiard and pool halls	1 space for every 4 seats
5.13	Movie theaters	1 space for each four seats in the largest assembly area
5.21	Recreational activities conducted primarily outside enclosed structure such as golf and country clubs, tennis and swim clubs, not constructed in conjunction with a residential development	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity plus any other uses associated with the golf course (restaurant, and the like)
5.22	Publicly owned outdoor recreational uses not constructed pursuant to a permit authorizing school construction	
5.23	Golf driving range	Miniature golf course, skateboard park, water slide, and similar uses - 1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area; driving range - 1 space per fee plus 1 space per 200 square feet in building gross floor area; par three course - 2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area
5.24	Horseback riding stables	1 space per horse that could be kept at the stable when occupied to maximum capacity
5.25 track	Auto Manufactured and motorcycle racing	1 space for every 3 seats
5.26	Drive in movie theaters	1 space per speaker outlet
6.1	Hospitals, clinics, other medical treatment facilities in excess of 10,000 square foot floor area	2 spaces per inpatient/outpatient room plus one parking space per employee on the largest shift
6.2	Nursing care, intermediate care, handicapped or infirmary or child care institutions	3 spaces for every 5 beds; multi-family units developed or sponsored by a public or non-profit agency for limited income families or the elderly require only 1 space per unit
6.3	Institutions where mentally ill persons are	1 space for every 2 employees on maximum shift

Reference Number in Table of Permitted Uses		*Parking Requirement*
	confined (other than halfway house)	
6.4	Penal and correctional facility	
7.1	Restaurants, bars, night clubs with no carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure	1 space per 100 square feet of gross floor area
7.2	Restaurants, bars, night clubs with carry out, delivery service, consumption outside fully enclosed structure allowed	Same as 7.1 plus 1 space for every four outside seats
7.3	Restaurants, bars, night clubs with carry out, delivery service, drive-in service consumption outside fully enclosed structure allowed	Same as 7.2 plus reservoir lane capacity equal to 5 spaces per drive-in window
7.4		
8.1	Motor vehicle sales or rental, Manufactured home sales	1 space per 200 square feet of gross floor area
8.2	Sales with installation of motor vehicle parts or accessories	
8.3	Motor vehicle repair and maintenance not including substantial body work	
8.4	Motor vehicle painting and body work	
8.5	Gas sales	1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
8.6	Car wash	Conveyor type - 1 space for every three employees on the maximum shift plus reservoir capacity equal to 5 times the capacity of the washing operation; self service type - 2 spaces for drying and cleaning purposes per stall plus 2 reservoir spaces in front of each stall
9.21		1 space for every 2 employees on the maximum shift
9.22		Not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)
10.0	Veterinarian	1 space per 200 square feet of gross floor area

Reference Number in Table of Permitted Uses		*Parking Requirement*
11.0	Emergency services	1 space per 200 square feet of gross floor area
12.0		1 space per 200 square feet of gross floor area
13.1	Post office	1 space for every two employees on maximum shift
13.2	Airport	1 space per 200 square feet of gross floor area
13.3	Military reserve, National Guard	1 space for every two employees on maximum shift
13.4		1 space per 100 square feet of gross floor area
14.0	Dry cleaner, laundry mat	1 space per 200 square feet of gross floor area
17.0	Open air markets (farm and craft markets, flea markets, produce markets)	1 space per 1,000 square feet of lot area used for storage, display, or sales
18.11	Operations designed to attract and serve customers or clients on the premises, such as offices of attorneys, physicians, other professionals, insurance stock brokers, travel agents, government office buildings	1 space per 200 square feet of gross floor area
18.12	Office clerical, research and services not primarily associated with goods or merchandise. All operations conducted entirely with fully enclosed structure. Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use.	1 space per 400 square feet of gross floor area
18.13	Office clerical, research and services not primarily associated with goods or merchandise. All operations conducted entirely with fully enclosed structure. Office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area.	1 space per 150 square feet of gross floor area
18.21	Office clerical, research and services not primarily associated with goods or merchandise. All operations conducted within or outside with fully enclosed structure. Operations designed to attract and serve	1 space per 200 square feet of gross floor area

