

## GENERAL PROVISIONS

### § 153.001 PURPOSE, AUTHORITY AND ENACTMENT

- (A) For the purpose of promoting the health, safety, morals and the general welfare of the community, an ordinance regulating the uses of buildings, structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of populations creating districts of said purposes, and establishing the boundaries thereof; defining certain term used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of the Board; recalling conflicting ordinances; and for other purposes pursuant to the authority granted by the G.S. Chapter 160D, Article 19, Part 3.
- (B) The Town Council of the Town of Sawmills, in pursuance of the authority granted by state law, particularly G.S. § 160D-200, and that land as designated by the official zoning map as authorized by G.S. § 160D-307, to be known as EXTRATERRITORIAL AREA.  
(Ord. Art 1, passed 2-19-2008)

### §153.002 SHORT TITLE

This chapter shall be known as the "Zoning Code of the Town of Sawmills, North Carolina" and may be referred to as the "Zoning Code," and the map which is identified by the title "Official Zoning Map, Sawmills, North Carolina," may be known the "Zoning Map."  
(Ord. Art. II, passed 2-19-08)

### §153.003 INTERPRETATION AND APPLICATION OF CHAPTER

- (A) In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purposes of the Zoning Code. Except as herein provided, this chapter shall not be deemed to interfere with, abrogate, annul, or otherwise effect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of this chapter impose greater restrictions upon the use of the land or buildings or upon the height of buildings or require a larger percentage of a lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits or any easements, covenants or other agreements between parties, the provisions of this chapter shall govern, except as provided herein.
- (B) No land, building, or structure shall be used, no buildings or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with this chapter.  
(Ord. Art. III, passed 2-19-2008)

### §153.004 INTERPRETATION OF CERTAIN TERMS AND WORDS.

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular number include tile plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

- (C) The word PERSON includes a firm, association, corporation, trust and company, as well as individual.
  - (D) The words USED FOR shall include the meaning DESIGNED FOR.
  - (E) The word STRUCTURE shall include the word BUILDING.
  - (F) The word LOT shall include the words PLOT, PARCEL, or TRACT.
  - (G) The word SHALL is always mandatory and not merely direction.
  - (H) The term CERTIFICATE OF ZONING COMPLIANCE shall include the term ZONING COMPLIANCE PERMIT.
  - (I) For any word or term not explained or defined by this Ordinance, the explanation and/or definition shall be first determined by definitions utilized by any county, state, or federal statutes, if a definition or explanation is not identified by the above method, refer to the most recent edition of *Webster's Dictionary* for an explanation or definition.
- (Ord. Art VI, §60A, passed 2-19-2008)

#### **§153.005      DEFINITIONS**

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

**ACCESSORY DWELLING.** A dwelling unit that is accessory, supplementary, and secondary to the principal **DWELLING UNIT** that may be constructed as an addition to the principal structure or as an accessory building.

**ACCESSORY STRUCTURE.** A structure incidental and subordinate to the principal structure and located on the same parcel with such principal structure. Swimming pools (above and below ground) are **ACCESSORY STRUCTURES**. Items such as doghouses, bird houses, benches, picnic tables and the like are not considered **ACCESSORY STRUCTURES**. Gazebos, covered picnic shelters, and the like are not considered **ACCESSORY STRUCTURES** except for meeting setback requirements. When the term **ACCESSORY BUILDING** is used in this chapter, it shall be interpreted to mean **ACCESSORY STRUCTURE** as defined herein. Tractor trailers, manufactured homes, and storage pods may not be used as **ACCESSORY STRUCTURES** in the residential zoning districts.

**ACCESSORY USE.** A use customarily incidental and subordinate to the principal use and located on the same parcel with such principal use. In no instance shall an **ACCESSORY USE** be used as principal use. Furthermore, in no instance shall an **ACCESSORY USE** be placed upon a parcel which is absent of a principal use.

**ADULT ESTABLISHMENTS.** A land-use which is established for the explicit purpose of adult entertainment.

- (1) The following items represent but are not limited to, examples of ADULT ESTABLISHMENTS:

**ADULT ARCADE.** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or other similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, DVD's or other photographic or digital reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT BOOKSTORE.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, DVD's, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specialized sexual activities or specified anatomical areas; or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT CABARET.** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, DVD's, slides, or other photographic or digital reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT MOTION PICTURE THEATER.** An establishment where, for any form or consideration, films, motion pictures, video cassettes, DVD's, slides or other similar photographic or digital reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT THEATER.** A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**MASSAGE PARLOR.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where a massage or similar manipulation of the human body is offered as an incidental or accessory service.

**SEXUAL ENCOUNTER ESTABLISHMENT.** An establishment other than a hotel or motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

(2) (a) **SPECIFIED ANATOMICAL AREAS.** As used herein, specified anatomical areas means and includes any form of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
2. Human male genitals even if completely and opaquely covered.

(b) **SPECIFIED SEXUAL ACTIVITIES.** As used herein, includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in divisions 1 through 3 of this definition.

(3) An establishment where a person appears in a state of nudity as part of a modeling class will not be construed as an **ADULT ESTABLISHMENT** if the establishment is operated:

(a) By a proper school, licensed by the state; a college, junior college, or university accredited by a nationally recognized accreditation authority; and

(b) In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
2. Where, in order to participate in the class, a student must enroll at least three days in advance of the class; and
3. Where no more than one model is nude at any one time.

**AIRPORT, PRIVATE USE.** Any airport licensed by North Carolina as a private airport, used primarily by the airport licensee, but available for use by others upon specific invitation of the licensee.

**AIRPORT, PUBLIC USE.** Any publicly or privately owned airport licensed by North Carolina as a public airport, which meets minimum safety and service standards and is open for use to the general flying public.

**ALLEY.** A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**ANIMAL FEED MANUFACTURING.** A manufacturing facility dedicated to making various types of animal feed.

**ALTERNATIVE STRUCTURE.** A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. **ALTERNATIVE STRUCTURES** include, but are not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards and electric transmission towers.

**ANTENNA.** Any exterior transmitting or receiving device which radiates or captures electromagnetic waves (excluding radar signals).

**ANTENNA, CONCEALED.** An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view, in a manner appropriate to the site's context and surrounding environment. Examples of **CONCEALED ANTENNAS** include but are not limited to manmade trees, clock towers, flag poles, light structure, steeples, camouflage painting and similar objects.

**ANTENNA, DUAL-BAND/MULTI-BAND.** An antenna with separate elements for two or more commercial wireless service frequency bands (example: cellular and PCS or specialized mobile radio).

**ANTIQUE STORE.** A business that sales a product that is of value because of oldness as respects the present age, and not simply because the product is not new.

