

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.001 SCOPE.

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

(A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;

(B) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;

(C) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment, and appurtenances thereof; and

(D) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.
('79 Code, § 9-1-1)

§ 150.002 BUILDING SETBACK LINES.

(A) There is hereby established along both sides of State Highway 27, from the eastern corporate limit to the western corporate limit, a minimum building setback line of 40 feet from the centerline, and no building or part thereof shall be located nearer than 40 feet to the centerline of the highway.

(B) Any property owner affected by the minimum setback line established by division (A) may appeal to the Board of Commissioners for variance or modification of the setback requirement as it applies to a particular piece of property. The Board may vary or modify the requirements upon a showing that:

(1) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement;

(2) The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and

(3) Balancing the public interest in enforcing the setback requirement and the interest of the owner, the grant of relief is required by considerations of justice and equity.

(C) In granting relief, the Board may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties.

('79 Code, § 9-1-61) (Ord. passed 10-3-55)

Statutory reference:

Authority to establish setback lines, see G.S. § 160A-306

ADOPTION OF REGULATORY CODES BY REFERENCE

§ 150.015 BUILDING CODE.

The the most current edition of the State Building Code (Volume I, General Construction), as adopted by the State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

('79 Code, § 9-1-2)

§ 150.016 PLUMBING CODE.

The the most current edition of the State Plumbing Code (State Building Code, Volume II, Plumbing) as adopted by the State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

('79 Code, § 9-1-3)

§ 150.017 HEATING CODE.

The the most current edition of the State Heating Code (State Building Code, Volume III, Heating) as adopted by the State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

('79 Code, § 9-1-4)

§ 150.018 ELECTRICAL CODE.

The the most current edition of the State Electrical Code (State Building Code, Volume IV, Electrical), as adopted by the State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

('79 Code, § 9-1-5)

§ 150.019 RESIDENTIAL BUILDING CODE.

The the most current edition of the State Uniform Residential Building Code, as adopted by the State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

('79 Code, § 9-1-6)

§ 150.020 AMENDMENTS TO CODES.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the city at the time the amendments are filed with the City Clerk or Building Inspector as provided in § 150.022.

('79 Code, § 9-1-7)

§ 150.021 COMPLIANCE WITH CODES.

(A) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the State Building Code, General Construction, Volume or the State Uniform Residential State Building Code, whichever is applicable, or of both if both are applicable.

(B) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the State Plumbing Code (State Building Code, Volume II, Plumbing).

(C) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment, and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the State Heating Code (State Building Code, Volume III, Heating).

(D) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the State Electrical Code (State Building Code, Volume IV, Electrical).

('79 Code, § 9-1-8)

§ 150.022 COPIES OF CODES FILED WITH CLERK.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk or Building Inspector. The copies shall be the official copies of the codes and the amendments. ('79 Code, § 9-1-9)

PERMIT REQUIREMENTS**§ 150.030 PERMIT REQUIRED; TYPES OF PERMITS.****(A) Building permit.**

(1) No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal, or demolition of any building or other structure, or any part thereof, without a written permit therefor; provided, however, that no building permit shall be required for work, the total cost of which does not exceed \$100 and which does not involve any change of structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question. County Board of Health approval of a septic tank is required where the sewage system cannot be connected to the town sewer system.

(2) In all cases of removal or demolition of a building or structure, a good and sufficient bond may be required to be posted by the property owner or by his contractor at the time of application for a permit, to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his contractor to completely demolish, remove, and clear the premises, after 30 days' notice by the Building Inspector, shall be cause for forfeiture of the bond.

(B) Plumbing permit. No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefor; provided, however, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilating systems.

(C) Heating and air conditioning permit. No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit therefor; provided, however, no permit shall be required for minor repairs, minor burner services or filter replacements of warm air furnaces or cooling systems.

(D) Electrical permit. No person shall commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefor; provided, however, no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed; provided, further, no permit shall be required for the installation, alteration, or repair of the electrical wiring, devices, appliances, and equipment installed by or for an electrical public utility corporation for the use of the corporation in the generation, transmission, distribution, or metering of electrical energy.

('79 Code, § 9-1-41) Penalty, see § 10.99

§ 150.031 APPLICATION.

Written application shall be made for all permits required by this chapter, and shall be made on forms provided by the Inspection Department. Such application shall be made by the owner of the building or structure affected or by his authorized agent or representative, and, in addition to such other information as may be required by the appropriate Inspector to enable him to determine whether the permit applied for should be issued, shall show the following:

(A) Name, residence and business address of owner;

(B) Name, residence and business of authorized representative or agent, if any;

(C) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if a certificate is required for the work involved in the permit for which application is made.

('79 Code, § 9-1-42)

§ 150.032 PLANS AND SPECIFICATIONS.

Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of \$45,000 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter, and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

('79 Code, § 9-1-43)

§ 150.033 LIMITATIONS ON ISSUANCE OF PERMITS.

(A) No building permit shall be issued for any building or structure, other than a one or two family dwelling, the estimated total cost of which is more than \$45,000, unless the plans bear the state seal of a registered architect or a registered engineer.

(B) Where any provisions of the General Statutes of the state or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless it is to be performed by the licensed specialty contractor.

(C) Where detailed plans and specifications are required by this chapter, no building permit shall be issued unless the plans and specifications have been provided.

('79 Code, § 9-1-44)

§ 150.034 ISSUANCE OF PERMIT.

When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he shall issued the permit, upon payment of the proper fee or fees as hereinafter provided.

('79 Code, § 9-1-45)

§ 150.035 REVOCATION OF PERMIT.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the inspector; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing the permit.

('79 Code, § 9-1-46)

§ 150.036 TIME LIMITATIONS ON VALIDITY OF PERMITS.

All permits issued under this chapter shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit has been secured.

('79 Code, § 9-1-47)

§ 150.037 CHANGES IN WORK.

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter or of any regulatory code adopted herein, shall not be made until specific written approval of the changes or deviations has been obtained from the appropriate inspector.

('79 Code, § 9-1-48)

§ 150.038 PERMIT FEES.

Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town as determined by the appropriate inspector or inspectors. Permit fees shall be established by the Board and filed in the office of the Building Inspector.

('79 Code, § 9-1-49)

REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES

§ 150.050 FINDING; INTENT.

It is hereby found that there exist within the town abandoned structures which the Board finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

('79 Code, § 9-1-71)

§ 150.051 DUTIES AND POWERS OF BUILDING INSPECTOR.

(A) The Building Inspector is hereby designated as the town officer to enforce the provisions of this subchapter. It shall be the duty of the Building Inspector:

(1) To locate abandoned structures within the town and determine which structures are in violation of this subchapter;

(2) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of the structures;

(3) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and

(4) To perform such other duties as may be prescribed herein or assigned to him by the Board.

(B) The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

(1) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;

(2) To enter upon premises for the purpose of making inspections;

(3) To administer oaths and affirmations, examine witnesses and receive evidence; and

(4) To designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this subchapter.
(79 Code, § 9-1-73)

§ 150.052 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever the structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;
- (3) Violations of the state building code, the state electrical code, or the fire prevention code which constitute a fire hazard in the structure;
- (4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
- (5) The use of the structure or nearby grounds or facilities by children as a play area;
- (6) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and
- (7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.
(79 Code, § 9-1-74)

§ 150.053 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the inspector by at least five residents of the town charging that any structure exists in violation of this subchapter or whenever it appears to the inspector, upon inspection, that any structure exists in violation here of, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(B) *Procedure after hearing.*

(1) After the notice and hearing, the inspector shall state in writing his determination as to whether the structure violates this subchapter.

(2) If the inspector determines that the dwelling is in violation, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the inspector within the time specified therein, the inspector may submit to the Board at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing the owner to comply with the order of the inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the inspector within the time specified therein if injunctive relief has not been sought or has not been granted as provided in subsection (1) of this division, the inspector shall submit to the Board an ordinance ordering the inspector to cause the structure to be removed or demolished, as provided in the original order of the inspector, and pending the removal or demolition, to placard such dwelling as provided by G.S. § 160A-443.

(D) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

('79 Code, § 9-1-75)

§ 150.054 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of the complaint or order upon such person may be made by publication once at least ten days prior to the date of the hearing in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

('79 Code, § 9-1-76)

§ 150.055 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and § 150.053(C) of this subchapter, the inspector shall proceed to cause the structure to be removed or demolished, as directed by the ordinance of the Board and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each ordinance shall be recorded in the office of the Register of Deeds of the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

('79 Code, § 9-1-77)

§ 150.056 COSTS; LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any removal or demolition caused to be made or done by the inspector pursuant to this subchapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. § 160A, Article 10.

('79 Code, § 9-1-78)

§ 150.057 ALTERNATIVE REMEDIES.

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

('79 Code, § 9-1-79)

HOUSING STANDARDS

§ 150.070 PURPOSE.

In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. § 160A, Article 19, Part 6, it is the purpose of this subchapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by North Carolina General Statutes.
(Ord. passed 1-9-89)

§ 150.071 DEFINITIONS.

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

BASEMENT. A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. Means that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this subchapter, at a cost not in excess of 50% of its value, as determined by finding of the inspector.

DILAPIDATED. Means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this subchapter at a cost not in excess of 50% of its value as determined by finding of the inspector.

DWELLING. Any structure which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a *DWELLING*.

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

EXTERMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harborage place; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

FAMILY.

(1) An individual, or two or more persons directly related by blood, marriage, or adoption, and may, in addition, include not more than two unrelated persons, living together in a dwelling unit; or

(2) A group of not more than four persons not related by blood, marriage, or adoption living together in a dwelling unit.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. A Housing Inspector of the town or any agent of the town who is authorized by the Board of Commissioners.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone, or jointly, or severally with others shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this subchapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PLUMBING. Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any officer who is in charge of any department or branch of the government of the town or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or brother or sister of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

SUPPLIED. Paid for, furnished, or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. Means that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this subchapter.

(B) *Meaning of certain words.* Whenever the words **DWELLING, DWELLING UNIT, ROOMING HOUSE, ROOMING UNIT, PREMISES** are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
(Ord. passed 1-9-89)

§ 150.072 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.

Every dwelling unit used a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 150.073 through 150.078 of this chapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 150.073 through 150.078 of this chapter.
(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.073 MINIMUM STANDARDS FOR STRUCTURAL CONDITIONS.

(A) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.
(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.074 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subsection (1) or (2) of this division:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70° F measured a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such a manner as determined by the electric code adopted by the town. There shall be installed in every bathroom, water closet room, laundry room and furnace room, at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment, and wiring shall be installed and maintained in a state of good repair, safe, capable of being used, in accordance with the electric code adopted by the town.

(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.075 MINIMUM STANDARDS FOR VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.076 STANDARDS FOR SPACE, USE AND LOCATION.

(A) *Room size.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the town residential building code.

(1) Every dwelling unit occupied by members of the same family shall contain at least on 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of an additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, occupied by members of the same family, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(3) Every dwelling unit or rooming unit not occupied by members of the same family shall contain at least 150 square feet of habitable flood area for each occupant.

(4) No dwelling nor dwelling unit may be occupied by more than four persons unless they are directly related by blood, marriage, or adoption.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basement.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the ground adjoining such window area, except where the window or windows face a stairwell, window well, or accessway.

(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.077 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially watertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture of the weather.

(B) *Interior floor, walls, and ceilings.* Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.

(D) *Stairs, porches, and appurtenances.* Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this subchapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the town building code.

(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.078 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

(B) *Rodent control.* Every window, basement, or cellar window, used or intended to be used for ventilation, and every other opening to a dwelling which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by the town ordinances, and the owner, operator, or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by the town ordinances.

(Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.079 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this subchapter, and all of the minimum standards and requirements of this subchapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions:

(A) *Water closet, hand lavatory, and bath facilities.* At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly

accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain a least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein. (Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.080 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplies plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. (Ord. passed 1-9-89) Penalty, see § 10.99

§ 150.081 DUTIES OF HOUSING INSPECTOR.

(A) The Housing Inspector is hereby designated as the officer to enforce the provisions of this subchapter and to exercise the duties and powers herein prescribed.

(B) It shall be the duty of the Housing Inspector:

(1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units, located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this subchapter with respect to such dwellings and dwelling units;

(2) To take such action together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) To keep a record of the results of inspections made under this subchapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(4) To perform such other duties as may be herein prescribed.

(Ord. passed 1-9-89)

§ 150.082 POWERS OF THE HOUSING INSPECTOR.

The Housing Inspector is authorized by the Board of Commissioners to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this subchapter.

(Ord. passed 1-9-89)

§ 150.083 INSPECTIONS; OWNER TO ALLOW ACCESS TO PREMISES.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination, and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this subchapter or with any lawful order issued pursuant to the provisions of this subchapter.

(Ord. passed 1-9-89)

§ 150.084 PROCEDURE OF ENFORCEMENT.

(A) *Preliminary invention; notice; hearing.* Whenever a petition is filed with the Inspector by a public authority or by a least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation or out of compliance with any section of this subchapter, and it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, or out of compliance with this subchapter, he shall if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearing before the Inspector.

(B) *Procedure after hearing.* After such notice and hearing, the Inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, unsafe due to overcrowding, deteriorated or dilapidated.

(1) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve such dwelling or dwelling unit to comply with the minimum standard of fitness established by this subchapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the dwelling, and to remove or demolish the same within a specified period of time, not to exceed 90 days.

(3) If the Inspector determines that the number of occupants exceeds the limits stated in this subchapter, he shall state in writing his findings to support such determination, and shall issue and cause to be served upon the owner thereof an order to decrease the number of occupants to the specified number within 30 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any dwelling or dwelling unit shall fail to comply with an order of the Inspector to make repairs, alteration, improvements, or reductions in the number of occupants to the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with all order of the Inspector to vacate and close, and remove or

demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners of the town at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of dwelling or dwelling unit to comply with an order of the Inspector within the specified time period, if injunctive relief has not been sought or has not been granted as provided in subsection (1) of this division, the Inspector shall submit to the Board of Commissioners, an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, or brought into compliance with all sections of this subchapter, as provided in the original order of the Inspector and pending such removal or demolition, to placard such dwelling as provided by G.S. § 160A-443 and § 150.085 of this subchapter.

(D) *Appeals from orders of Inspector.* An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) of this section.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance; to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the case, as provided by G.S. § 160A-446(f).
(Ord. passed 1-9-89)

§ 150.084 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published or circulating in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.
(Ord. passed 1-9-89)

§ 150.085 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of the town of this subchapter authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and § 150.083(C) of this subchapter, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this subchapter, or to be vacated and closed and removed or demolished as directed by the ordinance of the Board of Commissioners and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." or "This building is unsafe due to overcrowding; Use of this building by more than _____ (number) of persons is prohibited and unlawful."

(B) Each such ordinance shall be recorded in the office of the Register of Deeds in the County wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).
(Ord. passed 1-9-89)

§ 150.086 COSTS; A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition caused to be made or done by the Inspector pursuant to § 150.085 of this subchapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. § 160A, Article 10. (Ord. passed 1-9-89)

§ 150.087 ALTERNATIVE REMEDIES.

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process as authorized by G.S. § 14-4 and § 150.089 of this subchapter, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
(Ord. passed 1-9-89)

§ 150.088 HOUSING APPEALS BOARD.

There is hereby created a Housing Appeals Board to which appeals may be taken from decision or orders of the Inspector, as provided by § 150.083(D) of this subchapter. The Board shall consist of the Board of Commissioners. The Board shall have power to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by § 150.083(D) and shall keep an accurate record of all its proceedings.
(Ord. passed 1-9-89)

§ 150.089 CONFLICTS.

In the event any provision, standard, or requirement of this subchapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.
(Ord. passed 1-9-89)

§ 150.090 VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close, and remove or demolish the same, or to correct overcrowding conditions, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 150.083 of this subchapter to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues such prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this subchapter shall constitute a misdemeanor, as provided by G.S. § 14-4.
(Ord. passed 1-9-89) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT**§ 150.100 BUILDING INSPECTOR DESIGNATED.**

Inspections to insure compliance with this chapter shall be performed by the appropriate inspection officials of the county. The Building Inspector of the county is hereby designated as Building Inspector for the town for purposes of this chapter.

('79 Code, § 9-1-21)

§ 150.101 DUTY OF INSPECTORS.

It shall be the duty of the appropriate inspection officials to enforce all of the provisions of this chapter and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and the codes are being met.

('79 Code, § 9-1-22)

§ 150.102 REPORTS AND RECORDS.

The inspection officials shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, and all other work and activities of the Inspection Department. Periodic reports shall be submitted to the Board and to other agencies as required.

('79 Code, § 9-1-23)

§ 150.103 INSPECTION PROCEDURE.**(A) Inspections.**

(1) The inspection officials shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with the appropriate codes.

(2) When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of the organization.

(3) All holders of permits, or their agents, shall notify the Inspection Department and the appropriate inspector at each of the following stages of construction, so that approval may be given before work is continued:

(a) *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles, and similar types of foundations shall be inspected as installed.

(b) *Framing inspection.* To be made after all structural framing is in place and all roughing-in of plumbing, electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural element shall be inspected before each pour of any structural member.

(c) *Fireproofing inspection.* To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.

(d) *Final inspection.* To be made after building or structure has all doors hung, fixtures set, and is ready for occupancy, but before the building is occupied.

(B) *Calls for inspection.*

(1) Request for inspections may be made to the appropriate inspector. The inspector shall make inspections as soon as practicable after request is made therefor; provided the work is ready for inspection at the time the request is made.

(2) Reinspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

(C) *Street or alley lines.* Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley, or other public place, he shall secure a survey of the line of the street, alley, or other public place, adjacent to the property upon which the building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the Building Inspector to see that the building does not encroach upon such street, alley, or other public place.

(D) *Certificate of occupancy.* No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Department has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary

to determine compliance with this chapter, the appropriate regulatory codes and the zoning ordinance for the occupancy intended. The inspector shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the regulatory codes, and the zoning ordinance for the occupancy intended.
(’79 Code, § 9-1-24)

§ 150.104 OVERSIGHT NOT TO LEGALIZE VIOLATION.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.
(’79 Code, § 9-1-25)

§ 150.105 POWERS OF INSPECTION OFFICIALS.

(A) *Authority.* Inspectors are hereby authorized, empowered and directed to enforce all the provisions of this chapter, and the regulatory codes herein adopted.

(B) *Right of entry.* With an appropriate warrant or permission from the owner or occupant, inspectors shall have the right to enter on any premises within, the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and the applicable regulatory codes.

(C) *Stop orders.* Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this chapter or any other city ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in such manner as to endanger life or property, the appropriate inspector may order the work to be immediately stopped. The order shall be in writing to the owner of the property or to his agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed.

(’79 Code, § 9-1-26)

CHAPTER 151: ZONING

Section

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GENERAL PROVISIONS**§ 151.001 PURPOSE.**

In order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the corporate area, there is hereby adopted and established an official zoning plan of the town.
(Ord. passed 9-29-93)

§ 151.002 AUTHORITY.

(A) This zoning code is adopted pursuant to the authority vested in the town by its charter and the general statutes of the state, particularly G.S. Chapter 160A, Article 19.

(B) The statutory provision that requires the town to adopt and administer the water supply watershed protection management requirements, procedures, and density and built-upon area standards contained in this chapter is G.S. § 143-214.5 (Chapter 143, Article 21).

(Ord. passed 9-29-93)

§ 151.003 JURISDICTION.

The provisions of this code shall apply within the corporate limits of the town and within its extraterritorial jurisdiction as now or hereafter fixed, as shown on the zoning map on file in the Town Hall.

(Ord. passed 9-29-93)

§ 151.004 INTERPRETATION AND CONFLICT.

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 any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern.

(Ord. passed 9-29-93)

§ 151.005 DEFINITIONS.

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

ABUTTING. Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

ACCESS. A way of approaching or entering a property. **ACCESS** also includes ingress, the right to enter, and egress, the right to leave.

ACCESSORY BUILDING or USE. A building or use not including signs, which is:

(1) Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this chapter.

(2) Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and

(3) Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.

ADVERTISING DEVICE or SIGN. Any advertising sign, billboard, statuary or poster which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed; but does not include those advertising signs, billboards, or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

APARTMENT (DWELLING UNIT). A room or suite of rooms intended for use as a residence by a single household or family (such as a dwelling unit). Such dwelling unit may be located in an apartment house, duplex, or as an accessory use in a single family home or a commercial building.