Reference Number in Table of Permitted Uses		*Parking Requirement*
	customers or clients on the premises.	
18.22	Office clerical, research and services not primarily associated with goods or merchandise. All operations conducted within or outside with fully enclosed structure. Operations designed to attract little or no customer client traffic other than employees of the entity operating the principal use.	1 space per 200 square feet of gross floor area
18.23	Banks with drive in windows	1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves 2 stations)
18.24	Banks without drive-in windows	1 space for each 200 square feet of gross floor area plus 1 space for each 2 employees
20.0	Nursery schools, day care centers	1 space per employee plus 1 space per 200 square feet of gross floor area
21.0	Bus station, train station	1 space per 200 square feet of gross floor area
25.0	Landfills	1 space for every employee on maximum shift, plus one space for each vehicle and/or trailer stored or parked on site

(Ord. passed 11-18-2010)

§ 152.288 FLEXIBILITY IN ADMINISTRATION REQUIRED.

(A) The Board of Commissioners recognizes that, due to the particularities of a given development, the inflexible application of the parking standards set forth in § 152.287 may result in a development either with inadequate parking space of parking space far in excess of its needs. The former situation may lead to traffic congestion of parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in § 152.287, the permit-issuing authority may permit deviations from the presumptive requirements of § 152.287, and may require more parking or allow less parking whenever its finds that the deviations are more likely to satisfy the standard set forth in § 152.287.

(B) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in § 152.287 when it finds that:

(1) A residential development is irrevocably oriented toward the elderly; and/or

(2) A business is primarily oriented to walk-in trade.

(C) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in § 152.287, it shall enter on the face of the permit the parking requirement that it imposes reasons for allowing or requiring the deviation.

(D) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by § 152.287 for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in §§ 152.330 through 152.336.

(Ord. passed 11-18-2010)

§ 152.289 PARKING SPACE DIMENSIONS.

(A) Subject to divisions (B) and (C) below, each parking space shall contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(B) In parking areas containing ten or more parking spaces, up to 20% of the parking spaces need contain a rectangular area of only seven and one-half feet in width by 15 feet in length. If those spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(C) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of the parking spaces shall be not less than 22 feet by nine feet.

(Ord. passed 11-18-2010)

§ 152.290 REQUIRED WIDTHS OF PARKING AREA AISLES AND DRIVEWAYS.

(A) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	Parking Angle				
Aisle width	0	30	45	60	90
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

(B) Driveways shall be not less than ten feet in width for one-way traffic and 18 feet in width for two-way traffic, except that ten-foot-wide driveways are permissible for two-way traffic when: the driveway is not longer than 50 feet; it provides access to not more than six spaces; and sufficient turning space is provided so that vehicles need not back into a public street.

(Ord. passed 11-18-2010)

§ 152.291 GENERAL DESIGN REQUIREMENTS.

(A) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit the areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.

(B) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency and other public service vehicles can serve the developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(C) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the

perimeter of the area onto adjacent properties or public rights-of-way. The areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or other obstruction.

(D) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
(Ord. passed 11-18-2010)

§ 152.292 VEHICLE ACCOMMODATION AREA SURFACES.

(A) Vehicle accommodation areas that: include lanes for drive-in windows; or contain parking areas that are required to have more than ten parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standard set forth in this division (A) are contained in Appendix D, which is on file in the office of the Town Clerk.

(B) Vehicle accommodation areas that are not provided with the type of surface specified in division (A) above shall be graded and surfaced with crushed stone, gravel or other suitable material (as provided in the specifications set forth in Appendix D, which is on file in the office of the Town Clerk) to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of the parking areas shall be defined by bricks, stones, railroad ties or other similar devices. In addition, whenever a like vehicle accommodation area abuts a paved street, the driveway leading from the street to the area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto the streets), shall be paved as provided in division (A) above for a distance of 15 feet back from the edge of the paved street. This division (B) shall not apply to single-family or two-family residences or other uses that are required to have only one or two parking spaces.

(C) Parking spaces in areas surfaced in accordance with division (A) above shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with division (B) above shall be demarcated whenever practicable.

(D) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes and the like) and parking lines or marking shall be kept clearly visible and distinct.
(Ord. passed 11-18-2010)

§ 152.293 JOINT USE OF REQUIRED PARKING SPACES.

(A) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(B) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

(C) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of § 152.294 below are also applicable.
(Ord. passed 11-18-2010)

§ 152.294 SATELLITE PARKING.

(A) If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be

provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

(B) All the satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with the parking, or within 400 feet of the lot on which the use associated with the 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.