**ARMORY.** An establishment with the sole purpose of storing weapons for the military.

**ART GALLERY.** An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries.

**AUTOMOBILE SALES LOT.** A land use which utilizes a parcel of property for the storage, open or concealed, and sale of new and/or used automobiles.

**ART GOODS STORE.** A store with the sole purpose of selling a variety of different art supplies.

**ASSEMBLELY HALL.** A building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes.

**AUDITORIUM.** An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions, and other public gatherings. Typical uses include convention and exhibition halls, sports arenas, and amphitheaters.

**AUTOMOBILE PARKING LOT AND STRUCTURE.** A parking lot or structure dedicated to automobiles consisting of no more than four wheels.

**AUTOMOBILE PARTS/RETAIL ESTABLISHMENT.** Stores that sell new automobile parts, tires, and accessories. May also include minor parts installation. Does not include tire recapping establishments or businesses dealing exclusively in used parts.

**AUTOMOBILE REPAIR SERVICES ESTABLISHMENT.** Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of CB radios, car alarms, stereo equipment, or cellular telephones.

**AUTOMOBILE SALES.** Storage and display for sale of more than two motor vehicles or any type of trailer provided the trailer is unoccupied, and where repair or body work is incidental to the operation of the new or used vehicle sales. Motor vehicles sales includes motor vehicle retail or wholesale sales.

**AUTOMOTIVE CAR WASH/DETAIL SHOP.** A facility where either the owner of an automobile or an employee of the establishment cleans automobiles.

**BACKYARD WORKSHOP.** A home occupation which is conducted within an accessory structure.

**BAKERY.** An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service.

**BANK.** A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

**BANKS, WITH DRIVE THRU.** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities. This bank shall have a drive thru for the purpose of offering banking services directly to the occupants of motor vehicles.

**BANKS, WITHOUT DRIVE THRU.** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

**BARBER SHOP.** Any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

**BEAUTY SALON.** A fixed establishment or place where one or more persons engage in the practice of cosmetology.

**BED AND BREAKFAST INN.** An owner-occupied dwelling unit which provides for short-term lodging accommodations (less than thirty days), with or without meals, for compensation.

**BEDDING MANUFACTURING.** The manufacture of bedding materials to compile for the final product of a mattress.

**BILLBOARD.** An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

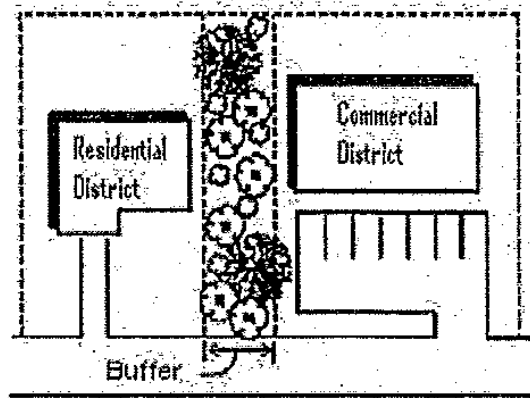
**BOARDING HOUSE.** An establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

**BOAT SALES/RENTAL.** The accumulation and retail sale of marine vehicles to the general public. This shall include boat rental services.

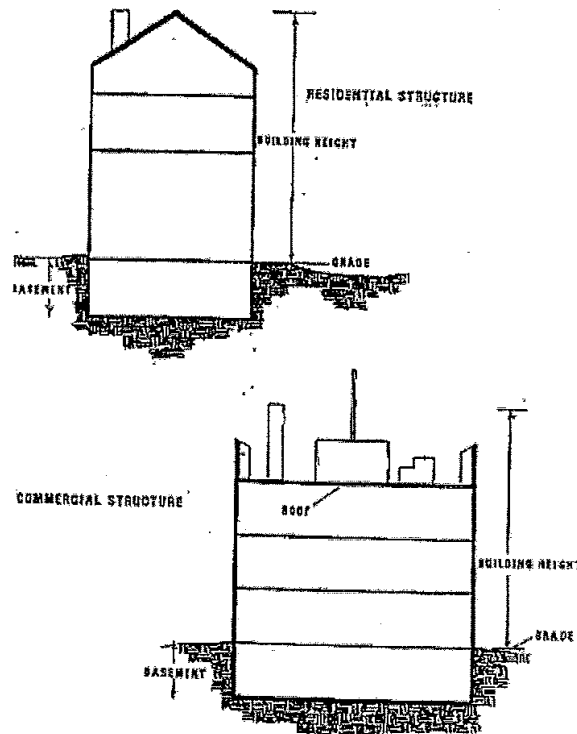
**BOOKSTORE.** A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any “adult bookstore,” “adult theater,” “theater,” or “studio theater.”

**BOWLING ALLEY.** An establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area.

**BUFFER.** A method, perpetually maintained, by which a view of one zoning district is shielded, concealed or hidden by a visual block which is constructed or preserved upon the site. When existing vegetation is present such vegetation shall be preserved for buffering purposes.



**BUILDING HEIGHT.** The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.



**BUILDING SUPPLY AND EQUIPMENT SALES.** The accumulation and retail sale of various building supplies and/or equipment. This only pertains to new equipment only, the resale of used building supplies/equipment is strictly prohibited. Daily-weekly rentals of equipment only shall be permitted.

**BUMPER OVERHANG.** The distance measured from the outermost portion of the curb stop forward which is intended to allow area for the portion of the vehicle that protrudes forward or backward beyond the wheels of said vehicle so that said vehicle does not protrude into any vertically adjoining parking stalls.

**BUS SHELTER.** A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

**BUS STATION.** The congregation of various public transportation busses for the parking, loading of passengers, and service of the busses. This will be a common area that all busses will come for the purpose of serving the public with transportation services.

**BUSINESS SIGN.** A sign which directs attention to goods, commodities, products, services, or entertainment sold or offered upon the premises where the sign is located.

**CAMPGROUND.** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. In no instance shall a **CAMPGROUND** be used for permanent residency.

**CANDY STORE.** A store dedicated to the sale of candy only, this shall include the manufacture of the candy on premises.

**CANOPY.** An attached structure which provides shelter.

**CARPET MANUFACTURING.** The manufacture of residential, marine, and/or automotive carpet at wholesale. This shall not include the installation of carpet.

**CELLAR.** A story having more than one-half of its height below the average level of the adjoining ground. A **CELLAR** shall not be counted as a story for purposes of height measurement.

**CEMETERY, COMMERCIAL.** A facility not used in conjunction with a church or similar place of worship, which is used for the burial, above or below ground, of deceased human beings or animals. This definition includes columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of the commercial cemetery.