APARTMENT HOUSE. See Dwelling, Multi-Family.

AUTOMOBILE SERVICE STATION (GAS STATION). Any building or land used for the dispensing, sale or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires, except that car washing, mechanical and electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors and has no fuel pumps within 15 feet of any property line or street right-of-way. Incidental activities shall not include tire retreading, major body work, major mechanical work, or upholstery work.

BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

BLOCK. A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad rights-of-way, water course, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.

BLOCK FRONTAGE. That portion of a block which abuts a single street.

BOARD OF ADJUSTMENT. A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances from the terms of the Zoning Code.

BOARD OF COMMISSIONERS. The governing body of the town.

BOARDING HOUSE. A building other than a hotel or motel where, for compensation, meals are served and lodging is provided.

BUFFER. A fence, wall, hedge, or other planted area or device used to enclose, screen, or separate one use or lot from another. A **BUFFER** can also be an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The **BUFFER** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, mobile homes, and attached or unattached carports consisting of a roof and supporting members, and similar structures whether stationary or movable. Includes all structures regardless of similarity to buildings.

BUILDING, HEIGHT OF. The vertical distance from the average sidewalk grade or street grade or finished grade at the building line, whichever is the highest, to the highest point of the building.

BUILDING, PRINCIPAL (MAIN). A building in which is conducted the principal use of the plot on which it is situated.

BUILDING SETBACK LINE. A line measured parallel to the front property line in front of which no structure shall be erected.

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

CANOPY, MARQUEE, or AWNING. Any roof-like structure extended over a sidewalk or walkway.

CERTIFICATE OF OCCUPANCY. Official certification that a premise conforms to provisions of the zoning code (and building code) and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

CHAPTER. The zoning chapter, including any amendments. Whenever the effective date of the chapter is referred to, the reference includes the effective date of any amendment to it.

CLUB or LODGE (PRIVATE NONPROFIT CIVIC or FRATERNAL). A non-profit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

CONVALESCENT HOME (NURSING HOME). An institution, which is advertised, announced, or maintained for the expressed or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A **CONVALESCENT HOME** is a home for chronic or nursing patients who, on admission, are not as a rule, acutely ill or who do not usually require special facilities, such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities.

DAY CARE FACILITIES. Any child care arrangement which provides day care on a regular basis for more than four hours a day for more than five children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; non-public schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

DEVELOPMENT. Any land-disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

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

DISH ANTENNA (EARTH STATION). Any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or a transmitter relay located in planetary orbit.

DISH ANTENNA (EARTH STATION) HEIGHT. The distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

DISH ANTENNA (EARTH STATION) SETBACK. The distance measured from the center mounting post supporting the antenna.

DWELLING. A building, or portion thereof, designed, arranged, or used for permanent living quarters. The term **DWELLING** shall not be deemed to include a mobile home or house trailer, motel, hotel, tourist home, or other structures designed for transient residence.

DWELLING, DUPLEX. A building containing two other than where a second dwelling unit is permitted as an accessory use.

DWELLING MULTI-FAMILY. A building containing three or more dwelling units, except where permitted as an accessory use.

DWELLING, SINGLE-FAMILY. A building containing one dwelling unit only, but may include one separate unit as an accessory use to be occupied only by employees or relatives of the household.

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

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) Having an outstanding valid building permit as authorized by G.S. § 160A-385.1, or
- (3) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the G.S. § 160A-385.1.

FAMILY. An individual or two or more persons directly belated by blood, marriage, or adoption, and may, in addition, include not more than two unrelated persons, living together in a dwelling unit. A **FAMILY** may also include no more than five foster children in a licensed foster home.

FLOOR AREA. For determining off-street parking and loading requirements, the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

However, **FLOOR AREA** for the purposes of measurement for off-street parking spaces shall not include, floor area devoted to primarily storage purposes (except as otherwise noted herein); floor area devoted to offstreet parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

FLOOR AREA, GROSS. The total floor area enclosed within a building.

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

HARDSHIP. An unusual situation or condition that relates to a particular property and which denies the property owner full or reasonable use of his property if strict enforcement of the zoning chapter is followed. A **HARDSHIP** exists only when it is not self-created or when it is not economic in nature. In other words, a true **HARDSHIP** exists only when the literal interpretation and/or

enforcement of the zoning regulations would place a property owner or individual in an unusual situation and, in doing so, would deny him the right to use his property for any permitted use or create an unnecessary burden on him.

HAZARDOUS MATERIAL. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

HOME CARE UNIT. A facility meeting all the requirements of the state for boarding and care of not more than five persons who are not critically ill and do not need professional medical attention and is located on a lot of at least one acre in size.

HOME OCCUPATION. Any occupation or profession carried on entirely within a dwelling by one or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than 25% of the total floor area or 500 square feet, whichever is less, is used for such purposes, that there is no outside or window display, that no merchandise or commodity is sold on the premises, that no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment, and providing that no person not a resident of the dwelling is employed in connection with the **HOME OCCUPATION**.

HOTEL or MOTEL. A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and may have one or more dining rooms, restaurants, or cafes where meals are served.

INCOMPATIBLE USE. A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, or discordant.

INDUSTRIAL DEVELOPMENT. As used in conjunction with the watershed regulation means any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

INOPERATIVE VEHICLE. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this subchapter, any vehicle which is registered with the State Department of Motor Vehicles and has a current state motor vehicle registration license affixed to it shall not be considered inoperative.

JUNK YARD. Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires, and bottles. A **JUNK YARD** includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required **OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking space.

LOT. A parcel of land occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as required by this chapter, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds. For the purpose of this chapter, the word **LOT** shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected. Includes "parcel," "plot," and "tract."

LOT, CORNER. A lot abutting the intersection of two or more streets or a lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot at the apex meet at any angle of less than 135°. In such a case the apex of the curve forming the **CORNER LOT** shall be considered as the intersection of street lines for the purpose of this chapter, such as in corner visibility requirements.

LOT, DEPTH. The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

LOT, INTERIOR. A lot other than a corner lot.

LOT, THROUGH. An interior lot having frontage on two streets.

LOT LINE. The line bounding a lot.

LOT OF RECORD. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds by the owner or predecessor in title thereto.

LOT WIDTH. The straight line distance between the points where the building setback line intersects the two side lot lines.

MOBILE HOME. A structure that:

- (1) Consists of a single unit completely assembled at the factory or of multiple principal components totally assembled at the factory and joined together at the site; and
- (2) Is designed so that the total structure (or in the case of a double-wide or triple-wide, each component thereof) can be transported on its own chassis; and
- (3) Is over 40 feet long and over ten feet wide; and

(4) Is originally designed for human occupancy and provides complete, independent living facilities for one family when connected to required utilities. The placement of such a structure on a permanent foundation or the addition of conventionally constructed sections in no way changes its status as a **MOBILE HOME**.

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

(1) The mobile home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;

(2) The mobile home has a minimum of 900 square feet of living area;

(3) The pitch of the roof of the mobile home has a minimum vertical rise of three feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(4) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter;

(5) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

(6) The mobile home is set up in accordance with the standards set by the State Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the mobile home;

(7) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the State Department of Insurance, attached firmly to the primary structure and anchored securely to the ground; and

(8) The moving hitch, wheels and axles, and transporting lights have been removed.

It is the intent of these criteria to insure that a **CLASS A MOBILE HOME**, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

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

MOBILE HOME PARK. Any site or tract of land, of contiguous ownership upon which mobile home spaces are provided for mobile home occupancy whether or not a charge is made for such service. This does not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sales.

MOBILE HOME SPACE. A plot of land within a mobile home park designed for the accommodation of one mobile home.

MOBILE OFFICE. A structure identical to a mobile home except that it has been converted, or originally designed and constructed, for commercial or office use.

MODULAR STRUCTURE. A factory manufactured structure designed for year-round residential or commercial use with major components or modules pre-assembled and transported to a site for final assembly and utility connection but are not designed to be transported on their own chassis. Such structure must meet all requirements of the State Uniform Residential Building Code, the same as site constructed homes, and must have attached a state validating stamp.

NONCONFORMING LOT. A lot existing at the effective date of this chapter or any amendment to it (and not created for the purpose of evading the restrictions of this chapter) that cannot meet the minimum area or lot width or depth requirements of the district in which the lot is located.

NONCONFORMING USE. The use of a building, mobile home, or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

NON-RESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

NUISANCE. Anything that interferes with the use or enjoyment property, endangers personal health or safety, or is offensive to the senses.

PARKING LOT. An area or plot of land used for the storage or parking of vehicles.

PARKING SPACE. A storage space of not less than 160 square feet for one automobile, plus the necessary access space.

PLAT. A map showing the location, boundaries, and ownership of individual properties.

POOL/BILLIARD ROOM. Any game room or other commercial establishment containing one or more pool or billiard tables for customer use regardless of the presence or absence of other games.

PREMISES. A single piece of property as conveyed in a deed or a lot or a number of adjacent lots on which is situated a land use, a building, or group of buildings designed as a unit or on which a building or group of buildings are to be constructed.

RESIDENTIAL DEVELOPMENT. Buildings for residence, such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, and the like, and their associated outbuildings, such as garages, storage buildings, gazebos, and the like, and customary home occupations.

SETBACK. The required distance between every structure and the lot lines of the lot on which it is located.

SIGN. Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention and/or convey a message.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such is in use. For the purpose of this chapter, any moving, illuminated sign shall be considered a **FLASHING SIGN**. Such signs shall not be deemed to include time and temperature signs or public messages displays using electronic switching.

SIGN, FREESTANDING. Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains, or any sign which projects more than five feet from the side of the building to which it is attached.

SIGN, GROSS AREA. The entire area within a single continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

SIGN, IDENTIFICATION. A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, tourist home, group housing project, church, school, park, or public or quasi-public structure, facility or development and the name of the owners or developers.

SIGN, OFF-PREMISES. A sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

SIGN, PROJECTING. A sign attached to a wall and projecting away from that wall more than 12 inches, but not more than five feet.

SIGN, PUBLIC INFORMATION. A sign, usually erected and maintained by a public agency, which provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, stop signs, city limit signs, street name signs, and directional signs. These signs are in no way regulated by this chapter.

SIGN, ROOF. A sign which is displayed above the eaves of a building.

SIGN, WALL. A sign attached to a wall and not projecting away from the wall more than 12 inches.

SINGLE FAMILY RESIDENTIAL. Any development where: (1) no building contains more than one dwelling unit; (2) every dwelling unit is on a separate lot, and (3) where no lot contains more than one dwelling unit.

SITE PLAN. A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features— both natural and manmade and, depending on requirements, the location of proposed utility lines.

STREET. A thoroughfare which affords the principal means of access to abutting property.

STREET, PRIVATE. Any road or street which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public.

STREET LINE. The line between the street right-of-way and abutting property.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location in or on the land or attachment to something having a permanent location in or on the land.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel 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 shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this chapter:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter;

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

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter;

(5) The division of a tract into plots or lots used as a cemetery.

(6) The subdivision process required in the WSIII Water Supply Watershed Overlay District (§ 151.028) applies only in that overlay zoning district and not throughout the remainder of the town.

TOURIST HOME. Any dwelling occupied by the owner or operator in rooms are rented to guests, for lodging of transients and travelers for compensation, and where food may be served.

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

TRAILER. Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. **TRAILERS** shall include the following:

(1) **CAMPING TRAILER.** A folding structure manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.

(2) **RECREATIONAL VEHICLE.** A self-propelled vehicle or portable structure mounted on such a vehicle designed as a temporary dwelling for travel, recreation, and vacation.

(3) **TRAVEL TRAILER.** A vehicular, portable structure built on a wheeled chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation, or vacation purposes, having a body width ten feet or less or body length 40 feet or less when equipped for road travel.

(4) **TOW TRAILER.** A structure designed to be hauled by another vehicle and to transport vehicles, boats, or freight.

USE. Any continuing or repetitive occupation or activity taking place upon a parcel of land or within a building including, but not limited to, residential, manufacturing, retailing, offices, public services, recreation, and educational.

USED FOR. Includes the phrases "arranged for," "designed for," "intended for," and "occupied for."

VARIANCE. A relaxation of the terms of the zoning chapter where such **VARIANCE** will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a **VARIANCE** is authorized only for height, area, and size of a structure or size of yards and open space; establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**, nor shall a **VARIANCE** be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

(1) **MAJOR WATERSHED VARIANCE.** A variance that results in any one or more of the following:

- (a) The complete waiver of a management requirement;
- (b) The relaxation, by a factor of more than 10%, of the required size of the vegetative buffer.
- (c) The relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.

(d) Any increase in single-family residential density or multi-family residential and nonresidential built upon area.

(2) **MINOR WATERSHED VARIANCE.** A variance that does not qualify a major variance.

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or being situated within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

WATERSHED. The entire land area contributing surface drainage to a specific point (such as the water supply intake.)

YARD. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, including the area of steps, eaves, and uncovered porches, but not including the area of covered porches.

YARD, SIDE. An open, unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

ZERO LOT LINE. A concept commonly used in planned developments where individual commercial buildings or dwellings, such as townhouses (row houses) and patio homes, are to be sold along with the ground underneath and, perhaps, a small yard or patio area. Such commercial or residential units are grouped in buildings with two or more units per building, usually including common walls. With **ZERO LOT LINES** the minimum requirements for lot area and yards are not met and construction takes place right up to the lot line.

ZONING. A police power measure, enacted primarily by general propose units of local government, in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The zoning chapter consists of two parts: a text and a map.

ZONING ADMINISTRATOR. The official charged with the enforcement of the zoning chapter. (Ord. passed 9-29-93)

ESTABLISHMENT OF ZONING DISTRICTS

§ 151.015 ZONING DISTRICTS ESTABLISHED.

In order to implement the intent of this chapter, there are hereby created zoning districts with the following designations and general purposes:

- AR - Agricultural-residential district
- SR - Suburban-residential district
- R-12 - Residential district
- R-8 - Residential district
- C - Central commercial district
- HB - Highway business district
- HB/CU - Highway business/Conditional use district
- IL - Light industrial district
- IH - Heavy industrial district
- AI - Agricultural-industrial district
- WS III - Water supply watershed overlay district

(Ord. passed 9-29-93)

§ 151.016 DISTRICT BOUNDARIES; NEW TERRITORIES; ZONING MAP.

(A) In the creation, by this chapter, of the respective districts, consideration is given to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well-considered comprehensive plan of the physical development of the area.

(B) All territory which may hereafter be included within the zoning jurisdiction of the town shall be placed in the Agricultural-residential (AR) district until otherwise classified by action of the Board of Commissioners according to §§ 151.235 through 151.240 of this chapter.

(C) The boundaries of the districts are shown upon the map accompanying this chapter and made a part hereof, entitled "Zoning Map, Biscoe, North Carolina." The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this chapter the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is on file in the office of the Town Clerk and is available for inspection by the public.

(Ord. passed 9-29-93)

§ 151.017 RULES FOR INTERPRETATION; DISTRICT BOUNDARIES AND DISTRICT REGULATIONS.

(A) Where uncertainty exists with respect to the boundaries of any district shown on the zoning map, the following rules shall apply:

(1) *Use of property lines.* Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be center line of such area.

(2) *Use of the scale.* In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

(3) *Street vacation.* Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley abandonment.

(4) *Board of Adjustment.* In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

(B) Regulations for each district shall be enforced and interpreted according to the following rules:

(1) *Uses by right.* All listed permitted uses are permitted by right according to the terms of this chapter. Conditional uses are permitted subject to compliance with the additional regulations specified and approval of the Board of Commissioners.

(2) *Minimum regulations.* Regulations set forth in this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

(3) *Restrictive covenants and deed restrictions.* Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this chapter, nothing herein contained shall be construed to render such covenants or restrictions inoperative.

(Ord. passed 9-29-93)

§ 151.018 AGRICULTURAL-RESIDENTIAL DISTRICT (AR).*(A) Intent and purpose.*

(1) To protect the agricultural tracts and forests of the community from the premature influx of urban development which would tend to limit their existing value and render them undesirable for sound and profitable urban development in the future.

(2) To insure that residential development dependent upon septic tank systems and private water supply will occur at sufficiently low density to insure a healthful environment.

(B) Permitted uses.

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.

(2) Dwellings, single family.

(3) Dwellings, as an accessory use, not including mobile homes.

(4) Farms and agricultural uses for crops, livestock, and forestry purposes (bona fide farms are exempt from zoning regulations outside the corporate limits).

(5) Greenhouses and nurseries, with no sales on premises.

(6) Mobile homes, Classes A and B are permitted as a single family dwelling or primary residence. Only one mobile home is permitted on a residential building lot.

(7) Public utility lines and facilities, not including offices or equipment storage.

(8) Recreation, private outdoor, including golf courses, tennis courts, swimming pools, and accompanying club houses.

(9) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts and picnicking.

(C) Conditional uses.

(1) Animal boarding facilities and stables, provided that they be located at least 150 feet from the front lot line and 30 feet from any other lot line and no closer than 200 feet to any residence other than that of the owner.

(2) Campgrounds.

(3) Cemeteries.

- (4) Churches and other places of worship.
- (5) Convalescent and nursing homes.
- (6) Day care facilities, with no equipment in the front or rear yards.
- (7) Fire stations.
- (8) Hospitals.
- (9) Mobile home parks.
- (10) Planned residential developments.
- (11) Retirement homes.
- (12) Schools, public and private, elementary, secondary and colleges.
- (13) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size: . . . . .	.1 acre
Minimum lot width: (at setback line)	110 feet
Minimum lot depth:	200 feet
Minimum yard dimensions:	
Front yard setback:	
From major or minor thoroughfare (thoroughfare plan):	50 feet
From local street:	35 feet
Side yard:	15 feet
On corner lots by street:	35 feet
Rear yard:	25 feet
Maximum building height:	35 feet

(E) *Accessory building.* Accessory buildings shall meet the same side yard requirements above and shall be located in the rear or side yard not closer to the rear lot line than ten feet.

(F) *Special requirements.* For industrialized farming operations including broiler production, dairies, cattle and hog feeding, turkey farms and other agricultural endeavors, involving intensive production of animal products, the following shall apply: All buildings used for housing and all areas used for intensive feeding or confinement of animals shall be located:

- (1) At least 75 feet from the road right-of-way;

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- (2) At least 100 feet back from adjacent property lines;
 - (3) At least 500 feet from the nearest residential district;
 - (4) At least 200 feet from the nearest rural residence other than that of owner.
- (Ord. passed 9-29-93)

§ 151.019 SUBURBAN RESIDENTIAL DISTRICT (SR).**(A) Intent and purpose.**

- (1) To accommodate residential development at densities currently popular in the town area within economical range of municipal water and sewer service.
- (2) To stabilize existing residential areas and enhance the prospects for future residential development in an orderly manner.
- (3) To discourage any use which would be detrimental to good residential environment.

(B) Permitted uses.

- (1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.
- (2) Churches and other places of worship.
- (3) Dwellings, single family.
- (4) Dwellings, as an accessory use, not including mobile homes.
- (5) Home occupations.
- (6) Public utility lines and facilities, not including offices or equipment storage.
- (7) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts, and picnicking.
- (8) Schools, public, elementary and secondary.

(C) Conditional uses.

- (1) Convalescent and nursing homes.
- (2) Day care facilities, with no equipment in the front or side yards.

- (3) Fire stations.
- (4) Hospitals.
- (5) Libraries.
- (6) Planned residential developments.
- (7) Recreation, private outdoor, including golf courses, tennis courts, swimming pools, and accompanying club houses.
- (8) Retirement homes.
- (9) Schools, private, elementary and secondary.
- (10) Schools, public and private, colleges.
- (11) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size:	20,000 square feet
Minimum lot width:	90 feet
(at setback line)	
Minimum lot depth:	160 feet
Minimum yard dimensions:	
Front yard setback:	
From major or minor thoroughfare	
(Thoroughfare Plan):	50 feet
From local street:	35 feet
Side yard:	15 feet
On corner lots by street:	35 feet
Rear yard:	25 feet
Maximum building height:	35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than ten feet.
 (Ord. passed 9-29-93)

§ 151.020 RESIDENTIAL DISTRICT (R-12).