(C) The developer wishing to take advantage of the provisions to this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use the spaces. The developer must also sign an acknowledgment that the continuing validity of his or her permit depends upon his or her continuing ability to provide the requisite number of parking spaces.

(D) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this chapter.

(Ord. passed 11-18-2010)

§ 152.295 SPECIAL PROVISIONS FOR LOTS WITH EXISTING BUILDINGS.

Notwithstanding any other provisions of this chapter, whenever: there exists a lot with one or more structures on it constructed before the effective date of this chapter; and a change in use that does not involve any enlargement of a structure is proposed for the lot; and the parking requirements of § 152.286 that would be applicable as a result of the proposed change cannot be satisfied on the lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of § 152.286 to the extent that: parking space is practicably available on the lot where the development is located; and satellite parking space is reasonably available as provided in § 152.293 above. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on the lot that the developer obtain satellite parking when it does become available.

(Ord. passed 11-18-2010)

§ 152.296 LOADING AND UNLOADING AREAS.

(A) Subject to division (E) below, whenever the normal operation of any development requires that goods, merchandise or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(B) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this division (B). However, the permit issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

(Ord. passed 11-18-2010)

§ 152.297 GROSS LEASABLE AREA OF BUILDING.

Square Feet of Building	***Number of Loading Spaces***
1,000 to 19,999	1
20,000 to 79,999	2

80,000 to 127,999	3
128,000 to 191,000	4
192,000 to 255,999	5
256,000 to 319,999	6
320,000 to 391,999	7
Plus one space for each additional 72,000 square feet or fraction thereof.	
*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.	

(A) Loading and unloading areas shall be so located and designed that 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 or any parking space or parking lot aisle.

(B) No area allocated to 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.

(C) Whenever: there exists a lot with one or more structures on it constructed before the effective date of this chapter; and a change in use that does not involve any enlargement of a structure is proposed for the lot; and the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible. (Ord. passed 11-18-2010).

SCREENING AND TREES

§ 152.310 BOARD OF COMMISSIONERS FINDINGS; SCREENING REQUIREMENTS.

The Board of Commissioners finds that:

(A) Screening between two lots lessens the transmission from one lot to another of noise, dust and glare;

(B) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the usual assault of an adjacent use;

(C) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening; and

(D) The provisions of this part are necessary to safeguard the public health, safety and welfare. (Ord. passed 11-18-2010)

§ 152.311 GENERAL SCREENING STANDARD.

Every development shall provide sufficient screening so that:

(A) Neighborhood properties are shielded from any adverse external effects of that development; and

(B) The development is shielded from the negative impacts of adjacent uses such as streets or railroads. (Ord. passed 11-18-2010)

§ 152.312 COMPLIANCE WITH SCREENING STANDARD.

(A) The table set forth as the Table of Screening Requirements (Table 2), in conjunction with the explanations in § 152.313 below concerning the types of screens, establishes screening requirements that presumptively satisfy the general standards established in § 152.311 above. However, this table is only intended to establish a presumption and should be flexibly administered in accordance with § 152.314.

(B) The numerical designations contained in the Table of Screening Requirements are keyed to the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, and the letter designations refer to types of screening as described in § 152.313 below. This table indicates the type of screening that is presumptively required between two uses.

(1) Where the screening is required, only one of the two adjoining uses is responsible for installing the screening. The use assigned this responsibility is referred to as the burdened use in the Table of Screening Requirements, and the other use is the benefitted use.

(2) To determine which of two adjoining uses is required to install the screening, find the use classification number of one of the adjoining uses in the burdened use column and follow that column across the page to its intersection with the use classification number in the:

(a) Benefitted use column that corresponds to the other adjoining use. If the intersecting square contains a letter, then begin the process again, starting this time in the Burdened Use column with the other adjoining use.

(b) To merely determine the type of screening proposed new development must install, begin under the burdened column with the use classification number of the proposed use and follow that line across the page to its intersection with the use classification number of each use that adjoins the property to be developed. For each intersection square that contains a letter, the developer must install the level of screening indicated.

(C) If, when the analysis described in division (B)(1) above is performed, the burdened use is an existing use but the required screening is not in place, then this lack of screening shall constitute a nonconforming situation, subject to all the provisions of §§ 152.060 through 152.067 of this chapter.