**CEMETERY, PRIVATE.** Private land used for the burial of the dead, and dedicated for cemetery purposes, excluding columbariums, crematories, mausoleums, and mortuaries.

**CLINIC.** An establishment where patients are admitted for special study and/or treatment by one or more licensed practitioners in medically related arts.

**CLOTHING MANUFACTURING.** The creation of clothing from raw materials.

**CLOTHING STORE.** The congregation of various clothing articles for the retail sale of new clothes, this shall not include the resale of used clothing.

**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. **CLUSTER DEVELOPMENTS** shall be developed utilizing the identical standards placed upon Planned Unit Developments.

**CO-LOCATION.** The placement of additional antennas of antenna arrays on an existing or approved telecommunications tower (or alternative structure), the sharing of an antenna or antenna array, or otherwise sharing a common location by two or more commercial wireless service providers of personal wireless services. **CO-LOCATION** includes antennas, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other support equipment or improvements located on the tower site.

**COMMERCIAL WIRELESS SERVICE PROVIDER.** Persons who operate radio systems requiring an FCC license and who employ those facilities to provide fixed wireless (including microwave) or mobile wireless communication services to third parties for compensation. **COMMERCIAL WIRELESS SERVICE PROVIDERS** include, but are not limited to cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and competitive local exchange carriers (CLEC) utilizing point-to-multipoint microwave.

**CONCRETE OR PAVING MATERIALS MIXING PLANT.** This land use is meant for the sole purpose of the manufacture of concrete or other paving materials. This land use shall also include the delivery of certain paving materials from the mixing plant.

**CONDITIONAL USE PERMIT.** A permit granted by the Board of Adjustment after the Board holds a quasi-judicial public hearing. Such a permit authorizes a use, the nature of which, would not be appropriate generally throughout the zoning district but which, if regulated as to number, size, location or relation to the neighborhood, would not hinder the public health, safety, and general welfare. Each district shall have a list of conditional uses which could be authorized within such district. If a conditional use is not listed in the subject district then it is prohibited. Conditions outlined by the Ordinance may not be modified and/or omitted by the Board of Adjustment. Additional conditions which are not listed in the Ordinance may be added to the **CONDITIONAL USE PERMIT** by the Board of Adjustment.

**CONDOMINIUM.** A group of dwelling units as defined by the North Carolina Condominium Act.

**CONGREGATE HOUSING.** A structure or group of structures containing two or more dwelling units and rooming units limited in occupancy and occupied by persons, their spouses, or surviving spouses, except for rooms or units occupied by resident staff personnel, providing on-site, conveniently located, shared food preparation services and major dining areas, and common recreational, social, and service facilities for the exclusive use of all residents. This definition shall include **REST HOME**.

**CONTRACTOR'S OFFICE.** An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office. This definition shall also include **CONTRACTOR'S SHOP**.

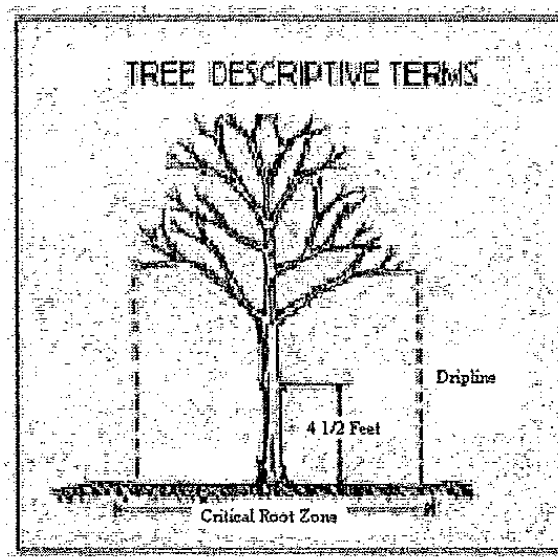
**CONVALESCENT HOME.** A facility that provides nursing services and custodial care on a 24-hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

**CONVENIENCE STORE.** A retail store with a floor area of less than 2,500 square feet that sells groceries and may also sell gasoline; does not include automotive service stations or vehicle repair shops.

**CORRECTIONAL INSTITUTION.** Facilities for the judicially required detention or incarceration of people, where inmates and detainees are under 24-hour supervision by professionals, except when on approved leave. If the use otherwise complies with this definition, a [correctional institution] may include, by way of illustration, a prison, jail, or probation center.

**COUNTRY CLUB.** A club with recreation facilities for members, their families, and invited guests.

**CRITICAL ROOT ZONE (CRZ).** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The CRZ is one foot for every inch of tree diameter measured at four and one-half feet above grade, with a minimum of eight feet. Each **CRZ** shall be clearly marked and surrounded a means of adequate protection.



**CURB STOP.** A barrier which prohibits the through access of a parking stall.

**CUSTOMARY HOME OCCUPATION.** Any use conducted entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

**DAY CARE.** An agency, organization, or individual providing daytime care of six or more persons not related by blood or marriage to, or not the legal wards or foster children, of the attendant adult.

**DENTAL CLINIC.** An office organized to provide dental treatment by one or more dentist and dental hygienist to provide dental care to the community.

**DENTAL LABORATORY.** An establishment with the dedication of running lab work and test on different dental specimens.

**DEPARTMENT STORE.** A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

**DETERGENT MANUFACTURING.** This land use is tied to the sole purpose of manufacturing detergent, this shall not permit any type of chemical dumping for the manufacturing of detergent.

**DEVELOPMENT.** Any land disturbing activity which changes the natural character of the land area.

**DISCERNIBLE.** Capable of being distinguished with the eye or mind from its surroundings. As way of example and not limitation, a telecommunications tower on a hill.

**DRUG STORE.** An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

**DRY CLEANERS.** An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

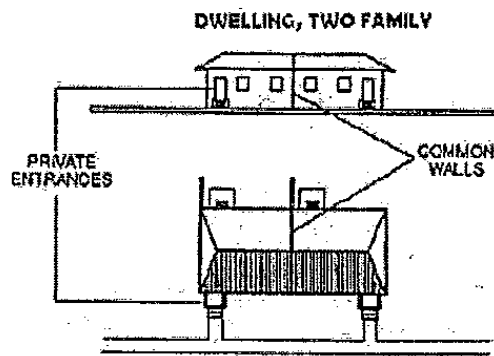
**DRY GOODS STORE.** A store dedicated to the retail sale of products that do not require any type of special storage treatment.

**DWELLING UNIT.** A building, or portion thereof, providing complete and permanent living facilities for one family. The term **DWELLING UNIT** shall not be deemed to include a motel, hotel, tourist home, or other structure designed for transient residence.