(A) *Intent and purpose.*

(1) To accommodate dwellings in areas of medium density, typical of the majority of existing residential development in the town, where municipal water and sewer are available.

(2) To stabilize existing residential development and enhance prospects for future residential development in the established residential sections of the town.

(B) Permitted uses.

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance of hazard.

(2) Churches and other places of worship.

(3) Dwellings, duplexes.

(4) Dwellings, single family.

(5) Home occupations.

(6) Public utility lines and facilities, not including offices or equipment storage.

(7) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts, and picnicking.

(8) Schools, public, elementary and secondary.

(C) Conditional uses.

(1) Convalescent and nursing homes.

(2) Day care facilities, with no equipment in the front or side yards.

(3) Dwellings, multi-family.

(4) Fire stations.

(5) Hospitals.

(6) Libraries.

(7) Mobile homes, class A, one per lot as primary residence.

(8) Planned residential developments.

(9) Recreation, private outdoor, including golf courses, tennis courts, swimming pools, and accompanying club houses.

(10) Retirement homes.

(11) Schools, private, elementary and secondary.

(12) Schools, public and private, colleges.

(13) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size:	12,000 sq. ft. plus 6,000 sq. ft. for each dwelling each dwelling unit over one
Minimum lot width: (at setback line)	75 feet
Minimum lot depth:	130 feet
Minimum yard dimensions:	
Front yard setback:	
From major or minor thoroughfare (thoroughfare plan):	50 feet
From local street:	35 feet
Side yard:	12 feet
On corner lots by street:	30 feet
Rear yard:	20 feet
Maximum building height:	35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than ten feet.
(Ord. passed 9-29-93)

§ 151.021 RESIDENTIAL DISTRICT (R-8).

(A) *Intent and purpose.*

(1) To accommodate residential development at a higher density in areas served by municipal water and sewer, convenient to commercial-industrial concentrations.

(2) To accommodate multiple family residential structures and single family lots that are within the economic range of low income families.

(3) To stabilize existing residential areas and enhance prospects for future residential development in the older more densely populated residential sections of the town.

(B) *Permitted uses.*

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.

- (2) Boarding and rooming houses.
 - (3) Churches and other places of worship.
 - (4) Dwellings, duplexes.
 - (5) Dwellings, multi-family.
 - (6) Dwellings, single-family.
 - (7) Home occupations.
 - (8) Mobile homes, one per lot as primary residence.
 - (9) Public utility lines and facilities, not including offices or equipment storage.
 - (10) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts, picnicking, and community centers.
 - (11) Schools, public, elementary and secondary.
- (C) *Conditional uses.*
- (1) Clubs and lodges, civic and fraternal.
 - (2) Convalescent and nursing homes.
 - (3) Day care facilities, with no equipment in the front or side yards.
 - (4) Fire stations.
 - (5) Hospitals.
 - (6) Libraries.
 - (7) Mobile home parks.
 - (8) Parking lots.
 - (9) Planned residential developments.
 - (10) Recreation, private outdoor, including tennis courts, swimming pools, and accompanying club houses.
 - (11) Retirement homes.

(12) Schools, private, elementary and secondary.

(13) Schools, public and private, colleges.

(14) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size:	8,000 sq. ft. plus 4,000 sq. ft. for each dwelling unit over one
Minimum lot width: (at setback line)	60 feet
Minimum lot depth:	100 feet
Minimum yard dimensions:	
Front yard setback:	
From major or minor thoroughfare (thoroughfare plan):	50 feet
From local street:	25 feet
Side yard:	9 feet
On corner lots by street:	25 feet
Rear yard:	20 feet
Maximum building height:	35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than ten feet.
(Ord. passed 9-29-93)

§ 151.022 CENTRAL COMMERCIAL DISTRICT (C).

(A) *Intent and purpose.*

(1) To accommodate a concentrated development of pedestrian oriented business and service activities.

(2) To enhance further development of an attractive and convenient shopping and service center for the region.

(B) *Permitted use.*

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.

(2) Animal hospitals, with no outdoor pens or runs within 20 feet from any property line.

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- (3) Automobile service stations, not within 200 feet of street intersection.
- (4) Bus stations and taxi stands.
- (5) Business and professional offices, including architects, real estate, legal, engineering firms, and accountants.
- (6) Churches and other places of worship.
- (7) Clubs and lodges, civic and fraternal.
- (8) Community centers.
- (9) Convenience stores, without drive-thru or gas pumps within 200 feet of street intersection.
- (10) Dry-cleaners.
- (11) Financial institutions, including banks, savings and loan establishments, mortgage companies, and credit unions.
- (12) Fire stations.
- (13) Governmental offices and facilities, not including repair yards or garages.
- (14) Hotels and motels.
- (15) Laundromats, self-service.
- (16) Libraries and museums.
- (17) Medical facilities and services, including hospitals, clinics, doctor and dentist offices.
- (18) Printing shops.
- (19) Public utility lines and facilities, not including repair yards or equipment storage.
- (20) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts, picnicking, and recreation centers.
- (21) Restaurants, without drive-thru within 200 feet of street intersection.
- (22) Retail sales, including household and small appliances, art, baked goods, bicycles, books, cameras, candy, clothing, cosmetics, drugs, electronics, fabric, flowers, furniture, gifts, groceries, hardware, hobby supplies, ice cream, jewelry, lawn mowers, magazines, musical instruments, newspapers, office supplies, pets, radios, shoes, televisions, toys, video tape sales and rental, watches, and similar goods.

(23) Schools, fine arts, including art, music, dance and drama.

(24) Schools, trade and professional.

(25) Services, including beauty and barber shops, funeral homes, locksmiths and gunsmiths, photographers, health spas or gyms, repair shops for shoes, small appliances, and watches, and similar services.

(26) Theaters, indoor movie or live.

(C) *Conditional uses.*

(1) Automobile service stations, within 200 feet of street intersection.

(2) Convenience stores, with drive-thru or gas pumps within 200 feet of street intersection.

(3) Dwellings, as an accessory use.

(4) Parking lots.

(5) Planned business development.

(6) Restaurants, with drive-thru within 200 feet of street intersection.

(7) Signs, greater than 50 square feet.

(8) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size: 5,000 square feet

Minimum lot width: 25 feet
(at setback line)

Minimum lot depth: 75 feet

Minimum yard dimensions:

Front yard setback: Average of front yard depths of buildings on adjacent lots to each side, if both developed, or one half front yard setback of adjacent lot to side, if only one is developed, but in any case a setback sufficient for a minimum 12 foot wide sidewalk.

Side yard: None (where a side yard is provided, though not required, such yard shall be at least four feet)

Abutting residential district: 9 feet

On corner lots by street: Same as front yard

Where building contains a dwelling as an accessory use: 9 feet

Rear yard: 15 feet

Maximum building height: 35 feet

(E) *Accessory buildings.* Accessory buildings shall be located in the rear yard only not closer to any lot line than ten feet and not closer to a street right-of-way than 15.
(Ord. passed 9-29-93)

§ 151.023 HIGHWAY BUSINESS DISTRICT (HB).

(A) *Intent and purpose.* To accommodate establishments that serve the traveling public and deal with bulky commodities so that traffic generated by these uses will not congest traffic in the central commercial and business areas.

(B) *Permitted uses.*

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.

(2) Any use permitted in the central commercial district.

(3) ABC stores.

(4) Auto parts and accessories, not including auto salvage operations or junk yards.

(5) Building supplies.

(6) Clubs and taverns.

(7) Farm equipment sales, service, and rental.

(8) Fire stations.

(9) Flea markets.

(10) Garden centers, nurseries, and greenhouses.

(11) Governmental offices and facilities, including repair yards and garages.

(12) Mobile home sales.

(13) Monument works and sales.

(14) Public utility lines and facilities.

(15) Recreation, private, including bowling alleys, skating rinks, miniature golf, driving ranges, drive-in theaters, videoarcades (must meet all requirements of the town's game room provisions.)

(16) Tire sales and service.

(17) Truck stops.

(18) Upholstery shops.

(19) Vehicle sales, service, and rental, new and used, including automobiles, trucks, motorcycles, and recreational vehicles.

(C) *Conditional uses.*

(1) Automobile service stations, within 200 feet of street intersection.

(2) Convenience stores, with drive-thru or gas pumps within 200 feet of street intersection.

(3) Mini-warehouses.

(4) Planned business development.

(5) Pool/billiard rooms.

(6) Restaurants, with drive-thru within 200 feet of street intersection.

(7) Signs, greater than 50 square feet.

(8) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size: 20,000 square feet

Minimum lot width: 90 feet
(at setback line)

Minimum lot depth: 160 feet

Minimum yard dimensions:

Front yard setback: (Within the first ten feet next to the street shall be no signs, parking, or any use other than landscaping.)

From major or minor thoroughfare

(Thoroughfare Plan): 50 feet

From local street: 35 feet

Side yard: 10 feet

Abutting residential district: 20 feet

On corner lots by street: 35 feet

Rear yard: 20 feet

Maximum building height: 35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than ten feet.
(Ord. passed 9-29-93)

§ 151.024 HIGHWAY BUSINESS/CONDITIONAL USE DISTRICT (HB/CU).

(A) *Intent and purpose.* Identical to the highway business (HB) district except that a conditional use permit is required as a prerequisite to any use or development.

(B) *Permitted uses.* Accessory uses clearly incidental to the conditional principal use and which will not create a nuisance or hazard.

(C) *Conditional uses.*

(1) All uses permitted by right in the highway business (HB) district.

(2) All uses listed as conditional in the highway business (HB) district.

(D) *Dimensional requirements.* Same as in the highway business (HB) district.

(E) *Accessory buildings.* Same as in the highway business (HB) district.

(F) *Conditional use district procedure.* Because any use in this district requires a conditional use permit, the zoning of any land to this designation shall be made only upon the request of the property owner. The property owner shall submit an application for a conditional use permit at the same time as the rezoning request. The required public hearings shall be held concurrently. The fee to rezone shall be sufficient for both procedures. Any subsequent amendments to or changes in the conditional use permit shall require additional public hearings and fees as described in §§ 151.110 through 151.113. Applications shall include architectural renderings and a development plan substantially similar to that described in §§ 151.195 through 151.199.
(Ord. passed 9-29-93)

§ 151.025 LIGHT INDUSTRIAL DISTRICT (IL).

(A) *Intent and purpose.*

(1) To provide for industrial activities of a relatively clean and quiet nature and which will not be detrimental to adjacent residential or business districts.

(2) To promote and protect industrial activities and potential sites which can be economically served with urban services and which are considered suitable for continued or future industrial use.

(B) *Permitted uses.*

(1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.

(2) Airports.

(3) Animal hospitals and boarding facilities.

(4) Armories.

(5) Automobile service stations.

(6) Bakeries, industrial, including discount retail sales.

(7) Bottling plants.

(8) Building contractors offices, shops, and yards, except heavy equipment storage.

(9) Building supplies.

(10) Cabinet maker shops and plants.

(11) Cartage and express facilities, including truck rentals.

(12) Cold storage locker plants.

(13) Convenience stores.

(14) Dairies, commercial.

(15) Dry-cleaning and laundry plants.

(16) Electronic equipment manufacturing plants.

(17) Farm equipment sales and service.

(18) Farmers or produce markets.

(19) Feed and seed sales.

(20) Fire stations.

(21) Fish hatcheries.

(22) Flea markets.

- (23) Food processing plants.
- (24) Garment manufacturing plants.
- (25) Ice plants.
- (26) Laboratories, including scientific, research, testing, and medical.
- (27) Mail order houses.
- (28) Mobile home manufacturing plants.
- (29) Mobile home sales.
- (30) Mobile offices.
- (31) Moving and storage companies.
- (32) Parking lots.
- (33) Printing plants.
- (34) Public buildings, including repair yards and garages.
- (35) Public utility lines and facilities.
- (36) Restaurants.
- (37) Sales, wholesale.
- (38) Small appliance manufacturing plants.
- (39) Textile and hosiery mills.
- (40) Tobacco warehouses.
- (41) Truck stops and terminals.
- (42) Upholstery shops.
- (43) Vehicle and farm equipment rental and leasing.
- (44) Warehouses, including mini-warehouses.
- (45) Water treatment plants and storage tanks.

(C) *Conditional uses.*

- (1) Dwellings, as an accessory use, including mobile homes.
- (2) Off-premises outdoor advertising signs, including billboards.
- (3) Signs, greater than 50 square feet.
- (4) Small business incubators.

(D) *Dimensional requirements.*

Minimum lot size:	20,000 square feet
Minimum lot width:	90 feet
(at setback line)	
Minimum lot depth:	160 feet
Minimum yard dimensions:	
Front yard setback:	50 feet
(Within the first ten feet	
next to the street shall be no	
signs, parking, or any use other	
than landscaping.)	
Side yard:	20 feet
Abutting residential district:	35 feet
On corner lots by street:	35 feet
Rear yard:	30 feet
Abutting residential district:	50 feet
Maximum building height:	35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than 20 feet.
 (Ord. passed 9-29-93)

§ 151.026 HEAVY INDUSTRIAL DISTRICT (IH).

(A) *Intent and purpose.*

- (1) To provide for industrial and business-service uses which by their nature may create nuisances detrimental to residential, commercial and light industrial establishments.
- (2) To promote the health, safety and welfare of the community by prohibiting hazardous operations in areas of concentrated urban development.

(B) Permitted uses.

(1) Accessory uses clearly incidental to any permitted or conditional principal use and which will not create a nuisance or hazard.

(2) Any use permitted in the light industrial district.

(3) Cement and concrete mixing plants.

(4) Earth moving contractor and heavy equipment storage.

(5) Extraction operations.

(6) Feed, fertilizer, and flour mills.

(7) Foundries.

(8) Glass and ceramics manufacturing plants.

(9) Lumber and pulpwood operations.

(10) Machine shops and metal fabrication shops.

(11) Railroad freight yards.

(12) Sanitation companies.

(C) Conditional uses.

(1) Fuels, bulk storage.

(2) Junk, wrecking, and salvage yards, including automobiles, furniture, machinery, and tires providing:

(a) All buffering and enclosure requirements are met as specified in §§ 151.120 through 151.124.

(b) Entire operation shall be kept rodent, mosquito, and insect free.

(c) No burning or smelting shall be allowed.

(d) The operation of the junk yard will not be detrimental to adjacent land uses.

(3) Livestock sales, if set back no less than 150 feet from any lot line and no less than 500 feet from any residential district.

(4) Off-premises outdoor advertising signs, including billboards.

(5) Sanitary landfills providing:

(a) The operation of the landfill will not be detrimental to existing adjacent residential uses.

(b) Traffic generated by the landfill operation will not have a detrimental effect on any residential area or endanger the safety of individuals using public facilities such as schools and parks.

(c) The operation of the landfill will not be subject to flooding and consequently pollute or litter any drainageway.

(6) Sewage treatment plant.

(7) Signs, greater than 50 square feet small business incubators.

(8) Tire retreading and recapping operations.

(D) Dimensional requirements.

Minimum lot size:	20,000 square feet
Minimum lot width:	90 feet
(at setback line)	
Minimum lot depth:	160 feet
Minimum yard dimensions:	
Front yard setback:	50 feet
(Within the first ten feet next to the street shall be no signs, parking, or any use other than landscaping.)	
Side yard:	20 feet
Abutting residential district:	35 feet
On corner lots by street:	35 feet
Rear yard:	30 feet
Abutting residential district:	50 feet
Maximum building height:	35 feet

(E) Accessory buildings. Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than 20 feet.

(Ord. passed 9-29-93)

§ 151.027 AGRICULTURAL-INDUSTRIAL DISTRICT (AD).

(A) Purpose and intent.

- (1) To promote industrial development by preserving and protecting for future development suitable industrial sites to which urban services can be economically extended.
- (2) To permit continued agricultural use of land until needed for industrial development.

(B) Permitted uses.

- (1) Accessory uses clearly incidental to the permitted or conditional principal use and which will not create a nuisance or hazard.
- (2) Farm dwellings, including mobile homes.
- (3) Farms and agricultural uses for crops, livestock, and forestry production (bona fide farms are exempt from zoning regulations outside the corporate limits).
- (4) Greenhouses and nurseries.
- (5) Produce stands, seasonal, selling only agricultural products produced on premises, provided that sufficient off street parking is provided.
- (6) Public utility lines and facilities, not including offices or equipment storage.
- (7) Recreation, public, including parks, playgrounds, ballfields, swimming pools, tennis courts, and picnicking.

(C) Conditional Uses.

- (1) Any listed permitted use in the light industrial district.
- (2) Automobile service stations.
- (3) Dwellings, as an accessory use, including mobile homes.
- (4) Small business incubators.

(D) Dimensional requirements.

Minimum lot size: 20,000 square feet
 Minimum lot width: 90 feet
 (at setback line)
 Minimum lot depth: 160 feet

Minimum yard dimensions:

Front yard setback:	50 feet
(For all conditional uses, there shall be no signs, parking, or any use other than landscaping within the first ten feet next to the street.)	
Side yard:	20 feet
Abutting residential district:	35 feet
On corner lots by street:	35 feet
Rear yard:	30 feet
Abutting residential district:	50 feet
Maximum building height:	35 feet

(E) *Accessory buildings.* Accessory buildings shall meet the same side yard requirements as above and shall be located in the rear or side yard not closer to the rear lot line than 20 feet.

(F) *Special requirements.* For industrialized farming operations including broiler production, dairies, cattle and hog feeding, turkey farms and other agricultural endeavors, involving intensive production of animal products, the following shall apply: All buildings used for housing and all areas for intensive feeding or confinement of animals shall be located:

- (1) At least 75 feet from the road right-of-way.
- (2) At least 100 feet back from adjacent property lines.
- (3) At least 500 feet from the nearest residential district.
- (4) At least 200 feet from the nearest rural residence other than that of owner.

(Ord. passed 9-29-93)

§ 151.028 WATER SUPPLY WATERSHED OVERLAY DISTRICT (WSIII).

(A) *Jurisdiction.* The provisions of this section shall apply within the area of the town designated as a public water supply watershed by the State Environmental Management Commission and shall be defined and established on the official zoning map of the town, and shall be further defined on the map as the "Water Supply Watershed Overlay District." In addition, the density and built-upon limits noted in division (H)(3) of this section supersede the minimum lot sizes and coverages in the underlying zones unless they are greater than those noted in division (H)(3).

(B) *Exceptions to applicability and existing development.*

(1) *Pre-existing lots.* A pre-existing lot owned by an individual prior to the effective date of this chapter, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this chapter. However, this exemption is not applicable to multiple contiguous lots under single ownership.

(2) *Existing developments.* Any existing development as defined in this chapter may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this chapter, however, the built-upon area of the existing development is not required to be included in the density calculations.

(3) *Vacant Lots.* This category consists of vacant lots for which plats or deeds have been recorded in the office of the register of deeds of the county. Lots may be used for any of the uses allowed in the watershed area in which they are located, provided the following:

(a) Where the lot area is below the minimum specified in this chapter the Zoning Administrator is authorized to issue a watershed protection permit.

(b) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area than the minimum requirements for residential purposes for the water supply watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this chapter, or if this is not possible, the lots should be combined to reduce to the extent possible the nonconformity of the lots.

(4) *Occupied lots.* This category consists of lots, occupied for residential purposes at the time of the adoption of this chapter. These lots may continue to be used provided that whenever two or more, adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than required by the minimum requirements for residential purposes for the water supply watershed in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(5) *Uses of land.* This category consists of uses of land existing at the time of adoption of this chapter where such uses of the land are not permitted to be established hereafter in the water supply watershed area in which they are located. Such uses may be continued except as follows:

(a) When the use of such land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(b) The use of such land shall be changed only to an allowed use.

(c) When such use ceases for a period of at least one year, it shall not be reestablished.

(6) *Reconstruction of buildings or built-upon areas.* Any existing building or built-upon area not in conformance with the restrictions of this chapter that has been damaged or removed may be repaired and/or reconstructed provided:

(a) Repair or reconstruction is initiated within 12 months and completed within two years of such damage.

(b) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(c) There are no restrictions on the repair and/or reconstruction of single family residential development.

(C) General provisions.