(D) Not withstanding any other provision of this chapter, a two-family or multi-family development shall be required, at the time of construction, to install any screening that is required between it and adjacent existing uses according to the Table of Permissible Uses, which is available for inspection in the office of the Town Clerk, regardless of whether, in relation to other uses, the two-family or multi-family development is the benefitted or burdened use.
(Ord. passed 11-18-2010)

§ 152.313 DESCRIPTIONS OF SCREENS.

The following three basic types of screens are hereby established and are used as the basis for the Table of Screening Requirements.

(A) *Opaque Screen, Type A.* A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of special separation. The opaque screen may be composed of all wall, fence, landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the

average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants. Suggested planting patterns that will achieve this standard are included in Appendix E, which is on file in the office of the Town Clerk.

(B) *Semi-opaque Screen, Type B.* A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation or existing vegetation, compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants. Suggested planting patterns which will achieve this standard are included in Appendix E, which is on file in the office of the Town Clerk.

(C) *Broken Screen, Type C.* A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. suggested planting patterns which will achieve this standard are included in Appendix E, which is on file in the office of the Town Clerk. Table of Screening Requirements. This table is necessary to determine the screening type and subsequent requirements for proposed land use development. See Table 2.

(Ord. passed 11-18-2010)

§ 152.314 FLEXIBILITY IN ADMINISTRATION REQUIRED.

(A) The Board of Commissioners recognizes that because of the wide variety of types of development and the relationships between them, it is neither possible nor prudent to establish inflexible screening requirements. Therefore, as provided in § 152.312, the permit-issuing authority may permit deviations from the presumptive requirements of Table 2 and may either require more intensive or allow less intensive screening whenever it finds the deviations are more likely to satisfy the standard set forth in § 152.311 without imposing unnecessary costs on the developer.

(B) Without limiting the generality of division (A) above, the permit-issuing authority may modify the presumptive requirements for:

(1) Commercial developments located adjacent to residential uses in business zoning districts;

(2) Commercial use located adjacent to other commercial uses within the same zoning district; and

(3) Uses located within planned unit developments (for screening requirements within planned residential developments, see § 152.120).

(C) Whenever the permit-issuing authority allows or requires a deviation from the presumptive requirements set forth in Table 2 it shall enter on the face of the permit the screening requirement that it imposes to meet the standard set forth in § 152.311 and the reasons for allowing or requiring the deviation.

(D) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that a presumption established by division (B) above is erroneous, it shall initiate a request from an amendment to Table 2 in accordance with procedures set forth in §§ 152.330 through 152.336.

(Ord. passed 11-18-2010)

§ 152.315 COMBINATION USES.

(A) In determining the screening requirements that apply between a combination use and another use, their permit-issuing authority shall proceed as if the principal uses that comprise the combination use were not combined and reach its determination accordingly, relying on Table 2 interpreted in the light of § 152.314.

(B) When two or more principal uses are combined to create a combination use, screening shall not be required between the component principal uses unless they are clearly separated physically and screening is determined to be necessary to satisfy the standard set forth in §152.311.

(Ord. passed 11-18-2010)

§ 152.316 SUBDIVISIONS.

When undeveloped land is subdivided and undeveloped lots only are sold, the subdivide shall not be required to install any screening. Screening shall be required, if at all, only when the lots are developed, and the responsibility for installing the screening shall be determined in accordance with the other requirements of this chapter.

(Ord. passed 11-18-2010)

§ 152.317 BOARD OF COMMISSIONERS FINDINGS AND DECLARATION OF POLICY ON SHADE TREES.

(A) The Board of Commissioners finds that:

(1) Trees are proven producers of oxygen, a necessary element for human survival;

(2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;

(3) Trees transpire considerable amounts of water each day and thereby the air much like the air-washer devices used on commercial air conditioning systems;

(4) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers;

(5) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control and flood control;

(6) Trees are an invaluable physical, aesthetic and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and

(7) For the reasons indicated in division (A)(6) above, trees have an important impact on the desirability of land and therefore on property values.

(B) Based upon the findings set forth in division (A) above, the Board of Commissioners declares that it is not only desirable but essential to the health, safety and welfare of all persons living or working within the city's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this section, to require the planting of new trees in certain types of developments.

(Ord. passed 11-18-2010)

§ 152.318 REQUIRED TREES ALONG DEDICATED STREETS.

Along both sides of all newly created streets that are constructed in accordance with the public street standards set forth in §§ 152.180 through 152.193, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix E, which is on file in the office of the Town Clerk.
(Ord. passed 11-18-2010)

§ 152.319 RETENTION AND PROTECTION OF LARGE TREES.