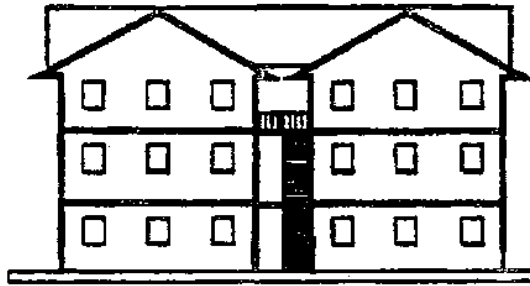
**DWELLING, DUPLEX.** A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family each.

**DWELLING, SINGLE- FAMILY.** A building designed for and containing one dwelling unit.

**DWELLING, TWO FAMILY.** A building designed for and containing two dwelling units.



**DWELLING, MULTI-FAMILY.** A building designed for and containing three or more dwelling units.

Dwelling, multi-family

**ELECTRIC TRANSMISSION TOWERS.** Metal towers used to suspend wires transporting electricity between generating plants and substations supplying electricity to distribution and feeder lines.

**ELECTRICAL AND ELECTRONIC PRODUCT SALES.** The accumulation and retail sale of electronic products.

**ELECTRICAL AND ELECTRONIC PRODUCT MANUFACTURING.** The act of manufacturing a product with a primarily electronic use.

**EQUIPMENT ENCLOSURE.** A building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories at a wireless telecommunication facility.

**EXISTING DEVELOPMENT.** Those projects which are built or those projects that has established a vested right under GS §160A-385.1, as amended, as of the effective date of this Ordinance based on at least one of the following criteria:

- (1) Building permits have been issued pursuant to GS §160A-417 prior to the enactment of this chapter or amendments so long as the permit(s) remain valid and unexpired pursuant to GS §160A-418 and unrevoked pursuant to GS §§160A-421 and 160A-422; or
- (2) A vested right has been established pursuant to GS §160A-385.1 and such vested right remains valid and unexpired pursuant to GS §160A-385.1 as subsequently amended.

**FAA.** Federal Aviation Administration.

**FABRIC STORE.** A store that has the sole focus for the sale of various fabrics/textiles, that come in many different colors, texture, and materials.

**FALL ZONE.** An area around the base of a telecommunication tower required to be kept clear of buildings, other than equipment enclosures associated with the wireless telecommunication facility, to contain debris in the event of a tower structure failure.

**FCC.** Federal Communications Commission.

**FAMILY CARE HOME.** An establishment qualified for a license by North Carolina which provides resident services to individuals of whom one or more are unrelated. The individuals are handicapped, aged, or disabled, are undergoing rehabilitation or extended care, and are provided services to meet their needs.

**FEED AND SEED STORE.** A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agrichemicals.

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

**FLEA MARKET.** A building or open area in which stalls or sales areas are set aside, rented or otherwise provided, and which are intended for use by individuals for the sale of goods.

**FLOORING STORE.** A store that has the dedicated purpose of the sale of residential flooring, including but not limited to: hardwoods, vinyl, and/or tile.

**FLORIST.** Retail business whose principal activity is the selling of plants which are not grown on the site and conducting business within an enclosed building.

**FIRE STATION.** A building used for fire equipment and firefighters.

**FOWL.** Any of several other, usually gallinaceous, birds that are barnyard, domesticated, or wild, as the duck, turkey, or pheasant.

**FOOD PROCESSING ESTABLISHMENT.** Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oil products (not including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants. This shall also include **PREPARED FOODS AND MISCELLANEOUS FOOD PRODUCT MANUFACTURING.**

**FOSTER CARE.** A dwelling used in whole or in part as living quarters for a household including one or more minor children, placed by a licensed child placement agency, who are not members of the family occupying said dwelling but, are under their supervision. This shall also include a **GROUP HOME.**

**FUNCTIONALLY EQUIVALENT SERVICES.** FCC-licensed providers of commercial mobile radio services (CMRS) classified as cellular, personal communication services (PCS), paging, and specialized mobile radio (SMR) and enhanced specialized mobile radio (ESMR).

**FUNERAL HOME.** A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**FURNITURE MANUFACTURING.** A manufacturing establishment that has the dedication for the assembly of furniture. This shall include the actual fabrication of supplies needed to make furniture and/or the intake of those supplies and committing assembly only.

**FURNITURE STORE.** A store that has the dedicated purpose of the retail sale of furniture, this shall not permit the manufacturing of furniture.

**GASOLINE, OIL, OR FUEL STORAGE, ABOVE GROUND.** The storage of petroleum products and other fuel in large containers for bulk storage tanks that lie above ground level.

**GIFT SHOP.** Retail stores where items such as art, antiques, jewelry books, notions, and other novelty items are sold.

**GLASS MANUFACTURING.** A manufacturing establishment that has the dedicated purpose of the production of glass from raw materials. This shall include the shaping and forming of glass to meet a desired look.

**GOVERNMENTAL USER.** Federal, State or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.

**GRADE.** An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GREENHOUSE.** Retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display. Where a greenhouse is permitted a storefront shall also be permitted except for in residential areas.

**GROCERY, FOOD, PRODUCE, FRUIT AND MEAT STORES.** Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

**GROSS FLOOR AREA.** The total area of all buildings in the project including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.

**GUN STORE.** An establishment having at least 25 percent of its gross floor area used for the sale of firearms, ammunition and ammunition components, and hunting or shooting equipment.

**GUNSMITH.** A person who practices in the trade of the repair and/or creation of firearms.

**GYMNASIUM.** Recreational center for the exclusive use of members and their guests with facilities usually including swimming pools and/or tennis courts, but specifically excluding golf courses. This definition shall include **HEALTH CLUBS**.

**HARDWARE STORE.** A facility of 30,000 or fewer square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and/or household appliances, garden supplies, and cutlery.

**HATCHERY.** Establishments devoted to hatching, raising and/or rearing of fish or fowl.

**HAZARDOUS MATERIAL.** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (Oil & Hazardous Substances).

**HOBBY STORE.** A retail establishment that sells recreational modelling and craft supplies and specialty magazines for model airplanes (both military craft and airliners), train models, ship models, house and building models. Some hobby shops may also sell dolls, and collectible coins and stamps. A subtype of hobby shop is a game store, which sells board games. This shall also include **CRAFTS STORE**.