(1) No subdivision plat of land within the public water supply watershed district shall be filed or recorded by the County Register of Deeds until it has been approved in accordance with the provisions of this section. Likewise, the Clerk of Superior Court shall not order or direct the recording off a plat if the recording of such plat would be in conflict with this section.

(2) The approval of a plat does not constitute or effect the acceptance by the town or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.

(3) All subdivisions shall conform with the mapping requirements contained in G.S. § 47-30.

(4) All subdivisions of land occurring within the water supply watershed overlay district in the town after the effective date of this chapter shall require a plat to be prepared, approved, and recorded pursuant to division (D) of this section.

(D) Subdivision application and review procedures.

(1) All subdivisions shall be reviewed prior to recording with the County Register of Deeds by submitting a vicinity map to the Zoning Administrator to determine whether or not the property is located within the designated water supply watershed overlay district. Subdivisions that are not within the designated overlay district shall not be subject to the provisions of this chapter and may be recorded provided the Zoning Administrator initials the vicinity map.

(2) Subdivision applications shall be filed with the Zoning Administrator. The application shall include a completed application form, two copies of the plat and supporting documentation deemed necessary by the Zoning Administrator or the Town Board of Commissioners.

(3) The Zoning Administrator shall review the completed application and submit recommendations to the Board of Commissioners for further review and final action. The Board shall either approve, approve conditionally or disapprove each application by a majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after the application is submitted. The Board shall take final action within 45 days of its first consideration. The Zoning Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit. The public agencies may include, but are not limited to, the following:

(a) The District Highway Engineer with regard to the proposed streets.

(b) The Director of the County Health Department with regard to proposed private or sewer systems normally approved by the Health Department.

(c) The State Division of Environmental Management with regard to proposed sewer systems normally approved by the division, engineered storm water management in general.

(d) Any other agency or official designated by the Zoning Administrator or Board of Commissioners.

(4) If the Board approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Chairman or other authorized member of the Board:

CERTIFICATE OF APPROVAL FOR RECORDING

I do hereby certify the plat shown hereon complies with the water supply watershed overlay district and is approved by the Town Board of Commissioners for recording in the Register of Deeds Office.

Mayor, Town of Biscoe

Date

NOTICE

THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED
DEVELOPMENT RESTRICTIONS MAY APPLY

(5) If the Board of Commissioners disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

(6) All subdivision plats shall comply with the requirements for recording established by the County Register of Deeds.

(7) The subdivider shall provide the Zoning Administrator with evidence that the plat has been recorded with the County Register of Deeds within five working days of its being recorded.

(E) *Subdivision standards and required improvements.*

(1) *Lot restrictions.* All lots shall provide adequate building space in accordance with the development standards contained in division (H)(1) through (3). New subdivisions, located in the WS III water supply watershed overlay district and approved after the establishment of the district and related regulations, that contain lots that do not meet the minimum requirements for a residential lot in the WS III water supply watershed overlay district shall be identified on the subdivision plat or plan as "NOT FOR RESIDENTIAL BUILDING PURPOSES." This means that a residence can not be built on the lot.

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

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

(4) *Erosion and sedimentation control.* The application shall be where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the land quality section, State Division of Environmental Management, Fayetteville Regional Office.

(5) *Road construction.* Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so as to minimize their impact on water quality.

(F) *Construction procedures.*

(1) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Board of Commissioners.

(2) No building or other permits shall be issued for the erection of a structure on any lot not of record at the time of adoption of the water supply watershed overlay district until all requirements of this section have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Zoning Administrator to provide for adequate inspection.

(G) *Penalties for transferring lots in unapproved subdivisions.* Any person who, being the owner or agent of the owner of any land located within the jurisdiction or watershed of the town, subdivides his land in violation of this chapter, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the provisions of this chapter and recorded in the office of the County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction land order requiring the offending party to comply with this chapter.

(H) *Establishment of watershed areas.* The purpose of this section is to describe the water supply watershed area herein adopted. Part of the jurisdiction of the town lies within the Balance of the Bear Creek Watershed, which is classified as a WS-III public water supply watershed by the State Division of Environmental Management. That portion of the WS III watershed that lies within the town's zoning jurisdiction is shown on the town zoning map as the WS III water supply watershed overlay district.

(1) *Watershed area described (WS-III BW-balance of watershed).* In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of two dwelling units per acre. All other residential and non-residential development shall be allowed a maximum of 24% built-upon area. In addition, non-residential uses may occupy 5% of the area within the water supply watershed overlay district within the town's zoning jurisdiction with a 70% built-upon area when approved as a special nonresidential intensity allocation (SNIA). The Zoning Administrator is authorized to approve SNIA's consistent with the provisions of this chapter. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed in the water supply watershed overlay district.

(2) *Allowed uses.*

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(c) Residential development.

(d) Non-residential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(3) *Density and built-upon limits.*

(a) Single family residential development shall not exceed two dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half acre, except within an approved cluster development.

(b) All other residential and non-residential development shall not exceed a 24% built-upon area on a project by project basis except that up to 5% of the balance of the water supply watershed overlay district within the town's zoning jurisdiction may be developed for non-residential uses to 70% built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include the total acreage of the tract on which the project is to be developed.

(c) A registered professional engineer or registered land surveyor shall certify the amount of built-upon area in each project or development and that the area does not exceed the allowed percentages noted in the subsection (3)(b) of this division.

(I) *Cluster development.* The clustering of development is allowed under the following conditions:

(1) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments, as noted, in division (H)(3)(a). Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.

(2) All built-upon area shall be designed and located so as to minimize the impact of stormwater runoff and concentrated stormwater flow to the receiving waters.

(3) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(J) *Buffer areas required.*

(1) A minimum 30 foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale to topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(2) No new development is allowed in the buffer area except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(K) *Public health regulations.*

(1) *Public health, in general.* No activity, situation, structure or land use shall be allowed within the water supply watershed overlay district which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence of, or improper implementation of, a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(2) *Abatement.* The Zoning Administrator shall monitor land use activities within the water supply watershed overlay district to identify situations that may pose a threat to water quality.

(3) *Report and consultation.* The Zoning Administrator shall report all findings to the Board of Commissioners. The Zoning Administrator may consult with any public agency or official and request recommendations.

(4) *Action.* Where the Board of Commissioners finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.
(Ord. passed 9-29-93)

GENERAL REQUIREMENTS FOR DISTRICT REGULATIONS

§ 151.040 ZONING AFFECTS ALL LAND, BUILDINGS AND USES.

Upon and after the adoption of this chapter, no building or land shall be used and no building or part thereof shall be erected, moved or structurally altered except in conformity with the regulations specified herein for the district in which it is located.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.041 REQUIRED YARD NOT TO BE USED FOR BUILDINGS.

The minimum yards or other open spaces required by this chapter for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.042 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved, or structurally altered, shall be located on a lot and in no case shall there be more than one principal building and its customary accessory building on the lot except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district, such as, school campus, shopping center, and industrial park. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.043 LOT MUST ABUT PUBLIC STREET.

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.044 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least these minimum requirements.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.045 BONA FIDE FARMS.

No zoning regulations shall effect bona fide farms in the extraterritorial jurisdiction, but any use of such property for nonfarm purposes, such as but not limited to residential uses and roadside stands, shall be subject to these regulations.

(Ord. passed 9-29-93)

§ 151.046 CORNER VISIBILITY NOT TO BE LIMITED.

No planting, fence or other obstruction to visibility of vehicles shall be erected, planted, maintained, or allowed to exist in any district within the range of three feet to ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along these street lines 25 feet from the point of intersection.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.047 BUSINESS USES OF MOBILE HOMES AND TRAILERS.

No mobile home or trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a mobile home sales lot and except in the IL and IH industrial districts.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.048 MOBILE HOMES ON INDIVIDUAL LOTS.

When used as a residence on an individual lot, rather than located in a mobile home park, the mobile home shall meet the definition of a Class A mobile home; or if it is a single-wide mobile home, it must be underpinned and meet the requirements of subsections (6), (7), and (8) under the definition of Class A mobile homes in § 151.005.

(Ord. passed 9-29-93)

EXCEPTIONS AND MODIFICATIONS**§ 151.060 CONDITIONS FOR MODIFICATION.**

The dimensional requirements of this chapter shall be complied with in all respects except that under the specific conditions as outlined in this chapter the requirements may be waived or modified as stated; and in addition, the dimensional requirements may be charged or modified by the Board of Adjustment as provided for in §§ 151.210 through 151.213.

(Ord. passed 9-29-93)

§ 151.061 FRONT YARD AND OTHER MODIFICATIONS.**(A) Front yard modifications.**

(1) Where 50% or more of the lots in any block or within 600 feet on both sides of the proposed structure, whichever is less, is composed of lots which have been developed with buildings whose front yards are less than the minimum required front yard as specified in the dimensional requirements, the required front yard shall be the average depth of front yards of the developed lots, or the minimum front yard as specified in §§ 151.015 through 151.028, whichever is less. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front yard for such lot shall be no greater than the average front yard of the two adjoining lots or 25 feet, whichever is more.

(2) Where 50% or more of the lots in any block or within 600 feet on both sides of the proposed structure, whichever is less, is composed of lots with buildings whose front yards are greater than the minimum required front yard as specified in §§ 151.015 through 151.028, the required front yard shall be the average depth of front yards of the developed lots. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front yard for such lot shall be no less than the average front yard of the two adjoining lots.

(B) Other yard modifications. Where through lots occur, the required front yard shall be provided on both streets. Architectural features such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches may not project more than four feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features, and similar items may not project into any required yard more than 30 inches.

(Ord. passed 9-29-93)

§ 151.062 EXCEPTIONS TO HEIGHT LIMIT.

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas (except satellite dish antennas), and similar structures and necessary mechanical appurtenances may be erected to any height in according with any other ordinances of the town. (Ord. passed 9-29-93)

§ 151.063 RETAINING WALLS EXEMPT.

The setback and yard requirements of this chapter shall not apply to a retaining wall not more than three feet high, as measured from the lowest ground elevation to the top of the wall. The Board of Adjustment may permit a retaining wall greater than three feet in height where it finds that due to the topography of the lot such a wall is necessary.

(Ord. passed 9-29-93)

§ 151.064 LOT SIZE WITHOUT PUBLIC UTILITIES.

(A) All lots where not served by public sewer and water shall be at least 20,000 square feet in area, not less than 90 feet wide at the building line nor less than 160 feet deep.

(B) All lots served by one but not both public water or public sewer shall be at least 12,000 square feet in area, not less than 75 feet wide at the building line, nor less than 130 feet deep.

(Ord. passed 9-29-93)

§ 151.065 ZERO LOT LINES.

Any planned residential development in the R-6 or R-MH residential districts may make use of the zero lot line concept, that is, no minimum lot size or yard requirements, provided that the total area of the development meets the minimum lot size in its district, that the development remains under single control through a property owner's association or similar means, and that minimum yards and buffers as required in its district are preserved around each building, and around the entire perimeter of the development. Such a planned development is a subdivision and must be approved as such through the requirements of any subdivision regulations in effect as well as meeting the requirements of the zoning chapter.

(Ord. passed 9-29-93)

§ 151.066 DIMENSIONAL REQUIREMENT EXCEPTIONS.

Where the owner of a lot at the time of the adoption of this chapter or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this chapter, (1) such lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter, or (2) provided other dimensional requirements cannot be met, in which case the Board of Adjustment is authorized to approve such dimensions as shall conform as closely as possible to the required dimensions.

(Ord. passed 9-29-93)

TEMPORARY AND ACCESSORY USES**§ 151.080 MOBILE OFFICES AND HOMES.****(A) Mobile offices.**

(1) Mobile offices may be used on a temporary basis for such purposes as construction offices, blood mobiles, book mobiles, and traveling museums. However, such uses must obtain a temporary occupancy permit from the Zoning Administrator if the use is to last more than 48 hours at one site.

(2) Mobile offices may also be used for other office or business purposes in cases where the permanent structure has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained before the use of the mobile office is initiated. This occupancy permit shall be valid for a specified period of time while reconstruction takes place not to exceed six months and may be renewed no more than once.

(B) Mobile homes. Temporary use of a mobile home as a residence shall be permitted in any residential district in cases where the permanent home has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained from the Zoning Administrator before the use of the mobile home is initiated. This occupancy permit shall be valid for a specified period of time not to exceed six months while reconstruction takes place and may be renewed no more than once.

(Ord. passed 9-29-93)

§ 151.081 HOME OCCUPATIONS.

Home occupations are permitted only as an accessory use. Home occupations shall be permitted subject to the following limitations:

(A) No display of products shall be visible from the street;

(B) No mechanical equipment shall be installed or used except such that is normally used for domestic, professional, or hobby purposes and which does not cause noise or other interference in radio and television reception);

(C) No accessory buildings or outside storage shall be used in connection with the home occupation;

(D) Not over 25% of the total actual floor area or 500 square feet, whichever is less, shall be used for a home occupation;

(E) Only residents of the dwelling may be engaged in the home occupation; and

(F) Traffic generation shall not exceed the traffic volumes generated by nearby residents.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.082 SWIMMING POOLS.

All public, commercial, or private outdoor swimming pools of three feet or more in depth, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements in addition to setbacks and other requirements specified elsewhere:

(A) The setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one foot for each foot over five of pool height.

(B) A fence be erected to a minimum height of four feet to completely enclose all sides of the pool not bounded by a building. A gate of equal height shall be installed and securely fastened when the pool is not in use.

(C) That all mechanical equipment be located a minimum of five feet from any property line.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.083 DWELLING AS ACCESSORY USES.

(A) Dwellings may be accessory uses in the agricultural-residential and suburban residential districts if located inside the principal home or if detached as a garage apartment and only if used as a residence by household servants or relatives and no rent is charged.

(B) Mobile homes shall not be used as accessory residences in any residential district.

(C) Dwellings may be allowed as accessory uses in the central commercial district if located inside the principal building. These accessory dwellings may be allowed only as employee residences in the light industrial and agricultural industrial districts and must not be less than 100 feet from any property line, must not be closer than 75 feet to the principal building or use or other accessory use, and must not be closer than 20 feet to another accessory dwelling.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.084 FENCES AND WALLS.

Ornamental fences and walls not over three feet six inches high may project into or may enclose any front yard, and fences or walls enclosing rear or side yards may be six feet high. An open fence or wall through which clear vision is possible from one side to the other on a horizontal plane and such openings occupy 50% or more of the area of the fence or wall, may be erected in the rear yard to a maximum height of ten feet in nonresidential districts.
(Ord. passed 9-29-93)

§ 151.085 SATELLITE DISH ANTENNAS.**(A) General requirements.**

(1) A building permit is required when installing, or substantially constructing or reconstructing a dish antenna over four feet in diameter.

(2) A dish antenna must be installed in compliance with the manufacturers specifications at a minimum.

(3) In all residential districts dish antennas must be permanently installed on the ground and shall not exceed 12 feet in diameter.

(4) In business and industrial districts dish antennas may either be installed on the ground or on the roof of the building. If installed on the roof, the dish shall not be larger than 12 feet in diameter, shall not project higher than ten feet above the maximum building height of the zoning district or more than one third the actual building height above the roof, whichever is less, shall be set back from the front and sides of the building at least 18 feet and shall not be used for any advertising purposes. A dish antenna may be installed on the top of another part of the building which is lower than the roof, such as a balcony or parking deck, only if such location is at the rear or side of the building and all other requirements are met.

(5) A dish antenna may be attached to an accessory building which is permanently secured to the ground, but may not be attached to the principal building except as provided for in subsection (4) of this division.

(6) If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, grey, or pastel grey-green. The paint must have a dull (non-glossy) finish and no patterns, lettering, or numerals shall be permitted on either side of the dish surface.

(7) No dish antenna shall be installed in any public right-of-way or in any drainage or easement.

(B) Location in yards.

(1) A dish antenna shall be installed in the rear yard only, in all districts except as provided for in division (A)(4) and (B)(2) of this section.

(2) In business and industrial districts only, a dealer selling dish antennas may have a maximum of one such antenna installed in the front or side yard for display purposes providing all other requirements are met. If a dealer displays a dish antenna in front or side yard, his permissible sign area shall be reduced by one half.

(C) *Setback requirements.*

(1) The minimum required setback for dish antennas, from the side lot line, shall be the same as for the principal building except on corner lots, on the side abutting the street, the minimum required setback shall be the same as the required front yard setback along that street.

(2) The minimum required setback for dish antennas from the rear lot line shall be eight feet or the same as accessory buildings, whichever is greater.

(3) In districts where there are no side or rear yard requirements a minimum setback of eight feet from the side and rear lot lines shall be required of dish antennas.

(4) In all cases no dish antenna shall be located within 15 feet of any street right-of-way.

(D) *Maximum height requirements.*

(1) In all residential districts the maximum height of dish antennas shall be 15 feet or the height of the principal building, whichever is less.

(2) In business and industrial districts the maximum height of dish antennas installed on the ground shall be 20 feet. Dishes mounted on the roof of a building shall not project higher than ten feet above the maximum building height of the district or more than one third the actual building height above thereof, whichever is less.

(E) *Buffering requirements.*

(1) In all residential districts dish antennas shall be surrounded on all sides with any one or combination of evergreen vegetation, topography, landscaped earth berm, or architectural features such as fences or buildings so that view of the lower one half of the dish area is restricted from all public streets and six feet above ground level of abutting residential property. If evergreen vegetation is used a species and size may be planted which can be expected to screen the required area within two years of normal growth. Any screening vegetation which dies must be replaced.

(2) In business and industrial districts dish antennas must be screened from view from abutting residential property and residential streets. The screening requirements as to materials and height shall be the same as in subsection (1) of this division.

(Ord. passed 9-29-93)

NONCONFORMING USES**§ 151.095 INTENT.**

Upon the effective date of this chapter, and any amendment thereto, pre-existing structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this chapter for the district in which they are located or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this chapter to permit these nonconforming uses to continue until they are removed, discontinued, or destroyed, but not to encourage such continued use, and to prohibit the expansion of any nonconformance.

(Ord. passed 9-29-93)

§ 151.096 SUBSTANDARD LOTS AND STRUCTURES.

Any lot of record or structure existing at the time of the adoption of this chapter, which has dimensions which do not meet the requirements of this chapter, shall be subject to the following exceptions and modifications:

(A) *Adjoining lots.* When two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of its ordinance, and such lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located.

(B) *Lot not meeting minimum lot size requirements.* Except as set forth in the provisions of this section, in any district in which single family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has dimensions which are less than required by these regulations may be used as a building site for a single family dwelling providing the lot area and width are not less than 80% of the requirements in the district. If the lot is smaller or narrower a variance may be requested of the Board of Adjustment.

(C) *Yard requirements modified.* Except as set forth in division (A) of this section, where a lot has width or depth less than that required in the district in which it is located, the Zoning Administrator shall be authorized to reduce the yard requirements for such lot by not more than 20%. Additional or other forms of yard modification may be permitted with a variance granted by the Board of Adjustment.

(D) *Enlargement of nonconforming structures.* Any building which is nonconforming solely because of its encroachment in a required yard area may be extended in any lawful manner that does not further encroach in that yard.

(Ord. passed 9-29-93)

§ 151.097 CONTINUOUS USE OF NONCONFORMING BUILDINGS.

(A) *Loss of nonconforming status.* The nonconforming use of a building may be extended throughout the building provided no structural alternations, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building, are made therein but no such use shall be extended to occupy any land outside such building. If the nonconforming use of such building is discontinued for a continuous period exceeding 120 days, every future use of such premises shall be in conformity with the provisions of this chapter; provided, that this provision shall not apply to any nonconforming commercial or industrial use which normally operates less than 90 calendar days in any given calendar year. The nonconforming use which normally operates less than 90 calendar days in any given year (such as seasonal operation) shall not be continued after one season has passed without operation.

(B) *Restoration after destruction.* This provision shall not prevent the restoration of a nonconforming building, or a building used for nonconforming use which has been destroyed to the extent of not more than 50% of its replacement value, but only if such building is restored within one year of the date of its destruction.

(Ord. passed 9-29-93)

§ 151.098 CONTINUOUS USE OF NONCONFORMING LAND.

(A) The nonconforming use of land shall not be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this chapter. If any nonconforming use of land, other than for location of a mobile home or mobile office is discontinued for a continuous period exceeding 120 days, any future use of the land shall be in conformity with the provisions of this chapter.