(A) Every development shall retain all existing trees 18 inches in diameter or more unless the retention of the trees would unreasonably burden the development.

(B) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12 % feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this division would unreasonably burden the development. For purposes of this division (B), a ***DRIP LINE*** is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(C) The retention or protection of trees 18 inches in diameter or more as provided in divisions (A) and (B) unreasonably burdens a development if, to accomplish the retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and the alteration would work an unreasonable hardship upon the developer.

(D) If space that would otherwise be devoted to parking cannot be so used because of the requirements of division (A) or (B) above, and, as a result, the parking requirements set forth in §§ 152.285 through 152.297 cannot be satisfied, the number of required spaces may be reduced by the number of spaces “lost” because of the provisions of divisions (A) and (B) above, up to a maximum of 15% of the required spaces.

(E) Large trees located along the edge of construction corridors should be retained wherever possible. Disturbed areas should be re-seeded with mixtures beneficial to wildlife, i.e. native annual grains appropriate for the season. (Ord. passed 11-18-2010)

§ 152.320 SHADE TREES IN PARKING AREAS.

(A) Vehicle accommodation areas that are required to be paved by § 152.292 must be shaded by deciduous trees (either retained or planted by developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this division, the developer shall choose trees that meet the standards set forth in Appendix E, which is on file in the office of the Town Clerk.

(B) Each tree of the type described in division (A) above shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20% of the vehicle accommodation area will be shaded.

(C) No paving may be placed within 12 % feet (measured from the center of the trunk) of any tree retained to comply with division (A) above, and new trees planted to comply with division (A) above shall be located so that they are surrounded by at least 200 square feet of unpaved area.

(D) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.
(Ord. passed 11-18-2010)

LANDFILL DISTRICT REGULATIONS

§ 152.330 PURPOSE.

The purpose, intent and objective of the Landfill District is to:

(A) Promote the health, safety and general welfare of the citizens of the town;

(B) Preserve the natural scenic beauty of the town and its extraterritorial area;

(C) Protect the public from health nuisances and safety hazards by controlling vectors, concentrations of volatile or poisonous materials, and sources of danger to children;

(D) Regulate the development of landfills within the town;

(E) Establish reasonable and uniform regulations to prevent the deleterious location and concentration of landfills within the town, and its extraterritorial area; and

(F) The provisions of this chapter have neither the purpose nor effect of imposing an unreasonable limitation or restriction on the development of landfills.

(Ord. passed 11-18-2010)

§ 152.331 DEFINITIONS.

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

HEALTH OR SAFETY NUISANCE. Any solid waste or other materials that are accepted in landfills may be declared a health nuisance or safety hazard when it is found to be:

(1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats or other pests;

(2) A point of collection for pools or ponds of water;

(3) An unsafe concentration of gasoline, oil or other flammable or explosive materials;

(4) So located that there is a danger of the materials falling or turning over without assistance;

(5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside; the overturning of heavy items; or

(6) An unsafe concentration of materials that pose either a hazard of immediate or long-term environmental degradation.

OPERATOR. Any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision and maintenance of a solid waste management facility and includes the person in charge of a shift or periods of operation during any part of the day.

(Ord. passed 11-18-2010)

§ 152.332 CONDITIONAL USE REZONING REQUIRED.

All landfill developments within the town shall require a conditional use rezoning issued by the Board of Commissioners pursuant to the normal conditional use rezoning process.
(Ord. passed 11-18-2010)

§ 152.333 SUPPLEMENTARY USE REGULATIONS.

(A) In addition to other requirements of this chapter, the applicant must submit with its application for a conditional use rezoning, the information required by this section.

(B) The application must demonstrate how the applicant and the landfill operation will comply with all state and federal regulations.

(C) All landfills must be located on one lot or parcel only. Recombination plats are required if the proposed landfill site consists of more than one lot or tract of record.

(D) Vehicular access must be provided from a public maintained road. All access roads shall be paved and meet the paving standards as provided in the UDO. Grass drainage swales must be installed.