**HOME OCCUPATION, CUSTOMARY.** An occupation profession which is conducted entirely within the residential dwelling provided that:

- (1) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (3) The exterior appearance of the dwelling shall not be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs (except as permitted below) or the emission of sounds, noises, vibrations, or glare;
- (4) The home occupation in the R-20, RA-20, and R-15 Districts shall be confined entirely to the principal building, and no accessory building or outside storage shall be used in connection with the home occupation.
- (5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and on the premises of the home occupation. Vehicular traffic and parking associated with the home occupation may increase vehicular traffic by no more than two vehicles at one time and no more than 12 vehicles per day;
- (6) No home occupation shall create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances where in no home occupation exists;
- (7) No more than one commercial type vehicle may be used for the delivery of materials from the premises;
- (8) No commercial type vehicle shall be used for the delivery of materials to the premises;
- (9) No display of products shall be visible from outside the dwelling;
- (10) Instruction in music, dancing and similar subjects shall be limited to two students at a time;
- (11) Traffic generated by the home occupation shall be limited to the hours between 8:00 a.m. and 8:00 p.m.;
- (12) One professional or announcement sign may be used to identify the customary home occupation providing such sign shall not exceed two square feet in area and shall not be illuminated.
- (13) Beauty salons/barber shops shall be limited to one (1) operator.
- (14) Sale of products related to the service being provided are allowed.
- (15) Examples of uses that frequently qualify as home occupations: accountant; architect; artist; attorney; author; bookkeeper; commission merchant; consultant; dance, music or art instruction on an individual basis; dressmaking, interior decorating, mail order business; telephone service; millinery; preserving and home cooking; realtor; individual tutoring. Uses qualifying as home occupations are not limited to those named in this division (2) nor does listing in this division (2) automatically qualify the use as an acceptable home occupation. All home occupations are subject to the standards established in this Section.

(16) Uses that are prohibited. The following uses by nature of the investment or operation have a tendency to grow beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore the uses specified herein shall not be permitted as home occupations: animal hospitals; auto repair; any retail business; medical or dental offices and clinics; truck or trailer repairs; paint shops or painting of vehicles, trailers or boats; printing shops; mortuaries; private clubs; restaurants.

**HORSES.** A large plant-eating domesticated mammal with solid hoofs and a flowing mane and tail, used for riding, racing, and to carry and pull loads.

**HORTICULTURAL NURSERY.** A nursery that is actively engaged and dedicated to the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program.

**HOSPITAL.** An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**HOTEL.** A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined. A hotel should be comprised of 6 or more rooms.

**HOUSEHOLD APPLIANCE MANUFACTURING.** An establishment dedicated to the manufacture of various appliances used in homes.

**ICE MANUFACTURING.** The manufacture of ice for distribution purposes only. This shall not include on-site retail sales.

**IMPOUNDED WATER BODY.** A body of water, such as a lake, confined by a dam, dike, floodgate or other barrier. It is used to collect and store water for a public water supply.

**INDUSTRIAL DEVELOPMENT.** 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.

**INN.** Any building or group of buildings in which there are six or fewer guest rooms, used for the purpose of offering public lodging on a day-to-day basis, not including a bed and breakfast home.

**JAIL.** A facility established in conjunction with a law enforcement or public safety building, established for the temporary detention of adult or juvenile persons while being processed for arrest or detention by law enforcement. Such facilities do not include lodging or food service facilities to facilitate a stay longer than necessary for processing of the arrest. Holding facilities do not include detention, correctional, or release facilities.

**JEWELRY STORE.** Shops that sell new merchandise primarily and some used merchandise from estate sales or reconstitute precious metals they purchase into jewelry forms that are sold at retail on the premises. This shall also include a **JEWELRY REPAIR STORE.**

**JUNK/SALVAGE YARD.** An area where waste and/or used secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other

metals, paper, rags, rubber tires, and bottles. An automobile junkyard or graveyard is also considered a **JUNK/SALVAGE YARD**.

**KENNEL, COMMERCIAL.** Any location where boarding, caring for or keeping of more than a total of three dogs or cats or other small animals or a combination thereof (except litters of animals of not more than six months of age) is carried on, and also raising, breeding, caring for or boarding dogs, cats, or other small animals for commercial purposes.

**KENNEL, NONCOMMERCIAL.** Any location where the boarding, caring for and keeping of more than three but not more than ten dogs or cats or other small animals or combination thereof (except litters of animals of not more than six months of age) is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

**KINDERGARTEN.** Providing day care with or without educational services for children not yet attending elementary school; includes nursery school and preschool. This may also operate in conjunction to a larger school.

**LAUNDROMAT.** A facility dedicated to the sole purpose of the self-service of washing and drying clothes.

**LEATHER GOODS MANUFACTURING.** The manufacture of certain leather goods, for the later resale of those products.

**LIBRARY.** A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

**LIFE CARE FACILITY.** A health facility where persons are housed and furnished with meals and continuing health care for compensation. This term shall not include congregate housing, but shall include the term **NURSING HOME**.

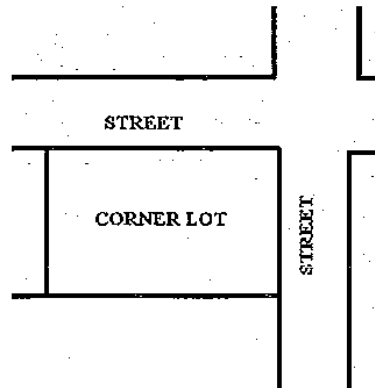
**LIVESTOCK.** Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle; riding and draft horses; hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder which are kept as pets or small animals; sheep; and goats.

**LOAN OFFICES AND AGENCIES.** An office at which loans are negotiated or at which the accounts of loans are kept and the interest paid to the lender.

**LOCKSMITH.** A person or establishment that works in the trade of making, repairing, and unlocking locks.

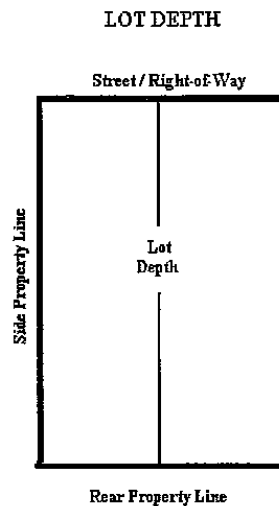
**LOT.** A parcel of land occupied or capable of being occupied by a building, group of buildings, or specific use devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**LOT, CORNER.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which the front when requesting a zoning compliance permit is.