(B) If the nonconforming use of land for location of a mobile home or mobile-office is discontinued, either by destruction of the mobile home or by removal thereof, any further use of the land shall be in conformity with the provisions of this chapter.

(Ord. passed 9-29-93)

CONDITIONAL USES**§ 151.110 PURPOSE.**

The development and execution of this chapter is based on the division of the town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where conditional, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such

a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a conditional use permit as hereinafter provided.

(Ord. passed 9-29-93)

§ 151.111 APPLICATIONS AND FEES.

(A) Applications for conditional use permits, signed by the applicant, shall be addressed to the Board of Commissioners. A fee for such application shall be paid the time of application according to §§ 151.250 through 151.252.

(B) Each application shall contain or be accompanied by such legal descriptions, maps, plans, and other information so as to completely describe the proposed use and existing conditions; and

(1) *Structures.* Location of all structures within 50 feet of the property; location and depth, if known, of any existing utility lines in the property or along any adjacent street.

(2) *Other requirements.*

(a) Location of property boundaries, location of any easements for utility lines or passage which cross or occupy any portion of the property for proposed lines;

(b) Detailed construction plans shall be submitted prior to issuance of a building permit;

(c) Where public water or sewer is not available, written approval of proposed water supply and/or sewage disposal facilities by County Health Officer; and

(d) The applicant shall provide to the Zoning Administrator a list of names and addresses of all adjacent property owners along with one set of envelopes stamped and with typed addresses to each person on the list. These addressed envelopes and the list shall be submitted at least eight work days prior to the public hearing. The Zoning Administrator shall then mail a copy of the legal notice to each adjacent property owner. A second set of identically prepared envelopes shall be submitted to the Zoning Administrator if the Board of Commissioners denies the request and the applicant wishes to appeal to the Board of Commissioners, otherwise a second set is not required before the meeting of the Board of Commissioners. This second set shall be submitted at least eight work days prior to the meeting at which the Board of Commissioners is to review the request.

(Ord. passed 9-29-93)

§ 151.112 PROCEDURES FOR REVIEWING APPLICATIONS.

(A) The conditional uses, as specified in the various districts, may be established only after review and approval of the Board of Commissioners after a public hearing.

(B) Such public hearing must be held within 60 days after the application is filed. The Board of Commissioners shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten nor more than 25 days before the date fixed for the hearing. The Board of Commissioners shall review the application and hold the public hearing.

(C) The Board of Commissioners shall approve, modify, or deny the application for a conditional use permit. In approving a conditional use permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within which same is located, shall make written findings that the following are fulfilled;

(1) The use requested is listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district;

(2) The requested use will not impair the integrity or character of the surrounding or adjoining districts; nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;

(3) The requested use is essential or desirable to the public convenience or welfare;

(4) The requested use will be in conformity with a land use plan;

(5) Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;

(6) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public streets; and

(7) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(D) No conditional use permit shall be issued until after a public hearing and review and approval by the Board of Commissioners.

(Ord. passed 9-29-93)

§ 151.113 CONDITIONAL USE PERMITS.

(A) *Compliance with other codes.* Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

(B) *Revocation.* In any case where the conditions of a conditional use permit have not been or are not being complied with, the Zoning Administrator shall give the permittee notice of intention to revoke such permit at least ten days prior to a public review thereof. After conclusion of the review, the Board of Commissioners may revoke such permit.

(C) *Expiration.* In a case where a conditional use permit has not been exercised within the time limit set by the Board of Commissioners or within six months if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, and the like). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

(D) *Duration of conditional use.* Any conditions imposed on a conditional use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the conditional use permit or subsequently changed or amended by the Board of Commissioners after a public hearing.

(E) *Conditions and guarantees.* Prior to the granting of any conditional use the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the conditional use as it deems necessary for the protection of the public and to secure compliance with the standards and requirements specified in this chapter. In all cases in which conditional uses are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that the conditions stipulated in connection therewith are being and will be complied with.

(1) Such conditions may include a time limitation;

(2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six feet before the use requested in initiated";

(3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between hours of 10:00 p.m. and 9:00 a.m."
(Ord. passed 9-29-93)

BUFFERS

§ 151.120 PURPOSE.

Buffers are required to protect one class of use from adverse impacts caused by a use in another class. This regulation benefits both the developer and the adjoining landowner(s) because it allows the developer several options from which to choose in developing the property, while insuring each neighbor adequate protection regardless of the developer's choice, thereby protecting the property values of all properties involved.

(Ord. passed 9-29-93)

§ 151.121 BUFFERS REQUIRED FOR PERMIT.

(A) Each application for a zoning permit or a certificate of occupancy shall include information on the location and types of buffers to be constructed or already existing. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether the requirements of this section are being met.

(B) The installation of all required buffers shall be completed prior to the issuance of a certificate of occupancy.

(Ord. passed 9-29-93)

§ 151.122 LOCATION, INSTALLATION AND MAINTENANCE OF BUFFERS.

(A) All business or industrial uses which abut property zoned residential along the side or rear property lines, other than streets or dedicated alleys, shall install and maintain a buffer.

(B) Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, and shall not be located on any portion of an existing or dedicated public or private street right-of-way.

(C) The property owner shall be responsible for the maintenance of all buffers. Litter and debris shall be kept cleared and dead plants shall be replaced with plants meeting the specifications in § 151.123. All structures shall be kept in good repair. If proper maintenance is not provided, the Zoning Administrator shall notify the property owner of such fact and, if the proper action is not taken within 30 days of such notice, the town shall be authorized to enter the property and perform the work. The cost of this work shall be charged to the property owner and a lien on the property in that amount shall exist until the town is reimbursed.

(Ord. passed 9-29-93)

§ 151.123 SPECIFICATIONS.

(A) In the IL and IH industrial districts and business and industrial uses in the AI district, the buffer shall be a minimum three feet high solid evergreen hedge of a species expected to reach five feet in height within three years of normal growth, or a 25-foot wide strip of natural wooded area, or a 50-foot wide area of landscaped open land with no accessory buildings, outside storage, or parking.

(B) In the HB, HB/CU, and C districts, the buffer shall be a minimum two feet high solid evergreen hedge of a species expected to reach four feet in height within three years of normal growth, or a 15 feet wide strip of natural wooded area or a 25 feet wide strip of landscaped open land with no accessory buildings, outside storage, or parking.

(C) If an evergreen planting is used, any non-decorative fence or wall, such as a chain link fence or concrete block wall, shall be located between the business or industrial use and the evergreen plantings. (Ord. passed 9-29-93)

§ 151.124 ENCLOSURE REQUIREMENTS.

(A) In residential districts all outside storage of governmental or commercial inventory or equipment or any other use which may represent a hazard to trespassers must be enclosed with a fence or wall at least seven feet in height.

(B) In business and industrial districts all business, servicing, processing, or storage, except off-street parking and loading shall be within completely enclosed buildings, or enclosed by a wall or fence (including entrance and exit gates) not less than six feet in height. Such fences or walls shall not be less than 40 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. In automobile wrecking yards and similar types of used material industries such fence or wall shall not be less than 100 feet from any street line and not less than 50 feet from any property line.

(Ord. passed 9-29-93)

PARKING AND LOADING REQUIREMENTS**§ 151.135 MINIMUM PARKING REQUIREMENT; CERTIFICATION.**

(A) At the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking space shall be provided in the amount specified by this section. Such parking space may be provided in a parking garage or properly graded open space.

(B) Each application for a zoning permit or a certificate of occupancy shall include information as to the location and dimensions of off-street parking and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether the requirements of this section are met.

(Ord. passed 9-29-93)

§ 151.136 COMBINATION OF REQUIRED PARKING SPACE.

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except:

(A) One-half of the parking space required for churches whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays, and

(B) The minimum requirements may be reduced to 75% of the sum of the requirements for the various uses computed separately when the individual requirements total 50 or more spaces.

(Ord. passed 9-29-93)

§ 151.137 REQUIREMENTS FOR PARKING LOTS.

Where parking lots for more than five cars are permitted or required, the following provisions shall be complied with:

(A) The lot may be used only for parking and not for any type of loading, sales, dead storage, repair work, dismantling or servicing, but shall not preclude temporary exhibits or parking of rental vehicles.

(B) All entrances, exits, barricades at sidewalks, and drainage plans shall be approved and constructed before occupancy.

(C) A strip of land five feet wide adjoining any street line or any lot zoned for residential uses shall be reserved as open space, guarded with wheel bumpers and planted in grass or groundcover and/or shrubs or trees.

(D) Only one entrance and one exit sign no larger than two square feet prescribing parking regulations may be erected at each entrance or exit.

(E) Required off-street parking areas including drives and access ways shall be surfaced with an all-weather surface material.

(F) Where parking or loading areas are provided adjacent to a public street, ingress and egress thereto shall be made only through driveways not exceeding 25 feet in width at the curb line of the street, except where the Zoning Administrator finds that a greater width is necessary to accommodate the vehicles customarily using the driveway.

(G) Where two or more driveways are located on the same lot, other than a mobile home park, the minimum distance between such drives shall be 30 feet or one third of the lot frontage, whichever is greater.

(H) No driveway shall be located closer than 25 feet to any street intersection.

(I) Any lighting of parking areas shall be shielded so as to cast no light upon adjacent properties and streets.

(Ord. passed 9-29-93)

§ 151.138 MOBILE HOMES AND TRAILERS.

It shall be unlawful to park or otherwise store for any purpose whatsoever any mobile home or trailer within any zoning district except as follows:

(A) At a safe, lawful, and unobstructive location on a street, alley, highway, or other public place, provided that the trailer or mobile home shall not be parked overnight.

(B) Within a mobile home park.

(C) On any other lot or plot provided that:

(1) A storing permit for any mobile home to be parked or stored for longer than seven days shall be obtained from the Zoning Administrator.

(2) A mobile home shall not be parked and used other than in an approved mobile home park, as an approved conditional use in the IL or AI district, or in the AR or R8 district, or unless obtaining a temporary occupancy permit.

(3) Trailers, as defined in subsection (2) of this division shall be stored in a garage or carport or in the rear or side yard.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.139 VEHICLE STORAGE.

(A) *Residential districts.*

(1) Only vehicles intended for personal use shall be parked or stored on any property zoned for residential use. No storage of commercial inventory whatsoever shall be permitted and no inoperative vehicle shall be permitted to be parked or stored out of doors longer than 24 hours.

(2) Commercial trucks or vans driven home by employees must be parked in a garage or carport or in the driveway and never on the street.

(B) *Business and industrial districts.* Customer and employee parking is permitted along with the parking and storing of governmental or commercial vehicles, in any business or industrial district. Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station or if stored in an approved junk or wrecking yard in an industrial district.
(Ord. passed 9-29-93)

§ 151.140 SCHEDULE OF MINIMUM PARKING REQUIREMENTS.

(A) The number of off-street parking spaces required by this section shall be provided on the same lot with the principal use and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum. For purposes of this chapter an off-street vehicle parking and storage parking space shall be no less than 160 square feet in area plus adequate ingress and egress provided for each off-street parking space.

Land Uses

Required Parking

Air, motor and rail freight terminals Two parking spaces for each three employees, plus one space for each vehicle used in the operation.

Assembly, places of, including One parking space for each four seats in the auditoriums, churches, funeral homes, largest assembly room, and stadiums

Automobile service stations Five parking spaces for each service bay.

Beauty and barber shops Three parking spaces for each service chair.

Bowling alleys Two parking spaces for each alley plus one space for each 300 square feet of gross floor space for affiliated uses such as restaurants, bars, and the like.

Dwellings, including mobile homes Two parking spaces per homes dwelling unit.

Home occupations One parking space per home occupation in addition to residence requirements.

Industrial uses Three parking spaces for each four employees on the largest shift plus spaces for vehicles used in the operation. Additional reserved parking spaces shall be provided for visitors equal to 5% of the employee parking spaces when there are 40 or more employees.

Libraries One parking space for each four seats provided for patron use.

Lodging facilities, including One parking space for each room to be rented, hotels, motels, rooming houses, plus one additional parking space for each tourist homes, and boarding houses two employees, plus additional parking spaces as may be required for any commercial or business uses.

Medical facilities and special care One parking space for each five patients homes, including retirement homes, or residents at full capacity plus one hospitals, sanitariums, and nursing parking space for and each employee. convalescent homes

Medical offices and clinics Four parking spaces for each doctor plus one parking space for each employee.

<i>Land Uses</i>	<i>Required Parking</i>
Offices	One parking space for each 300 square feet of gross floor space.
Public buildings	One parking space for each employee plus one parking space for each five seats in the largest assembly room.
Recreational facilities not otherwise listed (without facilities for spectators)	One parking space for each employee plus one parking space for every two participants at full capacity.
Recreational facilities not otherwise listed (with facilities for spectators)	Same as for recreational facilities without spectators plus one parking space for every four spectator seats.
Restaurants, cafeterias, private clubs and lounges	One parking space for each four seats at tables, and one parking space for each two seats at counters or bars plus one parking space for each two employees.
Retail uses, financial institutions, civic and fraternal clubs, and community centers	One parking space for each 200 square feet of gross floor area.
Schools, elementary and junior high or middle schools, preschools, and day care facilities	One parking space for each classroom and administrative office, plus one parking space for each employee and one large space for each bus.
Schools, senior high	One parking space for each 20 students for which the building was designed, plus one parking space for each employee, plus one large space for each bus.
Schools, colleges, technical and trade	One parking space for every six students, based upon the maximum number of students attending classes at any one time, plus one space for each administrative office, plus one space for each classroom.
Services not otherwise listed	One parking space for each employee plus one parking space for each client at full capacity.

<i>Land Uses</i>	<i>Required Parking</i>
Shopping centers	Five parking spaces for each 1,000 square feet of gross leasable floor space in the center.
Theaters, indoor	One parking space for each four seats up to 400 seats, plus one space for each six seats above 400.
Vehicle, mobile home, and farm equipment sales and service	Two parking spaces for each employee in sales, plus one space for each additional employee, plus five spaces for each service bay, plus spaces for inventory.
Video arcades	One parking space for every four game machines plus one space for each employee.
Warehouses and other storage services	One parking space for each employee plus one space for each vehicle used in the operation.

(B) When a parking requirement is stated in terms of employees, it means the maximum number of employees who will be at the site at one time either on a single shift or an overlap of shifts.
 (Ord. passed 9-29-93)

§ 151.141 DOWNTOWN OFF-STREET PARKING.

In the C central business district off-street parking shall be as required above except that uses having less than 1,000 square feet of gross floor space (not including grocery stores, convenience stores, automobile service stations, lodging facilities, funeral homes, hospitals and clinics, movie theaters, and outdoor recreational facilities) need not provide of street parking. Dwellings as accessory uses shall be provided with required off-street parking.
 (Ord. passed 9-29-93)

§ 151.142 OFF-STREET LOADING; PURPOSE AND GENERAL REQUIREMENTS.

(A) Off-street loading requirements are established in order to ensure the proper and uniform development of loading areas throughout the town, to relieve traffic congestion in the streets, and to minimize any detrimental effects of offstreet loading areas on adjacent properties.

(B) Each application for a zoning permit or certificate of occupancy shall include plans and other information of sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this section have been met. Plans for off-street loading areas shall include information as to:

- (1) The location and dimensions of driveway entrances, access aisles and loading spaces.
- (2) The provision for vehicular and pedestrian circulation.
- (3) The location of sidewalks and curbs.

(C) The zoning permit or certificate of occupancy for the construction or use of any building, structure or land where off-street loading space is required shall be withheld by the Zoning Administrator until the provisions of this section have been met. If at any time such compliance ceases, any certificate of occupancy which shall have been issued for the use of the property shall immediately become void and of no effect.

(Ord. passed 9-29-93)

§ 151.143 MINIMUM LOADING REQUIREMENTS.

Off-street loading shall be provided and maintained as specified in the following schedule.

(A) For uses containing a gross floor area of less than 20,000 square feet, each off-street loading space shall have minimum dimensions of 15 feet in width and 30 feet in length.

(B) For uses containing a gross floor area of 20,000 square feet or more, each off-street loading space shall be 15 feet in width and 45 feet in length as a minimum.

(C) Uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals or sanitariums, and retail sales establishments shall provide off-street loading facilities in the following amounts:

<i>Gross Floor Area (Square Feet)</i>	<i>Minimum Number of Spaces Required</i>
5,000 - 20,000 . . . . .	.1
20,001 - 50,000 . . . . .	.2
50,001 - 80,000 . . . . .	.3
80,001 - 125,000 . . . . .	.4
For each additional 45,000	1 additional

(D) Uses which do not handle large quantities of goods, including but not limited to office buildings, restaurants, funeral homes, hotels, motels, apartment buildings, and places of public assembly, shall provide off-street loading facilities in the following amounts:

<i>Gross Floor Area (Square Feet)</i>	<i>Minimum Number of Spaces Required</i>
5,000 - 80,000 . . . . .	.1
80,001 - 200,000 . . . . .	.2
200,001 - 320,000 . . . . .	.3
320,001 - 500,000 . . . . .	.4
For each additional 180,000	1 additional

(Ord. passed 9-29-93)

SIGN REGULATIONS

§ 151.155 PURPOSE.

Sign regulations are established to restrict private signs and lights which overload the public's capacity to receive information, which violate privacy, or which increase the probability of accidents by distracting attention or obstructing vision. Such regulations are also designed to encourage signing and lighting and other private communications which aid orientation and identify activities, and to reduce conflict among private signs and lighting and between the private and public environmental information systems.

(Ord. passed 9-29-93)

§ 151.156 REQUIREMENTS IN GENERAL; EXEMPTIONS.

(A) General requirements.

(1) No sign of any type or any part thereof shall be erected, painted, repainted, posted, reposted, placed, replaced or hung in any zoning district except in compliance with these regulations.

(2) No permit is required to erect most signs, however, the Zoning Administrator shall have the authority to order the removal or modification of any new sign which does not meet these requirements according to the following procedures:

(a) The owner of the sign, the occupant of the premises on which the sign or structure is located, or the person or firm maintaining the same shall, upon written notice by registered or certified mail from the Zoning Administrator or his designated agent, within 30 days, remove or modify the sign or structure in a manner approved by the Zoning Administrator or his designated agent.

(b) If such order is not complied with within 30 days, the Zoning Administrator or his designated agent shall issue a second written notice in person or by registered or certified mail indicating that if the appropriate action has not taken place within 15 days the town will remove the sign at the cost of the owner or leasor of the sign.

(c) If the sign is not removed or modified within the 15 days granted by the second notice, the Zoning Administrator shall order the removal of the sign by the town.

(3) Therefore, it is in the interest of the sign owner to consult with the Zoning Administrator prior to the purchase and installation of a sign. The sign user should bring to the town hall a drawing approximately to scale showing the design of the sign, including dimensions, method of attachment or support, source of illumination and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed and a plot plan approximately to scale indicating the location of the sign relative to property lines, easements, streets, sidewalks, and other signs.

(B) *Exemptions.* The following types of signs are exempted from the application of the regulations herein:

(1) Signs, unlighted, not exceeding two square feet in area and bearing only property numbers, mail box numbers, and the name of the owner or occupant of the premises. Such signs shall not exceed two square feet in area per occupant. If more than one sign or nameplate is required, the total allowable sign area shall not exceed eight square feet.

(2) Flags and insignia of any government except when displayed in connection with a commercial promotion.

(3) Holiday decorations in season.

(4) Legal notices and warnings, regulatory, informational, or directional signs erected by any public agency or utility.

(5) Integral decorative or architectural features of buildings, including signs which denote only the building name, date of erection or street number. Such signs shall be permitted as exemptions when cut into any masonry surface or implanted with a metal plate.

(6) Signs directing and guiding traffic and parking on private property.

(7) Signs which cannot be seen from a public street or right-of-way.

(8) The act of changing advertising copy of messages on any sign designated or the use of replaceable copy such as a ready board or product price sign or on a sign having its own changing copy capacity such as a time and temperature sign.

(9) Price signs at automobile service stations or other establishments engaged in the retail sales of gasoline. One such sign is permitted for each frontage on a public street, provided it does not exceed eight square feet in area. Any such sign shall be affixed to a permitted freestanding identification sign, to a canopy support in the vicinity of the gasoline pumps, or flat-mounted against the wall of a building.