(E) The following must be submitted with the conditional use rezoning application:

(1) Ten complete copies of the application must be submitted for staff review;

(2) Describe and/or illustrate how all of the above requirements will be met;

(3) Describe and/ or illustrate how all State requirements will be met;

(4) Identify the geographic area to be served by the proposed landfill;

(5) State the expected daily volume of waste expected at the proposed landfill and state the estimated useful life (i.e., how long until the site will reach design capacity) of the proposed landfill;

(6) The following should be provided for the subject property:

(a) Site plan detailing size, dimensions, type and location of fill area, roads, access, structures, property lines, utilities, lighting, setbacks, buffers and the like;

(b) Visual impact analysis. Side elevation illustration of landfill including surrounding trees and development at the point of completion. Views from public roads, private roads, residences and other buildings shall be illustrated through graphics showing topographic sections in the affected areas and through photographs. Provide view shed to reduce and/or eliminate the visual impact;

(c) Buffer areas shall be illustrated on a site plan. Screening and landscaping shall be shown on a plan and illustrated to show how the requirements will be fulfilled by specifically identifying dimensions, varieties, timing and other specifications;

(d) Illustration of depth of holes (cells) and proximity to water table;

(e) Tree survey identifying all trees over 12 inches in diameter (measured three foot up from the ground);

(f) Topography map with contours in five-foot intervals;

(g) Total impervious surface coverage both existing (pre-development) and as proposed;

(h) The number and location of cells/ fill areas;

(i) Grading, storm water and erosion plans;

(j) Original elevation, proposed excavation and proposed final elevations; and

(k) Wetland study.

(7) The following should be provided for the subject property and within a 2,000-foot radius of the subject property boundary lines:

(a) Surveys of the existing and proposed population, land use, description of geographic area, and all water wells. Relevant considerations are zoning, character of surrounding area and the actual uses surrounding the proposed development;

(b) Aerial photograph of existing conditions;

(c) Environmental impact study;

(d) Hydrology, geology, soil, water table, streams, rivers and surface water flow surveys, including drainage ditches;

(e) Nearest watershed boundary;

(f) Floodplain and floodway boundaries including base flood elevations;

(g) Location of nearest public water and sewer lines; and

(h) Address impact on adjacent property values by submitting a written report from a state certified appraiser indicating that there is no significant, detrimental effect on property values caused by the development of the proposed landfill. The appraiser must posses an expertise in the field of property valuation.

(8) Provide the following information:

(a) Vector control plan;

(b) The quantity of waste generated and estimated to be generated. A description of the volume and characteristics of the waste. Type, source and quantity of waste to be accepted;

(c) History and track record of the applicant. Location and type of other existing and proposed landfill
facilities;

(d) Traffic impact analysis. Provide expected number of trucks entering and exiting landfill on a daily basis. Provide the expected type of vehicles, including size. Impact of heavy trucks. Describe the route(s) within the Town and/or its extraterritorial jurisdiction, which the vehicles are expected to use to access the proposed landfill. Demonstrate the adequacy of existing routes and/or requirement for new routes. Demonstrate efforts taken to reduce mud, dirt, debris and the like on adjoining roadways. Provide recommendations;

(e) A projection on the useful life of the landfill;

(f) Provide the projected use of land after completion of the landfill. A site plan showing final proposed topography, landscaping, ground cover, drainage and structures; and

(g) Hours of operation. (Ord. passed 11-18-2010)\

§ 152.334 BOARD APPROVAL.

The presumptions established by this chapter are that all landfills must comply with the standards of this chapter. However, this chapter is only intended to establish a presumption and should be flexibly administered. (Ord. passed 11-18-2010)

§ 152.335 INSPECTION.

The permit holder and/or licensee shall permit representatives of the Planning Department, Building Inspections Department or any other town, county, state, federal departments or agencies to inspect the premises of a landfill for the purpose of insuring compliance with the law, at all reasonable times.
(Ord. passed 11-18-2010)

§ 152.336 INJUNCTION.

A firm, corporation, company and the like, who operates or causes to be operated a landfill without valid approval is subject to a suit for injunctive relief.
(Ord. passed 11-18-2010)

MANUFACTURED (MANUFACTURED) HOME PARK REGULATIONS

§ 152.350 PURPOSE.

The purpose of this chapter of this subchapter is to provide standards for the development of a manufactured home rental community. The requirements of this chapter cover the development of a plan for the rental community, the review and approval of the rental community plan, the design standards of the rental community and the inspection of the rental community. Rental communities and those communities that provide lots for sale shall be developed to the same standards.
(Ord. passed 11-18-2010)

§ 152.351 INTENT.