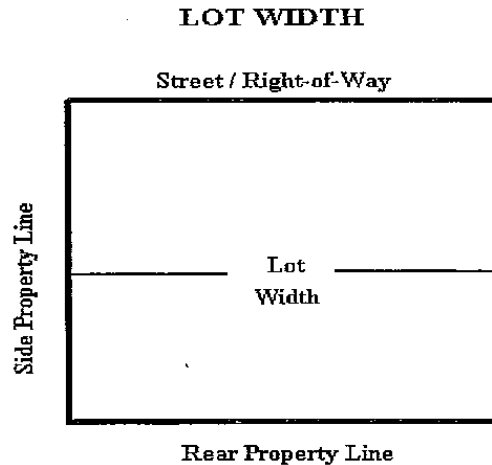
**LOT COVERAGE.** The percentage of a lot which may be covered by impervious surfaces. For the purposes of this definition compacted gravel and stone shall be included as impervious surface.

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



**LOT OF RECORD.** A lot which meets all applicable development requirements of the town and has been properly recorded with the County Register of Deeds. Lots recorded prior to the adoption date of this chapter shall be given grandfather status.

**LOT WIDTH.** The mean horizontal distance between the side property lines.



**MACHINE TOOL MAUFACTURING.** The manufacture of tools used for power-driven machine used to help with the repair of certain machines.

**MANUFACTURED HOME.** A structure transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length or when erected on site is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained therein. Such units shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development and meet the Appearance Criteria established by this Ordinance. This term shall also include the term **MOBILE HOME**. (See GS §160A-383.1, as subsequently amended.) In accordance with state requirements (*North Carolina State Manufactured Housing Code*, 1995 Edition/1996 Revision), a **MANUFACTURED HOME** shall not be permitted as an accessory structure.

**MANUFACTURED HOME, INDIVIDUAL LOT.** A manufactured home that is placed on an individual lot without any other principal structures on the lot. This shall not include accessory buildings.

**MANUFACTURED HOME, TEMPORARY.** A manufactured home that has temporary purposes only, this is permitted for the construction of a home on the same principal lot. This temporary status is only permitted for one year or 365 days.

**MANUFACTURED OR MOBILE HOME PARK.** Any place or tract of land maintained, offered or used for the parking of two or more manufactured homes for rental or lease and used or intended to be used for living or sleeping quarters.

**MANUFACTURING.** The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, etc.

**MATURE VEGETATIVE CANOPY.** The more or less continuous cover of branches and foliage which have reached their mature height formed collectively by the crowns of adjacent trees that have reached their mature height.

**MEDICAL CLINIC.** A building, other than a hospital as herein defined, used by two or more licensed physicians for the purpose of receiving and treating patients.

**MEDICAL LABORATORY.** A facility for scientific laboratory research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities.

**METAL AND METAL PRODUCT MANUFACTURING.** The manufacture of metal products for the distribution of retail sales.

**METAL FABRICATION SHOP.** An establishment with the sole purpose of creation of metal structures by cutting, bending and assembling processes. It is a value-added process involving the creation of machines, parts, and structures from various raw materials.

**MILLINERY SHOP.** A shop dedicated to the manufacture and resale of hats.

**MINIATURE GOLD COURSE.** A theme-oriented recreational facility, typically comprised of nine or 18 putting greens, each with a “cup” or “hole,” where patrons in groups of one to four pay a fee to move in consecutive order from the first hole to the last.

**MODIFICATION.** The addition, removal, repositioning (other than down tilt adjustments), alteration or other material change in the number or type of antennas employed in a wireless telecommunications facility; changes in the height, size, shape or appearance of telecommunications towers; and increase in the number or size of equipment enclosures or other improvements at an existing or approved wireless telecommunication facility.

**MODULAR HOME.** A dwelling unit constructed in accordance with the standards set forth in the *North Carolina State Residential Building Code*, as amended, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A **MODULAR HOME** shall consist of two or more sections transported to the site on a truck and erected or joined together on the site.

**MODULE.** The distance, measured parallel from curb to curb, of the interior of a parking facility. This measurement shall include the parking aisle and the parking stalls.

**MOTEL.** A building in which lodging or board and lodging are provided for transient guests and offered to the motoring public for compensation.

**MUSEUM.** A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

**NEWSPAPER OFFICE.** A office that has the purpose of the distribution or administration of a local newspaper.

**NONCONFORMING.** A lot, structure, sign, or use of land or structure which is currently prohibited under the terms of this Ordinance.

**NONCONFORMING LOT.** A lot of record that does not conform to the dimensional requirements of the district in which it is located. The nonconformity may result from adoption of this chapter or any subsequent amendment.

**NONCONFORMING STRUCTURE.** A structure that does not conform to the dimensional, height, elevation, location, appearance standards, or other requirements of this chapter. The nonconformity may result from adoption of this chapter or any subsequent amendment.

**NONCONFORMING USE.** A use which does not conform to the use regulations of this chapter for the district in which it is located, at the effective date of this chapter.

**NURSING HOME.** A home for aged or ill persons in which three or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.

**OFFICE: BUSINESS, PROFESSIONAL, AND PUBLIC.** A room or a suite of rooms or portion of a building used for the practice of a profession or for the conduct of a business that involves the accessory sale of goods from the premises. If the goods or merchandise are sold for delivery on or from the premises, and constitutes a portion greater than 20 percent of the gross revenue from the office, then the premises shall be considered to be a store rather than an office.

**OFFICE: SUPPLIES, EQUIPMENT, SALES, AND SERVICES.** An establishment that is dedicated to the sale of various office related supplies.

**OPEN SPACE.** Property within a development or contained on an individual parcel, which is designated by a permanent reservation to remain undeveloped, for the purpose of providing areas for recreation and/or conservation.

**OPEN STORAGE.** Unroofed storage area, whether fenced or not.

**OPTICIAN.** A person qualified to make and supply eyeglasses and contact lenses for correction of vision.

**PAINT MANUFACTURING.** The manufacture of paint products, these paints could be used on cars, planes, residential, etc.

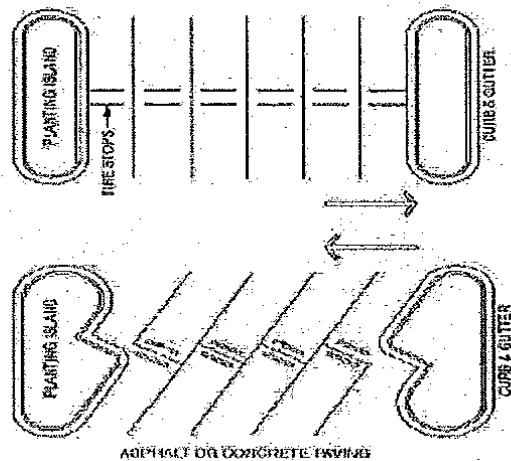
**PAINT STORE.** A store that is dedicated to the retail sale of paint for various different uses.