(10) Signs announcing the location of self-service or full service gasoline pumps at any establishment engaged in the retail sale of gasoline. Such signs shall be located in the vicinity of the gasoline pumps and shall not exceed eight square feet in area.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.157 SIGNS PERMITTED IN RESIDENTIAL AND AGRICULTURAL-INDUSTRIAL DISTRICTS.

(A) Permanent identification signs for subdivisions and residential developments not exceeding 20 square feet in area. One sign may be erected at each major entrance to the subdivision, but shall be located on private property no closer than 12 feet to any property line. No sign shall exceed four feet in height above ground level, and illumination shall be restricted to indirect white lighting.

(B) Permanent, identification signs for mobile home parks and campgrounds not exceeding six square feet in area. One sign may be erected at each major entrance to the mobile home park or campground but shall be located on private property no closer than 12 feet to any property line. No sign shall exceed four feet in height above ground level. Illumination shall be limited to indirect white lighting.

(C) One permanent, identification sign for multi-family residential developments may be erected at each major entrance to the property. Such signs shall not exceed 20 square feet in area and may be flat-mounted against the wall of an apartment building or free-standing. If freestanding, such signs shall be setback a minimum of 12 feet from any public right-of-way property line and shall not exceed four feet in height above ground level. Illumination shall be limited to indirect white lighting.

(D) One permanent, identification sign for non-residential uses permitted as a matter of right may be erected on the premises, provided such signs do not exceed 20 square feet in area. If freestanding, no sign shall be located closer than 12 feet to any property line nor exceed four feet in height above ground level. Illumination shall be limited to indirect white lighting.

(E) One identification sign for each home occupation is permitted, but shall not be closer than 12 feet to any property line, or street right-of-way, shall not project higher than two feet above ground level, and shall not exceed two square feet in area.

(F) Approved industrial uses in the AI agricultural-industrial district shall adhere to the requirements of § 151.160 unless stricter requirements are made as part of the conditional use permit.

(G) Temporary signs as permitted by § 151.162.

(H) No other signs are permitted.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.158 SIGNS PERMITTED IN C CENTRAL BUSINESS DISTRICT.

Within the C central business district as shown on the zoning map, only the following types of signs shall be permitted:

(A) Permanent signs shall be permitted for each separate business establishment, provided the total allowable sign area for all such signs is not exceeded. The location and number of wall signs is at the option of the owner or tenant, however, where more than four signs are located on any lot, the fifth such sign and each succeeding sign, respectively, shall reduce the total allowable sign area by 20%. Wall signs shall not project higher than the building eave or 30 feet, whichever is lower. Street number numerals shall not count in this requirement.

(B) One identification sign per business establishment may be suspended from or attached to the underside of a canopy or marquee, provided such sign does not exceed six square feet in area and maintains a clear distance of at least seven and one half feet between the sidewalk and the bottom of the sign.

(C) Identification signs shall bear thereon no lettering other than to indicate the name and kind of business conducted in the building or structure, such as "men's clothing," "drugs," "jeweler," and the like, and the year the business was established and the street number thereof. Other permanent signs may advertise articles of merchandise sold on the premises.

(D) Restaurants, convenience stores, and automobile service stations shall be permitted one freestanding sign if the business is located on a corner lot or has at least 100 feet of street frontage. Such freestanding sign shall not exceed 20 feet in height or 50 square feet in sign area per side, shall be located on private property such that no part of the sign shall project over any public right-of-way, and shall be setback at least 12 feet from any other property line. A conditional use permit may be obtained for a larger size.

(E) Where there is a front yard of at least 50 feet a freestanding identification sign shall be permitted in the front yard. Such sign must be setback a minimum of 12 feet from any public right-of-way or any other property line, shall not exceed four feet in height above ground level, and shall not exceed 20 square feet in area. Illumination shall be limited to indirect white lighting.

(F) The total allowable sign area for all signs, including all wall and freestanding signs, shall not exceed two square feet for each lineal foot of building wall facing a public street.

(G) Temporary signs as permitted in § 151.162.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.159 SIGNS PERMITTED IN HB HIGHWAY BUSINESS AND HB/CU HIGHWAY BUSINESS CONDITIONAL USE DISTRICTS.

Within the HB highway business district and the HB/CU highway business conditional use district as shown on the zoning map, only the following types of signs shall be permitted:

(A) One permanent, freestanding identification sign is permitted for each premise. Any such freestanding sign shall not exceed 30 feet in height or 50 square feet in sign area per side, unless a conditional use permit is obtained first for a larger size.

(B) Permanent wall signs shall be permitted for each separate business establishment provided the total allowable sign area for all signs is not exceeded. The location and number of wall signs is at the option of the owner or tenant, however, where more than four signs are located on any zoning lot, the fifth such sign and each succeeding sign, respectively, shall reduce the total allowable sign area by 20%. Street number numerals shall not count in this requirement. Wall signs shall in no case project higher than the eave of the building or 30 feet, whichever is lower.

(C) The total allowable sign area for all signs, including all wall and freestanding signs, shall not exceed two square feet for each lineal foot of building wall facing a public street.

(D) One identification sign per business establishment may be suspended from or attached to the underside of a canopy or marquee, provided such sign does not exceed six square feet in area and maintains a clear distance of at least seven and one-half feet between the sidewalk and the bottom of the sign.

(E) No freestanding sign shall be closer than 12 feet from a street right-of-way or 20 feet from any other property line.

(F) Temporary signs as permitted in § 151.062.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.160 SIGNS PERMITTED IN INDUSTRIAL DISTRICTS.

Within the IL and IH industrial districts as shown on the zoning map, only the following types of signs shall be permitted:

(A) (1) One freestanding identification sign is permitted for each premise. The area of the sign shall not exceed the total allowable sign area, but in no case exceed 50 square feet in area, and shall not project more than 25 feet above ground level.

(2) Businesses fronting on more than one public street shall be permitted one freestanding sign for each frontage; provided, however, the combined area of all such signs shall not exceed the allowable sign area and, in no case, 50 square feet per sign. A conditional use permit may be obtained for a larger size.

(B) Permanent wall signs are permitted for each business provided they do not project higher than the building eave or 30 feet, whichever is lower. The location and number of wall signs is at the option of the owner or tenant, however, where more than four signs are located on any lot, the fifth such sign and each succeeding sign, respectively, shall reduce the total allowable sign area by 20%.

(C) The total allowable sign area shall not be more than two square feet per lineal foot of building wall facing a public street.

(D) Identification signs may be suspended from or attached to the under-side of a canopy or marquee, provided that the total sign area of such signs does not exceed six square feet in area and a clear distance of at least seven and one-half feet between the sidewalk and the bottom of such signs is maintained.

(E) Temporary signs as permitted by § 151.162.

(F) Off-premises advertising signs may be permitted in which case the sign shall be setback from any street right-of-way or property line by at least 50 feet, shall not be closer than 100 feet to any property zoned residential, shall not project higher than 25 feet above ground level, shall not exceed 200 square feet in area, and shall not be located less than 300 feet from any other off-premises sign. (Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.161 SHOPPING CENTER SIGNS.

For shopping centers in single ownership or under unified control one additional sign on each street frontage, other than those regulated above, shall be permitted, subject to the following.

(A) *Content.* Such sign shall advertise only the name and location of such center and/or name and type of business of each occupant of the center.

(B) *Area.* The gross area in square feet permitted for the additional sign on a zoning lot shall not exceed one square foot per lineal foot of building facing a public street.

(C) *Location.* The additional sign shall not be closer than 20 feet to any property line or street right-of-way and shall not project higher than 30 feet above ground level. (Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.162 TEMPORARY SIGNS.

The following signs of a temporary nature including portable or mobile signs on wheels are permitted in all zoning districts:

(A) One unilluminated sign per street frontage pertaining only to the lease, rent or sale of the property upon which it is displayed. The maximum size of such signs shall be as follows:

(1) In all residential districts, three square feet.

(2) In all other districts, such signs shall be limited to one square foot of area for each five lineal feet of advertised property which abuts a public street; provided, however, no such sign shall exceed 100 square feet in area.

(B) One construction sign may be erected on a site during the period of construction or reconstruction of a building or other similar project. The sign may identify the owner and/or developer, architect, engineer, contractor and other individuals or firms, and the character or purpose for which the structure or item is intended. The sign shall be unilluminated and removed within two days after the construction work has been completed. The maximum size of a construction sign shall be as follows:

(1) In residential zones, ten square feet.

(2) In all other zones, 50 square feet or one square foot of sign area for each five lineal feet of property abutting a public street, whichever is greater. In no instance, however, shall any such sign exceed 100 square feet in area.

(C) Signs for promotional purposes by an individual business may be displayed on the premise for a period not to exceed 28 days during each calendar year.

(D) Banners, pennants, ribbons, posters, streamers, strings of light bulbs, spinners or other similar devices may be displayed for a period of not more than 21 days in any one calendar year on the occasion of the opening of a new business.

(E) Temporary signs painted or displayed on the interior or exterior of commercial building windows, provided, however, such signs shall not exceed 25% of the total window area.

(F) Directional signs advertising a public event and located off premises may be displayed on private property not more than one week in advance of the event and not more than two days after the completion of the event. No such sign shall exceed six square feet in area.

(G) Political campaign signs may be posted on private property only after the official campaign period has begun and must be removed within one week after elections. Such signs shall not exceed six square feet in area.

(H) No more than one portable or mobile sign, with or without wheels, shall be permitted each lot provided that they are located not less than ten feet from any street right-of-way or other property line, are included in the total allowable sign area along with wall signs and other freestanding signs, do not include any flashing or colored lights, and otherwise meet all requirements set forth in this section.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.163 SIGNS PERMITTED WITH NONCONFORMING USES.

Any nonconforming use in any district may maintain such business signs as would be allowed for such use in the most restrictive district in which the use would be permitted, or such signs as are existing at the time the use becomes nonconforming, whichever is the more restrictive with regards to sign size and number of signs. A period of one year from the effective date of this chapter shall be allowed in order to bring all such signs into conformity with this section.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.164 NONCONFORMING SIGNS.

(A) Any nonconforming signs, except those discussed in § 151.163, existing on the effective date of this chapter may remain in place and be maintained for five years after the effective date, subject to the following requirements:

(1) No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.

(2) No nonconforming sign shall be structurally altered as to change the shape, size, type or design of the sign, nor shall any nonconforming sign be relocated.

(3) No nonconforming sign shall be allowed to remain after the activity, business or use to which it relates has been discontinued.

(4) If a nonconforming sign is damaged in such a manner that the estimated expense of repairs exceeds 50% of its replacement value, the sign shall not be allowed to remain or be repaired and must be removed.

(B) Within five years after the effective date of this chapter, all nonconforming signs shall be removed or brought into compliance, unless such time is extended pursuant to the following requirements.

(C) The owner of any nonconforming sign shall have the right, within five years from and after the effective date of this chapter, to make application to the Board of Adjustment for an extension of the time within which such sign may be permitted to remain. If such sign is nonconforming as to its size, then the time may be extended by the Board of Adjustment for one calendar month for each \$100 of the owner's unused investments in the sign. The term "unused investment" shall mean the unamortized portion of the original actual dollar cost for federal income tax purposes, all as certified in writing at the request of the owner by a certified public accountant.

(D) Any nonconforming sign created as a result of an amendment to this chapter or as a result of the extension of the zoned area shall have five years from the date of such amendment or extension to conform to the requirements of this section.

(E) Upon failure to comply with any of the above requirements, the Zoning Administrator shall cause the removal of any nonconforming signs as hereafter provided:

(1) The Zoning Administrator or his designated agent shall give the owner of the nonconforming sign notice of the violation by registered or certified mail. Notice to the owner or the occupant of the premise on which the sign is located shall be sufficient. These notices shall contain a brief statement of the particulars in which this section is violated and the manner in which such violation is to be remedied.

(2) Failure to correct such violation within 30 days shall be subject to the provisions of § 151.999. Each day's continuing violation shall be a separate and distinct offense.

(3) In addition to or instead of the above penalties, the town may apply to a court of justice for a mandatory or prohibitory injunction and order of abatement directing the owner, occupancy or permittee to correct the violation in accordance with G.S. § 160A-175.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.165 PROHIBITED SIGNS.

Unless otherwise permitted, the following signs are prohibited:

(A) Banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similar devices, except as permitted in § 151.163.

(B) Signs advertising an activity, business, product, or service no longer conducted on the premise upon which the sign is located.

(C) Mobile signs, except as permitted in § 151.163.

(D) Off-premises advertising structures or billboards, except as a conditional use allowed in § 151.018.

(E) Roof signs.

(F) Projecting signs and freestanding signs located within a public right-of-way except when erected by a governmental agency.

(G) No flag of the United States or the state shall be displayed as part of a commercial promotion. When displayed the flags shall be allowed to hang free and never draped or tied back.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.166 INSTITUTIONAL SIGNS.

Sign erected by schools, churches, hospitals, governmental buildings, and other institutions are permitted in all districts, but the size of any such signs shall not be in excess of 20 square feet. If such sign is freestanding, it shall not be closer than 12 feet from any property line and shall not project higher than four feet above ground level. If the sign is a wall sign, it shall not project higher than 20 feet above ground level, or the maximum height permitted in the district, whichever is the lesser. (Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.167 ILLUMINATION.

Where illuminated signs are permitted, they shall conform to the following requirements:

(A) All signs illuminated under the provisions of this section shall be constructed to meet the requirements of the national electric code.

(B) Signs which contain, include, or are lighted by any flashing, intermittent or moving lights are prohibited, except those giving public information such as time, temperature, and date.

(C) Illuminated signs shall be limited to those lighted internally with glass or plastic faces bearing the advertisements; provided, however, that exposed neon tubing and exposed incandescent or other bulbs not exceeding 15 watts each shall be permitted.

(D) Flood and display lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction. Such lighting shall also be shielded so as to prevent view of the light source from a residence or residential district and/or vehicles approaching on a public right-of-way from any direction.

(E) Flame as a source of light is prohibited.
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.168 MAINTENANCE AND REMOVAL OF UNSAFE SIGNS.

All signs of any nature shall be maintained in a state of good repair. No sign shall be allowed to remain which becomes structurally unsafe, hazardous or endangers the safety of the public or property. Upon determining that a sign is structurally unsafe, hazardous or endangers the safety of the public or property, the Zoning Administrator or his designated agent shall order the sign to be made safe or removed subject to the following provisions:

(A) The owner of the sign, the occupant of the premise on which the sign or structure is located, or the persons or firm maintaining the same shall, upon written notice by registered or certified mail from the Zoning Administrator or his designated agent, forthwith in the case of immediate danger and in any case within ten days, secure or repair the sign or structure in a manner approved by the Zoning Administrator or his designated agent or remove it.

(B) If such order is not complied with within ten days, the Zoning Administrator or his designated agent shall remove the sign at the expense of the owner or leasee thereof. No sign shall be erected or maintained in such a manner that any portion of its surface or its support will interfere in any way with the free use of access to any fire escape, exit or standpipe, or so as to obstruct any window so that light or ventilation is reduced below minimum standards required by any applicable law or building code.

(C) Whenever a sign has been abandoned, advertises an activity, business, product or service no longer conducted on the premise or is erected in violation of the provisions of this section, the Zoning Administrator or his designated agent shall cause such sign to be removed or brought into compliance in accordance with the method prescribed for nonconforming signs in § 151.164.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.169 DISPLAY OF PROPERTY NUMBERS.

Every residence, office, retail establishment, industry, or any other structure with a street number assigned to it shall display such number in such a way as to be easily visible from the street providing access. The numerals shall be of such size and color as to be easily recognizable and shall be attached to the wall of the building facing the street or, if the distance to the street or visibility due to other means makes this impractical, shall be displayed on a nameplate or number sign placed at the main entrance to the property, or displayed on a rural mailbox. Property owners may choose one of the latter methods of display in addition to attaching numeral to the building.

(Ord. passed 9-29-93) Penalty, see § 151.999

MOBILE HOMES

§ 151.180 PURPOSE.

As a condition for the approval and continuance of a conditional use permit for a mobile home park, the following shall apply.

(Ord. passed 9-29-93)

§ 151.181 MOBILE HOME PARK PERMIT.

(A) It shall be unlawful for any person to maintain or operate a mobile home park within the jurisdiction of this chapter unless such person shall first obtain from the Board of Commissioners a conditional use permit as described in §§ 151.110 through 151.113, except that the maintenance or operation of a mobile home park may be continued under a temporary operating permit for such period of time and under such conditions as are prescribed in division (D) of this section.

(B) The conditional use permit shall be issued and subsequently renewed if the Board of Commissioners finds that the applicable provisions of this chapter and all other town ordinances are satisfactorily complied with and, at the time of the initial conditional use request, if the Board of Commissioners finds that the location of a proposed park is acceptable.

(C) No conditional use permit shall be issued for any mobile home park not in operation upon the effective date of this chapter until the park plan has been approved by the Board of Commissioners as provided for in § 151.182.

(D) A temporary operating permit shall be issued by the Zoning Administrator permitting a nonconforming park to be maintained and operated for a period of six months subject only to the provisions of this chapter made expressly applicable to the owner(s).
(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.182 CONSTRUCTION OR ALTERATION.

(A) No person shall construct or engage in the construction of any mobile home park or make any addition or alteration to a mobile home park that either alters the number of sites for mobile homes within the park or affects the facilities required therein until he first secures a conditional use permit authorizing such construction, addition, or alteration. The construction, addition, or alteration shall be done in accordance with plans and specifications submitted with the application and approved by the proper authorities. Procedures for the applicant securing such permit are described in §§ 151.110 through 151.113. However, before the Board of Commissioners shall review the conditional use request, a park plan, described below, must be submitted for review and approval by the Board of Commissioners. No plan is required to be prepared and approved for issuance of a permit to make minor facility improvements in an existing mobile home park where the number of mobile home sites within the park is not affected. When no plan is required, application for a zoning permit may be made directly to the Zoning Administrator.

(B) (1) Four copies of the park plan shall be submitted and, upon approval by the Board of Commissioners each copy shall be dated and signed by the Mayor and Zoning Administrator, denoting town approval.

(2) One copy shall be returned to the park owner or developer, one copy shall be submitted to the Town Hall to be held for public view, one copy shall be sent to the Inspections Department, and the fourth copy shall be retained by the Board of Commissioners for its records.

(C) The approved park plan becomes part of the conditions for the conditional use and must be constructed and maintained accordingly in order to retain the permit. The Building Inspector shall make an examination of the construction at any reasonable time to determine whether the work is being done according to approved plans and specifications, and the owner shall make available any records, test data, or other information essential to such determination.

(D) When all specified improvements have been made the Building Inspector or Zoning Administrator shall issue a certificate of occupancy and the developer may begin moving in homes and begin operations.

(E) Adherence to the operating standards, § 151.186, are other conditions required for the conditional use permit to be renewed.

(F) The conditional use permit granted to a mobile home park shall expire after two years. Permits shall be renewed if the Board of Commissioners determines that all conditions have been observed. If the permit is not renewed, operations of the park must cease within six months of the date of denial.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.183 CONTENT OF PLANS.

The park plan shall be drawn on reproducible sheets to a scale of not less than one inch equals 40 feet and shall show the following on one or more sheets:

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

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

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

(D) A location map with a scale no less than 1 inch = 1,000 feet showing the location of the mobile home park.

(E) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes, and any utility easements. The Board of Commissioners or Zoning Administrator may require similar information to be shown on proposed park boundaries. The names of adjoining subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land shall also be indicated.

(F) The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, parks and open spaces, reservations, mobile home spaces, mobile home stands, parking areas, and building lines within the park. The locations, dimensions, and types of all buffers which must meet the requirements detailed in §§ 151.120 through 151.124. In all cases the proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.

(G) When deemed necessary by the Zoning Administrator profiles of all proposed public or private streets or drives, showing natural and finished grades drawn to a scale of not less than 1 inch = 40 feet horizontal and 1 inch = 4 feet vertical.

(H) Plans of proposed utility layouts (sewer lines, septic tank locations, septic tank drainfields, water lines, and storm drainage) showing feasible connections to existing and proposed utility systems to be prepared by a civil engineer, registered land surveyor, or registered professional engineer.

(I) Proposed storm drainage for each mobile home space and for the entire mobile home park including all proposed grading and sewer installations which may be deemed necessary to insure proper drainage and the elimination of ponding. Proper drainage requires a storm drainage capacity to the ten year storm level.