The intent of this chapter is to promote the safety and health of the residents within the manufactured home rental community and to enhance the development of the manufactured home rental communities in the town.
(Ord. passed 11-18-2010)

§ 152.352 DEFINITIONS.

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

DEBRIS. The worthless remains that result from the destruction or breaking down of anything, including automobiles.

LITTER. Rubbish or refuse scattered about the manufactured home rental community.

MANUFACTURED HOME. 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 U.S. Secretary of Housing and Urban Development and complies with the standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq. (the “Act”), federal regulations adopted under the Act, and any laws enacted by the United States Congress that supersede or supplement the 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 semi-permanent 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 semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. (N.C. General Statute § 143-145(7)). Manufactured homes are sometimes referred to as “mobile homes.”

MANUFACTURED HOME RENTAL COMMUNITY. Any site or tract of land where land rental and specified services (water and sewer) are provided for manufactured homes.

MANUFACTURED HOME SPACE. A plot of land within a manufactured home rental community designed for the accommodation of a single manufactured home.

MANUFACTURED HOME STAND. The portion of the manufactured home space designed for and used as the area occupied by the manufactured home.

OPERATOR/MANAGER. The individual that is responsible for the daily operations of the manufactured home rental community.

SKIRTING. The enclosure of the perimeter of the manufactured home.

TRASH. Any accumulation of waste materials no longer in use, including but not limited to paper, bottles, grass and shrubbery cuttings, leaf ranking and the like.
(Ord. passed 11-18-2010)

§ 152.353 DEVELOPMENT OF A MANUFACTURED HOME RENTAL COMMUNITY PLAN.

A manufactured home rental community plan shall be developed and drawn to a scale of one inch to 100 feet and shall include the following:

(A) The name of the rental community, the names(s) and address(es) of the owner(s) and the names and addresses of the designer or surveyor;

(B) The date, scale and approximate north arrow;

(C) The boundaries of the rental community;

(D) The site plan of the rental community showing streets, driveways, open areas, parking spaces, service buildings, water courses, easements and manufactured home spaces;

(E) Name(s) of adjoining property owner(s); and

(F) The identification of all gas, water, electric, telephone, television cable and sewage lines that will service the rental community. Street lights, solid waste containers and surface water drainage plans shall also be

included. (Ord. passed 11-18-2010)

§ 152.354 REVIEW AND APPROVAL OF THE PLAN.

Applications shall be reviewed in accordance with §§ 152.045 and 152.046. (Ord. passed 11-18-2010)

§ 152.355 DESIGN STANDARDS.

(A) General requirements.

(1) One manufactured home rental community shall have one sign designating the community.

(2) A manufactured home rental community may have a manufactured home as a designated office.

(3) There shall be no more than one manufactured home per space made available for the home.

(4) A manufactured home rental community may have material and equipment storage buildings for maintenance of the rental community.

(5) Each manufactured home shall be set up and installed in accordance with the state regulation for installation of manufactured homes adopted and published by the State Department of Insurance.

(B) Manufactured home space.

(1) Each manufactured home space shall have a permanent site number sign that is clearly visible from the street and located on each power panel box serving the home.

(2) Every home shall be located on a space with a minimum size of 10,000 square feet.

(3) Each manufactured home space shall have proper drainage to prevent accumulation of water.

(4) Each manufactured home stand shall have a solid ground surface where the home will be placed.

(5) Each manufactured home shall be located at least 20 feet from any other manufactured home and at least 25 feet from any building within the rental community excluding small storage buildings for use with the individual manufactured home. Each home shall be at least ten feet from any property line. Each home shall be set back at least 35 feet from streets within the rental community.

(6) There shall be an open area within the rental community provided by the owner and designated for recreational purposes.

(7) There shall be adequate space for off street parking of two passenger cars at each home.

(8) Each manufactured home shall have steps in the front and rear of the home and shall have constructed a home patio which shall be a minimum of 64 square feet (eight feet by eight feet) and located at the front or rear entrance of the home.

(9) This use will be permitted in the Agricultural-Residential or Residential-6 zoning district on no less than a five acre site.

(C) Streets.

(1) Streets within the manufactured home rental community shall be constructed with an all weather

surface, either paved or unpaved, which will provide all weather access to all manufactured home spaces.

(2) All streets shall be constructed in accordance with §§ 152.180 through 152.193.