**PAPER PROCESSING/MANUFACTURING.** The manufacture of paper and paperboard, from both raw and recycled materials, and their conversion into products including paper bags, boxes, envelopes, wallpaper, etc.

**PARKS.** A noncommercial, not-forprofit facility designed to serve the recreation needs of the residents of the community. Such facilities include subdivision recreation facilities (neighborhood parks), community parks, regional parks, and special use facilities, all as described in the recreation and open space element of the [comprehensive plan]. Such facilities may also include but shall not be limited to school and religious institution ballfields, football fields, and soccer fields, if they meet the above definition. Commercial amusement facilities, such as water slides, go-cart tracks, and miniature golf courses shall not be considered parks.

**PARKING AISLE.** The area, parallel to curb stops, which automobile traverse in order to utilize parking stalls.

**PARKING LOT.** Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, whether for a fee or as a service.



**PARKING SPACE/STALL.** A storage space for a motor vehicle or motorcycle.

**PERSON.** Any individual, partnership, limited partnership, company, corporation, trust, estate, agency, association or other legal entity and their successors and assigns.

**PET STORE.** A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

**PILLOW MANUFACTURING.** A manufacturing establishment dedicated to the process of making pillows from raw materials. Pillows are for the support of the body at rest for comfort, therapy or decoration.

**PHASED DEVELOPMENT PLAN.** A plan which has been submitted to the county for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan.

**PLANNED UNIT DEVELOPMENT (PUD).** A form of development characterized by a unified site design for a number of structures, clustering of buildings and providing common open space, density increases, and a mix of building types. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. Such development shall be based on a plan which allows for flexibility of design not available under normal district requirements.

**PLASTIC AND RUBBER PRODUCT MANUFACTURING.** The manufacture of rubber products including: rubber footwear; mechanical rubber goods; heels and soles; flooring; and rubber sundries from natural, synthetic, or reclaimed rubber. Also includes: establishments engaged in molding primary plastics for the trade, and manufacturing miscellaneous finished plastics products; fiberglass manufacturing; and fiberglass application services.

**PORCELAIN MANUFACTURING.** The manufacture of a hard, fine-grained, sonorous, nonporous, and usually translucent and white ceramic ware that consists essentially of kaolin, quartz, and a feldspathic rock and is fired at a high temperature.

**POTTERY MANUFACTURING.** The manufacture of pots, dishes, and other articles made of earthenware or baked clay. Pottery can be broadly divided into earthenware, porcelain, and stoneware.

**PRINCIPAL BUILDING.** A building in which is conducted the principal use of the lot on which said building is situated.

**PRINCIPAL STRUCTURE.** A structure in which is conducted the principal use of the lot on which said building is situated.

**PRINCIPAL USE.** The primary use of a lot or structure.

**PRIVATE BUSINESS USER.** Persons who operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services to third parties for compensation.

**PRODUCE STAND.** A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and home-made handicrafts. The floor area devoted to the sales of these accessory items shall not exceed 50 percent of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a roadside stand. This shall also include a **FARM STAND**.

**PROTECTED MOUNTAIN RIDGE.** A ridge at or above 3,000 feet with an elevation of 500 feet or more above the elevation of an adjacent valley floor.

**PUBLIC SERVICE FACILITY.** The use of land, buildings, or structures by a municipal or county agency to provide protective, administrative, maintenance and social services for the general public, including water treatment plants, sewage treatment plants, resources recovery facilities, parks and recreation facilities, police and fire stations, municipal buildings, community centers and other similar public structures and facilities.

**PUBLICLY OWNED INSTITUTIONS.** An public entity that owns land or buildings operated by a governmental or other public agency.

**RECREATIONAL CENTER.** A building to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed. This shall also be known as a **COMMUNITY CENTER**.

**RECREATIONAL FACILITIES, PRIVATE.** Recreational center for the exclusive use of members and their guests with facilities usually including swimming pools and/or tennis courts, but specifically excluding golf courses. This definition shall also include **COMMERCIAL RECREATIONAL FACILITIES**.

**RECREATIONAL FACILITIES, PUBLIC.** A recreation facility that is open to the general public for various recreational activities, without having to have a specific membership to use this facilities.

**RECREATIONAL VEHICLE PARK.** Any lot of land upon which one or more recreational vehicles sites are located, established, or maintained for occupancy by recreational vehicles for the general public as temporary living quarters for recreation or vacation purposes. In no instance shall a recreational vehicle be used as a permanent residence.

**RELIGIOUS INSTITUTION.** A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its

accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. This shall also include **CHURCH**.

**REPAIR SERVICES.** Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

**REPLACEMENT TOWER.** A telecommunications tower intended to replace an existing approved tower where the replacement tower is:

- (1) At or within 50 feet of the existing tower base, and
- (2) No higher than the existing tower.

**REST HOME.** A home licensed by North Carolina for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. This shall also be known as a **NURSING HOME**.

**RESTAURANT, WITH DRIVE THRU.** Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

**RESTAURANT, WITHOUT DRIVE THRU.** A structure in which the principal use is the preparation and sale of food and beverages. Only for the purposes of serving patrons from solely the inside of the restaurant.

**RETAIL ESTABLISHMENT.** A retail establishment engaged in selling goods or merchandise to the general public as well as to other retailers, contractors, or businesses, and rendering services incidental to the sale of such goods. Bulk retail involves a high volume of sales of related and/or unrelated products in a warehouse setting and may include membership warehouse clubs (i.e., “big box” retail). Bulk retail is differentiated from general retail by any of the following characteristics: items for sale include large, categorized products (e.g., lumber, appliances, household furnishings, electrical and heating fixtures and supplies, wholesale and retail nursery stock, etc.) and may also include a variety of carry-out goods (e.g., groceries, household, and personal care products).

**RIDING STABLE.** Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, and riding schools. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

**RIDGE.** The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

**ROOMING HOUSE.** A residential building with three or more sleeping rooms for lodgers, and wherein no dining facilities are maintained for the lodger, as distinguished from a boarding house.

**SCHOOL, ART.** A school where classes in the various arts (e.g. dance, painting, sculpting, singing) are taught to four or more persons at a time. This shall also include **DANCE OR MUSIC SCHOOL**.

**SCHOOL, BARBER AND BEAUTY.** A school dedicated to the teaching of barbers and beauticians, to then further their education in this field.