(J) Location and number of garbage receptacles.

(K) A detailed plan for electrical installations prepared to meet the National Electrical Code and state and local codes or ordinances.

(L) Where public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the mobile home park plan indicating that the mobile home park has adequate land area and suitable soils and topography to accommodate the proposed methods of water supply and sewage disposal.

(M) A detailed drawing to scale of not less than 1 inch = 10 feet shall be prepared of a typical mobile home space showing the location of the mobile home stand, all utilities, the mobile home utility connections, the patio, concrete footing, walks, parking spaces, driveways, and all other improvements.

(Ord. passed 9-29-93)

§ 151.184 NONCONFORMING MOBILE HOME PARKS.

(A) All mobile home parks existing at the time of the adoption of this chapter and not conforming to the requirements herein shall automatically receive a temporary operating permit as provided for in § 151.181. The park owner must submit a compliance plan to the Zoning Administrator not later than 60 days prior to the expiration date of the temporary operating permit in order to apply for a conditional use permit. This plan shall be reviewed by the Board of Commissioners and shall become a condition to the conditional use, if granted. The park owner shall choose one of three alternatives, as follows:

(1) If no compliance plan is submitted the park owner shall be considered to have chosen not to comply with both the design and operating standards as described in §§ 151.185 and 151.186 of this chapter or with the operating standards only and does not seek a conditional use permit. In this case the owner has chosen the alternative of ceasing operation upon the expiration date of his temporary operating permit.

(2) If the compliance plan shows adherence to only the operating standards, § 151.186, the park owner is deemed to wish a conditional use permit to operate under those standards. Such a permit may be issued by the Board of Commissioners for a period of two years, but cannot be renewed more than twice, for a total of six years. At the end of this period the park must close. The park owner may change his mind and submit a plan for conformance to both design and operating standards and apply for a permit as provided for in division (C) of this section. Such permit must be granted before the conditional use permit issued under this division has expired.

(3) (a) If the park owner wishes to continue operation indefinitely, the compliance plan must not only indicate observance of the operating standards, but must indicate how the park plans to comply with the design standards as set forth in § 151.185 with the following exceptions.

1. Requirements of § 151.185(A), (B), (G), (H), and (N) are eliminated entirely.
2. In § 151.185(D), the requirements of patios or porches is eliminated.
3. In § 151.185(E), the dimensions may be reduced by 25%.
4. In § 151.185(P), one half of the width of required buffers may be included within the dimensions of individual mobile home spaces.
5. In § 151.185(Q), the requirement of installing wiring underground is eliminated. The park need not connect to public water and sewage system, but if it does not the park owner must obtain a letter or certificate from the County Health Department stating that the water supply and/or sewage disposal system has the approval of the Health Department to continue in operation.
6. In § 151.185(R), the recreational space requirements may be reduced to one or two areas totalling 4,000 square feet or 300 square feet per mobile home space, whichever is greater.
7. In § 151.185(S), the location of an already existing building shall not be regulated.

(b) The compliance plan submitted under this third alternative must include a map showing the same information required of a park plan, § 151.183, and, in addition, it must show how this new plan offers from the present park and it must include yearly time table indicating completion of within three years.

(B) In no case shall a mobile home, which has been removed for any reason, be replaced unless and until a compliance plan has been approved by the Board of Commissioners as provided for in division (A)(3) of this section.

(C) If at any future time, a nonconforming mobile home park wishes to expand in total size or in number of mobile homes, the owner must obtain a new conditional use permit with the requirement that the new section be brought into complete compliance with all standards. The old non-conforming section may continue with a nonconforming status as herein provided for.
(Ord. passed 9-29-93)

§ 151.185 DESIGN STANDARDS.

The following design standards must be met on the park plan before a conditional use permit can be issued.

(A) Every mobile home park shall be located on a tract of land not less than four acres in size.

(B) Every mobile home space shall consist of a minimum of 6,500 square feet. Each mobile home space shall be clearly established on the ground by permanent monuments or markers.

(C) No more than one mobile home may be parked on any mobile home space.

(D) The supports of all mobile homes parked within an authorized park shall rest upon footings which meet the state regulations for mobile homes. Each mobile home space shall be provided with a patio of at least 100 square feet constructed of concrete, brick, flagstone, or other such hard-surfaced material, or a porch of similar size raised above the ground. A paved or gravel walkway two feet wide minimum leading from the road or off-street parking space to the patio shall be provided. Each patio and walkway shall be graded and properly drained to prevent ponding.

(E) The following dimensional requirements shall be met.

Minimum mobile home park area:	4 acres
Minimum park width:	100 feet
Maximum density: . . . . .	.5 units per acre
Minimum size of mobile home space:	6,500 square feet
Minimum mobile home space width:	60 feet
Minimum mobile home space depth:	100 feet
Minimum setbacks on all sides	
for a mobile home within a space:	22 feet on any
(Any attached accessory structure,	side adjoining
such as room extensions, porches	another mobile
and porch roofs, and carports	home space. 15
shall, for the purpose of this	feet all other
setback requirement, be considered	sides.
to be part of the mobile home.)	

Minimum setbacks for a mobile home to external park boundaries:

Front yard:	40 feet
Side and rear yards:	20 feet
Minimum building height:	35 feet

(F) A driveway and parking space sufficient to accommodate at least two automobiles shall be constructed within or assigned to each mobile home space and shall be paved or covered with crushed stone or other suitable material.

(G) The mobile home park shall be located so as not to be susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premise. Where storm drainway pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the mobile home park when needed so long as the capacity of the existing system can handle the additional load.

(H) Each mobile home stand and mobile home space shall be graded to provide adequate storm drainage away from the mobile home and such that there will exist no more than three feet difference between the chassis of the mobile home and the finished grade of the mobile home stand along the entire perimeter of the mobile home proper.

(I) The mobile home park shall have paved or gravel roads and streets, lighted at night, that directly abut all mobile home spaces. Road surface widths shall be at least:

One-way, no parking:	11 feet
One-way, parking on one side only:	18 feet
Two-way, no parking:	20 feet
Two-way, parking on one side only:	26 feet
Two-way, parking on both sides:	32 feet

(J) No mobile home space shall have direct vehicular access to a public street.

(K) Area to provide proper drainage ditches and a three to one back slope shall be provided where determined necessary by the Board of Commissioners, upon recommendation by the Building Inspector or Zoning Administrator.

(L) Closed ends of dead-end streets shall be provided with an adequately surfaced vehicular turning circle at least 60 feet in diameter or a turning "Y" with an angle of at least 90'.

(M) Each mobile home stand shall have adequate access, for both the mobile home and autos, with a minimum access width of 20 feet unless more is deemed necessary because of topographical conditions or street curvature, so that the parking, loading, or maneuvering of a mobile home shall not necessitate the use of any public street or right-of-way or any private property not part of the mobile home park.

(N) When the mobile home park has more than one direct access to a public street, they shall not be less than 200 feet apart or less than 200 feet from a public street intersection unless topographical or site conditions demand otherwise.

(O) Signs for the identification of mobile home parks must meet the requirements of §§ 151.155 through 151.169.

(P) Buffers shall be installed around the entire perimeter of the mobile home park. Such buffers must meet the requirements of §§ 151.120 through 151.124 and not be included within the dimensions of any mobile home space.

(Q) The following utility standards shall apply. In every all installations (other than those within the mobile home itself) of plumbing and electrical wiring and all gas and oil appliances shall comply with the provisions of the building, plumbing, electrical, heating, and gas regulations of the state, county, and town.

(1) *Utilities.* All utilities shall be installed underground.

(2) *Mobile home stand utilities.* Each mobile home stand shall be equipped with plumbing and electrical connections grouped together within the mobile home stand.

(3) *Water supply.* Each mobile home park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the County Health Officer. The supply shall be adequate for the park requirements. The drinking, cooking, laundry, and general bathroom water supply for each individual mobile home shall be obtained from faucets or other plumbing connections located within each mobile home.

(4) *Sewage disposal.* Each mobile home park shall be provided with an adequate sewage disposal system, either by connection to a public sewage system or septic tank system approved by the County Health Department. All sewage wastes from each mobile home shall be piped into the mobile home park sewage disposal system.

(R) Adequate and suitable recreation areas and facilities to serve the needs of the anticipated population shall be provided and shall consist of one or more areas totaling at least 5% of the gross site area. The recreational areas shall be developed for use by either children or adults, or both, as need dictates and each mobile home space shall be within 400 feet of at least one such recreational area.

(S) The mobile home park may have a central structure containing a retail sales counter or coin operated machines for the park residents use only, provided they are completely enclosed within a building and there is no exterior advertising and provided that such structures shall not front on a public street.

(T) Ground anchors shall be installed at each mobile home stand to permit tiedowns of mobile homes. Each ground anchor shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds applied in the direction of the tiedown. In addition, each ground anchor shall be capable of withstanding a 50% overload without failure. Ground anchors must be resistant to weathering deterioration. The anchors shall be not more than eight feet on centers beginning from the front line of the mobile home stand. These distance requirements may be modified if the entire tiedown system, including ground anchors, is designed by a registered professional engineer or architect. Ground anchors for diagonal ties shall be provided in conjunction with each vertical tiedown anchor. (Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.186 OPERATING STANDARDS.

The following operating standards shall be conditions to any conditional use permit to operate a mobile home park and, as such, must be maintained in order to qualify for a permit renewal.

(A) *Mobile home sales in mobile home parks.* It shall be unlawful to conduct on a commercial basis the sale of mobile homes or travel trailers within a mobile home-park.

(B) *Residential units not to be travel trailers.* No mobile home park shall permit a travel trailer as herein defined to locate within its boundaries for periods greater than one week if used for any dwelling whatsoever.

(C) *Mobile home equipment.* Each mobile home shall have a flush toilet, lavatory, bathtub or shower, cooking facilities, and electric wiring and shall be required to connect with the utilities provided at each mobile home space.

(D) *Refuse disposal.* All garbage and refuse in every mobile home park shall be stored in suitable water-tight and fly-tight receptacles which shall be kept covered with closely fitting covers. The size and type of all garbage receptacles shall be in conformance with town standards. No person shall throw or leave garbage or refuse upon the ground of any mobile home park. It shall be the duty of the mobile home park operator to make certain that all garbage and refuse are regularly disposed of in a sanitary manner.

(E) *Health regulations.* All applicable health regulations shall apply to mobile home parks within the jurisdiction of the town except where such regulations are in conflict with the provisions of this section, in which case the more restrictive provisions shall apply.

(F) *Tiedowns.* The owner of the mobile home park shall be responsible to see that each mobile home parked within the mobile home park is properly tied down.

(G) *Skirting.* Each mobile home shall be installed with skirting manufactured specifically for such use. The skirting shall be made of a material compatible with the siding of the mobile home.

(H) *Fire prevention and detection.* In addition to any fire prevention regulations of the town, the following shall apply:

(1) The operator of a mobile home park is responsible for informing each park resident of the location of the nearest fire alarm box, if any; the location of an accessible telephone and the telephone number to be used to report fires; and procedures to be followed in case of a fire.

(2) The park owner shall install a fire extinguisher labeled as suitable for Class A, B, and C fires and of a type approved by the Fire Department in each building open to the public and in the park office. The park staff shall be instructed in the proper use of any fire protection equipment available in the park and specific duties in the event of fire defined.

(3) The park owner or operator shall maintain the park area free of rubbish, dry brush, leaves, weeds, and any other materials which might communicate fires between mobile homes and other buildings.

(4) Empty liquefied petroleum gas containers and other objects and materials not approved by the Fire Department shall not be stored under mobile homes.

(5) The mobile home park owner shall be responsible for payment of any applicable fee if the Fire Department is called upon.
(Ord. passed 9-29-93) Penalty, see § 151.999

PLANNED DEVELOPMENT

§ 151.195 PURPOSE.

(A) For purposes of this chapter, a planned development is planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved development plan. It should be noted that a planned development that offers sites for sale is a subdivision and must be approved as such under any applicable regulation. There are two types: a planned housing development and a planned business development.

(B) Use of this procedure is a conditional use in several districts. This process will provide a voluntary alternate development procedure which will:

(1) Permit creative approaches to the development of land, reflecting changes in the technology of land development;

(2) Accomplish a more desirable environment than would otherwise be possible, providing a variety of housing and building types, design and arrangements;

(3) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower housing costs;

(4) Enhance the appearance of neighborhoods through the preservation of natural features, the provision of underground utilities, and the provision of recreational and open space areas; and

(5) Provide an opportunity for new approaches to home ownership.
(Ord. passed 9-29-93)

§ 151.196 APPLICATION; REQUIREMENTS.

(A) *Submission of development plan.*

(1) An application for a conditional use permit for a planned residential or business development shall be accompanied by four copies of a development plan.

(2) Upon approval by the Board of Commissioners each copy shall be dated and signed by the Mayor and Zoning Administrator, denoting town approval.

(3) One copy shall be returned to the owner or developer, one copy shall be submitted to the Town Hall to be held for public view, one copy shall be sent to the Inspections Department, and the fourth copy shall be retained by the Board of Commissioners for its records.

(B) *Contents of development plan.* The development plan shall include the following information:

(1) The time of the development, the names and addresses of the owner(s) and the designer of the development.

(2) Date, approximate north arrow, scale, and existing zoning.

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

(4) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes and any utility easements. The Board of Commissioners or Zoning Administrator may require similar information to be shown on the proposed boundaries. The names of adjoining subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land shall also be indicated.

(5) The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, parks and open spaces, reservations, individual lots, approximate building locations, parking areas, and setbacks within the development. The locations, dimensions, and types of all buffers which must meet the requirements detailed in §§ 151.120 through 151.124. In all cases the proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.

(6) When deemed necessary by the Zoning Administrator profiles of all proposed public or private streets or drives, showing natural and finished grades drawn to a scale of not less than 1 inch = 40 feet horizontal and 1 inch = 4 feet vertical.

(7) Plans of proposed utility layouts (sewer lines, septic tank locations, septic tank drainfields, water lines, and storm drainage) showing feasible connections to existing and proposed utility systems to be prepared by a civil engineer, registered land surveyor, or registered professional engineer.

(8) Proposed storm drainage including all proposed grading and sewer installations which may be deemed necessary to insure proper drainage and the elimination of ponding. Proper drainage requires a storm drainage capacity to the ten year storm level.

(9) Statement as to ownership of streets, alleys, and pedestrian ways and responsibility for maintenance thereof.

(10) Where public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the development plan indicating that the development has adequate land area and suitable soils and topography to accommodate the proposed methods of water supply and sewage disposal.

(11) Tabulation of total number of dwellings of each type, acreage of each use, and residential densities (units per acre).

(12) Proposed schedule of development if to be developed in stages.
(Ord. passed 9-29-93)

§ 151.197 CONFORMITY TO OTHER PROVISIONS.

(A) Construction and development shall conform to the development plan and associated requirements approved by the Board of Commissioners as part of the permit conditions. Modification of the development plan and associated requirements may be made by the Board of Commissioners, after review and a public hearing, when requested by the owner of the property.

(B) All requirements of the zoning chapter shall be followed, such as parking and buffers.
(Ord. passed 9-29-93)

§ 151.198 DIMENSIONAL REQUIREMENTS; UNDERGROUND UTILITIES.

(A) All dimensional requirements and densities shall be as in the applicable zoning district. Yards forming the outer boundary of a planned development shall be in conformance with the minimum requirements of the applicable district. The only exception to the dimensional requirements of the district is that zero lot lines are permissible so long as all required cards are maintained around each building and around the entire perimeter of the planned development.

(B) Planned developments shall provide for underground installation of utilities, including telephone and power.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.199 DESIGN STANDARDS; BUSINESS AND RESIDENTIAL DEVELOPMENT.

(A) *Planned business development design standards.*

(1) The minimum lot size for a planned business district is four acres.

(2) Uses permitted in the form of commercial development will be limited to convenience stores (drugs, food, personal services), professional offices, laundromats and retail stores. All auto related services and recreational activities are prohibited.

(3) Site location for this type of development, if located on a major thoroughfare shall have access onto a local street or frontage road at least 150 feet from highway intersections to minimize traffic hazards, inconvenience and congestion.

(4) Points of access and egress shall consist of driveways at least 20 feet in width.

(5) Parking areas shall be paved, with spaces and traffic lanes clearly marked.

(6) No more than 15% of the total area shall be in buildings.

(B) *Planned residential development design standards.*

(1) The Planned Housing Development area refers to land used for apartment complexes, public housing projects, townhouses, patio houses, duplexes, cluster housing, detached single homes, and similar residential developments.

(2) All sites where more than eight units are proposed shall be located on a major or minor thoroughfare.

(3) Specific open space for recreation purposes shall be permanently assigned for that purpose. Such area shall be fenced off from streets and driveways by the developer.

(4) No more than four units shall be attached to one another in a straight line without an indentation in the front wall of the next two units of continuation of the complex in another separate building.

(Ord. passed 9-29-93) Penalty, see § 151.999

BOARD OF ADJUSTMENT**§ 151.210 ESTABLISHMENT OF BOARD.**

(A) There is hereby created and established a Board of Adjustment (hereinafter called the Board) which shall consist of seven members, five of which shall be residents of the town and two of which shall be residents of the extraterritorial jurisdiction. The members shall be appointed by the Board of Commissioners for a regular term of office of three years. The appointments for the initial Board shall be for staggered terms in order that members' terms of office will not expire at the same time. In creating the Board three members will be appointed to serve for three years, three members will serve for two years, and one member will be appointed to serve one year. Board members whose terms of office have expired may be reappointed to serve consecutive terms. In appointing members to fill vacancies the Board of Commissioners shall appoint persons to serve the remaining term of office rather than a full three years.

(B) There shall be two alternate members, one a resident of the town and one a resident of the extraterritorial jurisdiction, to serve on the Board in the absence for any cause of any regular member. These alternate members shall be appointed by the Board of Commissioners. The terms of office of alternate members shall also be for three years. Alternate members shall have and may exercise all the powers and duties of a regular member while attending any regular or special meeting of the Board of Adjustment.

(C) The Board of Commissioners may appoint its own members to serve as five of the members of the Board of Adjustment. If this procedure is used, when a member officially goes off of the Board of Commissioners, he is automatically resigned from the Board of Adjustment and a new member of the Board of Commissioners shall be appointed to the vacant seat on the Board of Adjustment for the balance of the resigned member's term. If the Board of Commissioners is to serve as the entire Board of Adjustment, the terms of office shall be exactly the same and membership in one shall mean automatic membership in the other and resigning from one shall include automatic resignation from the other. In this case, meetings of the Board of Adjustment shall not be held on the same evenings as the Board of Commissioners.

(Ord. passed 9-29-93)

§ 151.211 STRUCTURE OF BOARD; APPEALS PROCEDURES.

(A) *Officers.* The Board of Adjustment shall elect a chairman and a vice chairman from its membership and such other officers as the Board deems best. The Mayor shall not serve as chairman or vice chairman and the Mayor Pro-Tem shall not serve as the chairman.

(B) *Meetings.* Meetings of the Board of Adjustment shall be held at the call of chairman and at such other times as the majority of the Board may determine. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be taken, all of which shall be of public record. No final action shall be taken on any matter without the concurring vote of four-fifths of the members of the Board.

(C) *Appeals.* An appeal from the decision of the Zoning Administrator may be taken to the Board of Adjustment by any person, firm, or corporation aggrieved, or by any officer, department, board or bureau of the town. Such appeal shall be taken within 90 days after the decision by the Zoning Administrator, by filing with the Zoning Administrator and with the Board a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for hearing of the appeal, giving notice to all participants by registered mail. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charge is transitory in nature, a stay would seriously interfere with the enforcement of the ordinance, in which case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record to whom an appeal has been made.

(D) *Expenses.* Members of the Board of Adjustment shall serve without pay but may be reimbursed by the town for any expenses incurred while representing the Board.

(E) *Intent.* It is the intent of this chapter that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator or his authorized representative, and that such questions shall be presented to the Board of Adjustment only on an appeal from the decision of the Zoning Administrator or his authorized representative, and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by law.

(Ord. passed 9-29-93)

§ 151.212 POWERS AND DUTIES OF BOARD; REVIEWS AND VARIANCES.