(D) Utilities.

(1) An adequate, safe and portable supply of water shall be provided for the rental community. The source of the water supply shall be through a municipal water system with the rental community connecting to the water lines.

(2) An adequate and safe sewage disposal system shall be provided in the manufactured home rental community. Sewage shall discharge into a municipal collection system.

(3) There shall be a storage and/or disposal system for solid waste for the rental community in order to alleviate health and pollution hazards. The resident(s) of each home shall have a sufficient number of containers that have an adequate capacity and can be tightly sealed. It shall be the responsibility of the operator/manager of the rental community to see that a municipal or private solid water disposal service is provided to the residents of the rental community on a weekly basis. This may or may not be at the expense of the residents.

(E) Grounds and buildings.

(1) The grounds of a manufactured home rental community shall be free of debris, trash and litter.

(2) Grounds, building and storage areas within the rental community shall be maintained to prevent the infestation of rodents, flies, mosquitoes and other pests.

(3) Grounds within the rental community shall also be maintained to prevent the growth of ragweed, poison ivy, poison oak and other weeds.

(4) All grounds within the rental community shall have proper drainage to prevent the accumulation of water.

(5) All recreational areas provided by the owner for the manufactured home rental community shall be maintained in a safe and sanitary manner by the operator/manager.

(6) The operator/manager shall provide space on the grounds for mail service to the residents of the rental community. The operator/manager shall also require posting of street number address within close proximity of the primary entrance of the dwelling unit.

(F) *Design Standards*

(1) The following minimum appearance and design standards shall apply to all newly placed manufactured homes:

(2) The minimum width of a home shall be twenty-two (22) feet of heated living space;

(3) The pitch of the roof of the home shall have a minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run;

(4) The roof shall finished with a type of shingle that is commonly used in standard residential construction of site-built homes;

(5) The exterior siding shall consist of wood, hardboard or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction of site-built homes;

(6) The home shall have installed under the home a continuous, permanent masonry foundation, unpierced except for required ventilation and access;

(7) The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot and before occupancy; and

(8) The home shall be placed so that the apparent entrance or front of the home faces or parallels the principal street frontage, except where the lot size exceeds one acre.

(9) The home shall have either

(a) A roof consisting of at least two (2) directions (i.e., an L-shaped roof) or

(b) The home shall incorporate at least three (3) of the following features:

1. A break in the roof,
2. At least two (2) dormers,
3. Variable roof elevations,
4. A covered porch that fronts at least 1/3 of the structure's length, or
5. A chimney.

(Ord. passed 11-18-2010; Revision Passed 6-8-2017)

§ 152.356 INSPECTIONS.

The Zoning Enforcement Officer shall have the right to make inspections of the rental community to determine that the requirements of this chapter are met. It shall be the responsibility of the operator/manager of the manufactured home rental community to see that the requirements of this chapter are met.
(Ord. passed 11-18-2010)

§ 152.357 EXISTING MANUFACTURED HOME RENTAL COMMUNITIES.

Manufactured home rental communities existing at the time of adoption of this chapter shall not be allowed to expand or increase unless the expansion meets the requirements set forth in this chapter. Additionally, existing Manufactured homes or manufactured homes as defined in the definition section of this chapter, when removed from their existing location, shall not be allowed to be replaced unless the minimum lot size requirement (10,000 square feet) is observed or the overall density of the net land area (useable area excluding road right-of-way, floodplain, utility easements and the like) is 10,000 square feet per dwelling unit. Existing manufactured homes removed from existing manufactured home parks may only be replaced by manufactured homes meeting all of the standards of Section 152.355.
(Ord. passed 11-18-2010; Revision Passed 6-8-2017)

§ 152.358 REQUEST FOR ANNEXATION.

Prior to the issuance of a certificate of occupancy, the manufactured home community owner must request annexation. (Ord. passed 11-18-2010)

§ 152.999 PENALTY.

(A) Any person, firm or corporation who violates the provisions of this chapter shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding $50 and/or imprisoned not exceeding 30 days. Each day of violation shall be considered a separate offense.

(B) (1) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor, punishable by a fine of up to $50, or a maximum 30 days imprisonment, or both.

(2) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of $50. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with § 152.033(C), and did not take an appeal to the Board of Adjustment within the prescribed time.

(3) This chapter may also be enforced by any appropriate equitable action.

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

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

(Ord. passed 11-18-2010)