(A) *Administration review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter, including matters pertaining to the water supply watershed overlay district. The Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm in whole or part, or may modify the order, requirement, decision or determination and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

(B) *Variances.*

(1) To authorize upon appeal in specific cases a variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provision of this chapter will result in undue hardship, so that the spirit of this chapter shall be observed and substantial justice done. With respect to the water supply watershed overlay district, the Board may grant "minor" watershed variances and recommend approval of "major" watershed variances, as defined in division (D) of this section.

(2) A charge shall be made to the appellant according to town policy in order to cover administrative and advertising costs, §§ 151.250 through 151.253. A public hearing shall be held at which the following conditions must be found to exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.

(b) Grafting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not injurious to the neighborhood or to the general welfare.

(e) The special circumstances are not the result of the actions of the applicant.

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(3) In considering all proposed variances from this chapter the Board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals and general welfare.

(4) No permitted use of land in other districts shall be considered grounds for the issuance of a variance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any expressly or by implication prohibited by the terms of this chapter in the district.

(5) In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purposes of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under the provisions of §§ 151.254, 151.255, and 151.999.

(C) *Watershed Review Board.* The Board of Adjustment shall serve as the Watershed Review Board relative to hearing and deciding appeals from any decision or determination made by the Zoning Administrator with respect to the administration and enforcement of the water supply watershed overlay district and its related regulations; or for granting watershed variances to the regulations.

(D) *Administration of oaths.* The chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.

(E) *Variances related to the water supply watershed overlay district.* The Board of Adjustment shall have the power to authorize, in specific cases, minor watershed variances from the terms of this chapter as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulties or unnecessary hardship, so the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. In addition, the town shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the Bear Creek Water Supply Watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Zoning Board of Adjustment and shall include the following information:

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

(b) A complete and detailed description of the proposed variances, together with any other pertinent information which the applicant feels would be helpful to the Board of Adjustment in considering the application.

(c) The Zoning Administrator shall provide written notification to each local government having jurisdiction in the Bear Creek Water Supply Watershed and any other entity using the water supply for consumption. Such shall include a description of the variance being requested. Local governments notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Board of Adjustment. Such comments shall become a part of the record of proceedings of the Board of Adjustment.

(2) Before the Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

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

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

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

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

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

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

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

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

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

(4) The Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) A variance issued in accordance with this section shall be considered a water supply watershed protection permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.

(6) If the application calls for the granting of a major watershed variance, and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all the deliberate speed. The preliminary record of the hearing shall include:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence, and the rulings;
- (e) Proposed findings and exceptions;
- (f) The proposed decision, including all conditions proposed to be added to the permit.

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

(a) 1. If the Commission concludes from the preliminary record the variance qualifies as a major variance and that:

a. The property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and,

b. The variance, if granted, will not result in a serious threat to the water supply.

2. Then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record the variance qualifies as a major variance and that:

1. The property owner can secure a reasonable return from or make a practical use of the property without the variance or;

2. The variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed and notify the applicant in writing of the decision.
(Ord. passed 9-29-93)

§ 151.213 APPEALS TO BOARD.

Appeals to the Superior Court may be taken by any person, firm, or corporation aggrieved, or by any officer, department, board, or bureau of the town affected by any decision of the Board of Adjustment, provided such appeals shall be taken within 30 days after the decision of the Board of Adjustment is filed in the office of the Zoning Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board shall be delivered to the applicant either by personal service, by registered mail, or by certified mail, return receipt requested.
(Ord. passed 9-29-93)

CHANGES AND AMENDMENTS

§ 151.235 INITIATION OF AMENDMENTS.

The Board of Commissioners may, on its own motion, or upon petition by any interested person, amend, supplement, change, modify or repeal the regulations or district boundaries established by this chapter. A petition by an interested person shall be submitted to the Board of Commissioners. In no case shall final action by the Board of Commissioners be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until a public hearing has been held by the Board of Commissioners, at which parties in interest and citizens shall have an opportunity to be heard.
(Ord. passed 9-29-93)

§ 151.236 ACTION BY APPLICANT.

(A) Initiation of amendments.

(1) Proposed changes or amendments to the zoning map may be initiated by the Board of Commissioners, Town Administration, Board of Adjustment, or by the owner(s), or his agent, of property within the area proposed to be changed.

(2) Proposed amendments to the text of the ordinance may be initiated by any interested party.

(B) *Application.* An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner or owners of the property involved. Such application shall be filed not later than three weeks prior to the meeting of the Board of Commissioners at which the application is to be considered.

(C) *Fees.* A nonrefundable fee, according to the schedule given in §§ 151.250 through 151.253 shall be paid to the town for each application for an amendment, to cover costs of advertising and other administrative expenses involved.

(D) *Public hearing notices.* When a change in the zoning classification of a piece of property is requested the applicant shall provide to the Zoning Administrator a list of names and addresses, as obtained from the county tax listings and tax abstracts, of all adjacent property owners and all owners of property within the area under consideration for rezoning along with one set of business (10#) envelopes stamped with a first class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight work days prior to the public hearing. The Zoning Administrator shall then mail notices of the public hearing to each person on the list and shall certify that fact to the Board of Commissioners. Such certification shall be deemed conclusive in the absence of fraud.

(E) *Reapplication for amendment.* With the exception of requests originating with the Board of Commissioners, Board of Adjustment, or Town Administration an application for any rezoning of the same property or any application for the same amendment to the zoning chapter text shall be permitted only once within any six month period. The Board of Commissioners, by 80% affirmative vote of its total membership, may waive this restriction if it finds any emergency exists.
(Ord. passed 9-29-93)

§ 151.237 ACTION BY BOARD OF COMMISSIONERS.

(A) Every proposed amendment, supplement, change, modification, or repeal of this chapter shall be submitted to the Board of Commissioners. The applicant and the Zoning Administrator shall be given written copies of the Board's decision and the reason therefor.

(B) Before taking such lawful action as it may deem advisable, the Board of Commissioners shall hold a public hearing. Notice of the public hearing shall be published in a newspaper, of general circulation in the town at least once each week for two successive weeks prior to the hearing according to state regulations and by mailing notices to adjoining property owners in the envelopes provided by the applicant. Notice may also be made by posting the property concerned.

(C) The following policy guidelines shall be followed by the Board of Commissioners concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:

(1) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.

(2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

(3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved).

(4) There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

(5) The proposed change is in accord with any land use plan and sound planning principles.

(D) A petition to amend the district boundaries or regulations established by this chapter shall be considered by the Board of Commissioners at its next regular monthly meeting or any called special meeting, provided it has been filed, complete in form and content, at least three weeks prior to such meeting. Otherwise, consideration may be deferred until the following monthly meeting.

(E) If a public hearing is to be called, it shall be called for the next regularly scheduled meeting or any called special meeting, allowing time for proper advertisement.
(Ord. passed 9-29-93)

§ 151.238 PROTEST OF AMENDMENT.

(A) In case of a protest against any amendment to the regulations or district boundaries established by this chapter, signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto: either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots; such amendments shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. These provisions shall not, however, apply to any amendment which initially zones property added to the territorial coverage of the chapter.

(B) No protest against any change in or amendment to the regulations or district boundaries established by this chapter shall be valid or effective under the provisions of division (A) of this section unless it is 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 or amendment, and unless it shall have been received by the Zoning Administrator in sufficient time to allow 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.

(Ord. passed 9-29-93)

§ 151.239 WITHDRAWAL OF APPLICATION.

Any application submitted in accordance with the provisions of § 151.236 for the purpose of amending the regulations or district boundaries established by this chapter may be withdrawn at any time, but fees are nonrefundable.

(Ord. passed 9-29-93)

§ 151.240 AMENDMENTS TO WATER SUPPLY WATERSHED OVERLAY DISTRICT.

The Zoning Administrator shall keep records of all amendments that pertain to the water supply watershed overlay district and related regulations. The Administrator shall provide copies of all adopted amendments to the Supervisor of the Classification and Standards Group, Water Quality Section of the State Division of Environmental Management.

(A) The Town Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restriction as described herein.

(B) No action shall be taken until the proposal has been submitted to the Board of Adjustment for review and recommendations. If no recommendation has been received from the Board within 45 days after submission of the proposal to the Board Chairman, the Town Board of Commissioners may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Town Board of Commissioners adopt such amendments, supplements or changes that would cause this chapter to violate the watershed protection rules as adopted by the State Environmental Management Commission. All amendments must be filed with the State Division of Environment Management Commission, State Division of Environmental Health and the State Division of Community Assistance.

(Ord. passed 9-29-93)

ADMINISTRATION AND ENFORCEMENT**§ 151.250 ZONING ENFORCEMENT OFFICER.**

(A) The Zoning Administrator, or his authorized agent, is hereby authorized, and it shall be his duty, to enforce the provisions of this chapter. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out his duties. It is the intention of this chapter that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his decision may be made to the Board of Adjustment. The Superintendent of Utilities shall be appointed as Zoning Administrator.

(B) In administering the provisions of this chapter, the Zoning 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 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.

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

(5) Be responsible for enforcing the provisions of the water supply watershed regulations within the water supply watershed overlay district.

(6) Issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Zoning Administrator.

(7) Serve as Clerk to the Zoning Board of Adjustment in all matters relating to the administration and enforcement of the water supply watershed regulations.

(8) Keep records of all amendments that pertain to the water supply watershed overlay district and related regulations. The Administrator shall provide copies of all adopted amendments to the supervisor of the classification and standards group, water quality section, State Division of Environmental Management.

(9) Keep records of the town's utilization of the provision that a maximum of 5% of the non-critical area of the water supply watershed within the town may be developed with non-residential development to a maximum of 70% built-upon surface area. Records for the water supply watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.

(10) Keep a record of variances to the water supply watershed protection regulation contained in this chapter. Its record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, State Division of Environmental Management on an annual basis (on or before January 1 of each year) and shall provide a description of each project receiving a variance and the reasons for granting a variance. If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he shall provide written notification to the person responsible for such violations, indicating the nature of such violation and ordering the action

necessary to correct it. He shall order the discontinuance of the illegal use of land, buildings, or structures or of additions, alterations or structural changes thereto; the discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violations of its provisions.

(Ord. passed 9-29-93)

§ 151.251 ZONING PERMITS; WATERSHED PROTECTION PERMITS.

(A) Zoning permit required.

(1) A valid zoning permit shall be presented with any application for a building permit. No building permit shall be issued for any activity in a zoned area until such zoning permit is presented.

(2) It shall be unlawful to commence the excavation for or the construction of any building or other structure including accessory structures or to commence the moving, alteration or repair of any structure or the use of any land or building including accessory structures, until the Zoning Administrator has issued a zoning permit for such work or use including a statement that the plans, specifications and intended use of such land, or structure in all respects conforms with the provisions of this chapter. Application for a zoning permit shall be made in writing to the Zoning Administrator on forms provided for that purpose. Zoning permits shall be void after six months from date of issue unless substantial progress on the project has been made by that time.

(B) Approval of plans. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning permit for any purpose regulated by this chapter until he has inspected such plans in detail and found them in conformity with this chapter. To this end, the Zoning Administrator shall require that every application for a zoning permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed activity is in conformance with this chapter.

(1) The actual shape, location, and dimensions of the lot.

(2) The shape, size, and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.

(3) The existing and intended use of all such buildings or other structures.

(4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(C) Issuance of zoning permits. If the proposed activity as set forth in the application is in conformity with the provisions of this chapter, the Zoning Administrator shall issue a zoning permit. All questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his decision may be made to the Board of Adjustment. The

Superintendent of Utilities shall be appointed as Zoning Administrator. If any application for a zoning permit is not approved, the Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this or any other ordinance or regulation.

(D) Watershed protection permit.

(1) Except where a single family residence is constructed on a lot deeded prior to the effective date of this chapter, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made within the water supply watershed overlay district until a watershed protection permit has been issued by the Zoning Administrator. No watershed protection permit shall be issued except in conformity with the of this chapter.

(2) Watershed protection permit applications shall be filed with the Zoning Administrator. The application shall include a completed application form, see the Appendix, and supporting documentation deemed necessary by the Zoning Administrator.

(3) Prior to issuance of a watershed protection permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this chapter.

(4) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.

(5) Except for a single family residence constructed on a lot deeded prior to the effective date of this chapter, no permit required under the state building code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued.

(6) The application for a watershed protection permit for other residential and non-residential development shall contain a certification by a registered professional engineer or registered land surveyor as to the amount of the built-upon area included in the project and the percentage of the built-upon area to the total project area.

(E) Watershed protection occupancy permit.

(1) The Zoning Administrator shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land within the water supply watershed overlay district.

(2) A watershed protection occupancy permit, either for the whole or part of a building, shall be applied for coincident with the application for a watershed protection permit and shall be issued or denied within ten days after the erection or structural alterations of the building are complete.

(3) When only a change in the use of land or existing building occurs, the Zoning Administrator shall issue a watershed protection occupancy permit certifying all requirements of this chapter have been met coincident with the watershed protection permit.

(4) If the watershed protection occupancy permit is denied, the Zoning Administrator shall notify the applicant in writing stating the reasons for denial.

(5) No building or structure which has been erected, moved, or structurally altered may be occupied until the Zoning Administrator has approved and issued a watershed protection occupancy permit.

(F) The Zoning Administrator shall be authorized to issue other permits as required by this chapter or the Board of Commissioners, including watershed protection and watershed protection occupancy permits.

(Ord. passed 9-29-93) Penalty, see § 151.999

§ 151.252 CERTIFICATE OF OCCUPANCY REQUIRED.

(A) No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied and no change of occupancy shall be made in any existing building or part thereof, until the Building Inspector or Zoning Administrator has issued a certificate of occupancy therefor. The change of occupancy provision shall not apply to rooms intended for transient rental.

(B) A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses.

(C) Application for a certificate of occupancy may be made by the owner or his agent at the time as submitting an application for a building permit, if needed, or for a zoning permit. The certificate of occupancy shall be issued automatically by the Building Inspector after all final inspections have been made.

(D) In the case of existing buildings or other uses not requiring a building permit, after supplying the information and data necessary to determine compliance with this chapter and appropriate regulatory codes of the town for the occupancy intended, the Zoning Administrator shall issue a certificate of occupancy when, after examination and inspection, it is found that the building or use in all respects conforms to the provisions of this chapter and appropriate regulatory codes of the town for the occupancy intended.

(Ord. passed 9-29-93)

§ 151.253 ADMINISTRATIVE PROCEEDINGS.**(A) *Public hearings and notice required.***

(1) Any case involving an appeal or variance requires a public hearing to be held by the Board of Adjustment and any case involving a conditional use permit, a change of zoning district classification, or other ordinance changes requires a public hearing to be held by the Board of Commissioners.

(2) The appropriate Board shall schedule a reasonable time for the hearing and shall give notice of a public hearing by publishing the date, time and location of hearing and the nature of the appeal or variance once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten nor more than 25 days before the date of the hearing. The day of publication can not be counted for computing the public notice period but the date of the hearing shall be included.

(B) *Revocation of conditional use permits and variances.* After a public hearing has been held and approval granted for a conditional use or variance, the Board of Adjustment or Board of Commissioners may reverse any decision without a public hearing upon finding:

(1) That the approval was obtained by fraud.

(2) That the use for which such approval was granted is not being executed.

(3) That the use for which such approval was granted has ceased to exist or has been suspended for six months.

(4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.

(5) That the permit granted is in violation of an ordinance or statute.

(6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

(C) *Appeals.*

(1) Any order, requirement, decision, or determination made by the Zoning Administrator, or his agent, relative to the enforcement of this chapter may be appealed to, and decided by, the Zoning Board of Adjustment. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within 30 days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken together

with any additional written reports or documents as he deems pertinent. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person; or, be represented by their agent or attorney.

(2) The Board of Adjustment may, after a public hearing, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or in part, or may modify any order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

(3) Further appeals from the Board of Adjustment or from any action of the Board of Commissioners shall be taken directly to the courts as provided by law.

(D) *Fees.* Each applicant for an appeal from an administrative decision, for a variance or conditional use permit, or with a request for rezoning or other change in this chapter shall pay a nonrefundable fee according to the schedule of fees adopted by the Board of Commissioners, to the town to cover the costs of advertising and administration. A receipt of this fee shall be issued by the town. This fee, however, shall not apply to requests originating with any department, board, or agency of the town.

(Ord. passed 9-29-93)

§ 151.254 ENFORCEMENT AUTHORITY.

This chapter shall be enforceable in accordance with provisions available in the G.S. Ch. 160A-175.

(Ord. passed 9-29-93)

§ 151.255 REMEDIES.

(A) *Civil remedies.*

(1) If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure or land is occupied or used in violation of the general statutes of the state, this chapter, or other regulation made under authority conferred thereby, the town may apply to the District Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(2) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with

this chapter. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement.

(B) *Application.* The town may apply to the District Court, Civil Division or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the town's application for equitable relief that there is an adequate remedy at law.

(C) *Enforcement.* The town may choose to enforce this chapter by any one, all, or combination of the above procedures.

(Ord. passed 9-29-93)

§ 151.999 PENALTY.

Any person, firm or corporation violating any section or provision of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than \$50, or imprisoned not more than 30 days. Each day such violation continues, however, shall be a separate and distinct offense, punishable as hereinbefore provided. (For example, a continued violation of one week after receiving notice from the Zoning Administrator will accumulate penalties of up to \$350 fine or imprisonment of up to 210 days.)

(Ord. passed 9-29-93)

APPENDIX: OPERATION PROCEDURES

Section

1. Zoning operating procedures

§ 1. ZONING OPERATING PROCEDURES.

(A) The following is designed to enable town officials and the general public to understand the procedures involved in zoning operating procedures.

(B) When an applicant wishes to construct a building, erect a sign, or conduct any activity regulated by this chapter for which a zoning permit is necessary or which is prohibited under these regulations, he shall first go to the Zoning Administrator. The Zoning Administrator is the contact in any zoning situation.

(1) *Application for a permit.*

(a) An applicant shall apply to the Zoning Administrator for a zoning permit, a certificate of occupancy, or another permit except a conditional use permit. If all applicable regulations are met the Zoning Administrator shall issue the permit; or

(b) If all local regulations have not been met the permit shall be denied. This leaves the applicant with four options:

1. Option #1: Drop the request.
2. Option #2: Change the request in order to conform to regulations.
3. Option #3: Request a change in the zoning chapter text or map in order to make the desired activity permissible.
4. Option #4: If the applicant believes that the permit was denied illegally, he may appeal the decision to the Board of Adjustment. (Appeal must be filed in writing within 30 days of the decision of the Zoning Administrator.)

(2) *Board of Commissioners route.*

(a) An applicant who chooses Option #3 of subsection (1)(b)3. of this division shall apply through the Zoning Administrator for the desired change or conditional use permit. The applicant may skip the application for a permit, subsection (1) of this division, if he realizes that it will be denied due to not meeting the regulations and immediately take this step of applying for a change.

(b) The Board of Commissioners shall review the request, suggesting any modifications, and shall call for a public hearing. The Board of Commissioners shall hold the public hearing and make its decision. If the decision is not favorable, the applicant has two options:

1. Option #1: Drop the request.

2. Option #2: Change the request in order to conform to regulations or suggested modifications and reappear before the Board of Commissioners.

(c) The Board of Commissioners shall next review the case or request along with findings at the public hearing and shall make a decision. If the decision is unfavorable the applicant has three options:

1. Option #1: Drop the request.

2. Option #2: Change the request and reapply.

3. Option #3: Appeal to the courts.

(3) *Board of Adjustment route.*

(a) If the applicant wishes to appeal the decision of the Zoning Administrator, he shall apply to the Board of Adjustment to hear the case, or if the applicant believes he cannot reasonably be expected to comply with all regulations of the zoning chapter, he may apply to the Board of Adjustment for a variance.

(b) The Board of Adjustment shall hear the case and make a judgement. The judgement may be favorable to the applicant; or

(c) It may be unfavorable to the applicant, in which case he is left with three options:

1. Option #1: Drop the case.

2. Option #2: Drop the case, change the request, and reapply.

3. Option #3: Appeal to the courts.

(4) *Town may appeal.* In all cases the Board of Commissioners reserves the right to appeal any decision of the Zoning Administrator to the Board of Adjustment and any decision of the Board of Adjustment to the courts.

(Ord. passed 9-29-93)