**SCHOOL, COLLEGE/UNIVERSITY.** A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

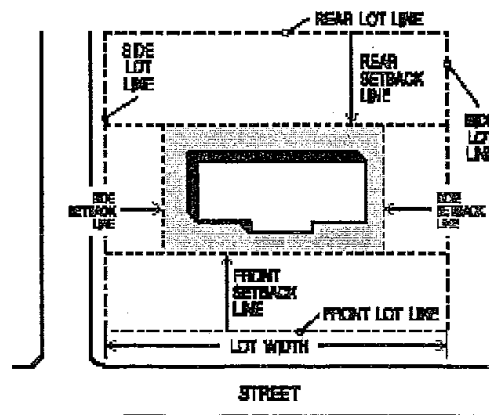
**SCHOOL, ELEMENTARY AND HIGH SCHOOL.** A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the North Carolina.

**SCHOOL, NURSERY.** Any day care center which receives children between the ages of two and six years and which is established and professionally operated primarily for educational purposes to meet the developmental needs of the children served.

**SERVICE OR STORAGE TANKS.** Any one of a combination of tanks, including underground pipes connected thereto, which is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Flow-through process tanks are excluded from the definition of underground storage tanks.

**SERVICE STATIONS, AUTOMOBILE.** The portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automotive repair and maintenance, car wash service, and food sales.

**SETBACK.** The minimum distance that a structure can be constructed or erected in relation to property and/or right-of-way lines, excluding any uncovered porches, patios, steps, gutters and similar fixtures. Front yard **SETBACKS** shall be measured from the outermost edge of the dedicated right-of-way. In the event the lot in question does not directly abut upon a dedicated right-of-way, the front yard **SETBACK** shall be measured from the property line or outermost edge of any access easement. In the case of a corner lot the applicant of the Zoning Compliance Permit shall state which frontage is intended to serve as the front yard.



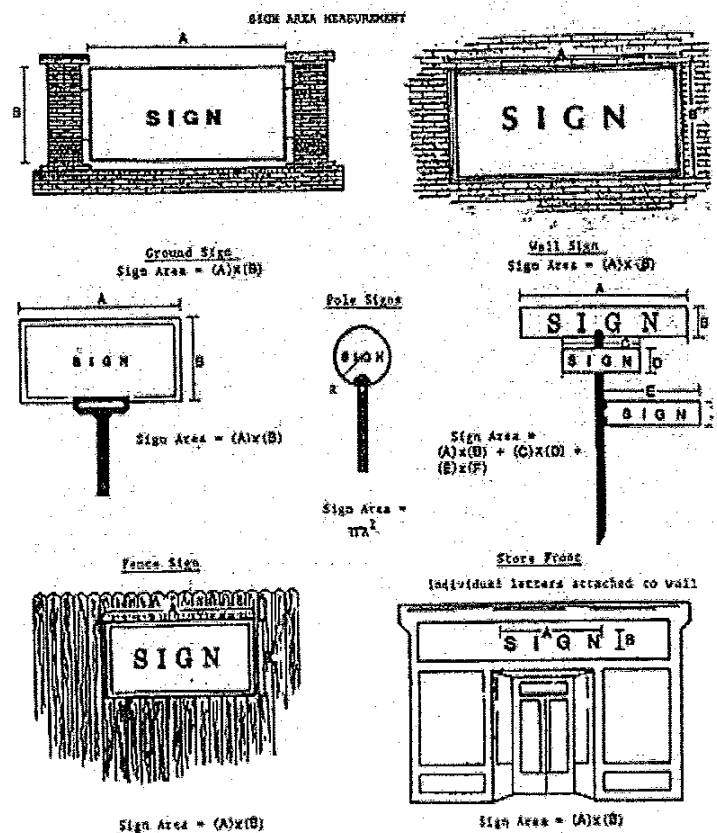
**SEWER, PUBLIC / TRADITIONAL MUNICIPAL.** System approved by the County Department of Environmental Health and Town Engineer that provides for multiple unit treatment. Such systems as municipal sewer, community drain fields, spray irrigation, drip irrigation, pressurized underground systems

and similar systems recognized by the County Department of Environmental Health. The following are exclusively prohibited: package treatment plant or individual lot septic drain field systems.

**SEWER SYSTEM, INDIVIDUAL.** An individual septic tank system of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the Division of Health Services, North Carolina Department of Human Services *Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly in North Carolina* and the regulations of the County Board of Health.

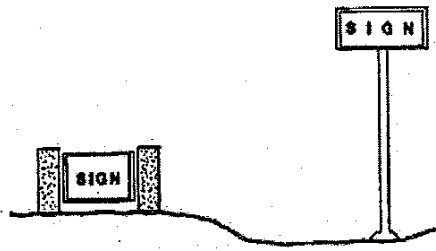
**SIGNS.** Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product. The publicity can be conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information. The information can be displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, buildings, or other structures or supports.

**SIGN AREA.** Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.



**SIGN, FREESTANDING.** A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a **FREESTANDING SIGN**. If the message is

removed from a structure that was originally designed and used as a **FREESTANDING SIGN**, this structure shall still be considered a sign.



**SIGN, INTERNALLY ILLUMINATED.** Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that are filled with neon or some other gas that glows when an electric current passes through it and are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered **INTERNALLY ILLUMINATED SIGNS**.

**SIGN, OFF-SITE.** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the site where the sign is located.

**SIGN, ON-SITE.** A sign that draws attention to or communicates Information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the site where such sign is located.

**SIGN, PORTABLE.** Any sign not permanently affixed to the ground or to a structure, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service, or entertainment, when that vehicle is so parked as to attract attention of the motoring or pedestrian traffic.

**SIGN, ROOF.** A sign which is higher than the roof to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.

**SIGN, TEMPORARY.** A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

**SIGN, WALL.** See Sign, Roof.

**SINGLE FAMILY RESIDENTIAL DEVELOPMENT.** Any development where:

- (1) No building contains more than one dwelling unit;
- (2) Every dwelling unit is on an individual lot; and

(3) Where no lot contains more than one dwelling unit.

**SITE SPECIFIC DEVELOPMENT PLAN.** A plan which has been submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

(1) The plan may be in the form of but not limited to any of the following plans or approvals:

- (a) A planned unit development plan;
- (b) A subdivision plat;
- (c) A conditional use permit; or
- (d) A zoning compliance permit.

(2) Unless otherwise expressly provided by the Town such plan shall include the approximate boundaries of the site; significant topographical features; the approximate location of any proposed structures; the approximate dimensions, including height, of any proposed structures; the approximate location of existing and proposed infrastructure on the site, including but not limited to water, sewer, roads and pedestrian walkways.

(3) A variance shall not constitute a **SITE SPECIFIC DEVELOPMENT PLAN**, and approval of a **SITE SPECIFIC DEVELOPMENT PLAN** with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels or property shall constitute a **SITE SPECIFIC DEVELOPMENT PLAN**.

**SKATING RINK.** An establishment that provides facilities for participant skating.

**SOAP MANUFACTURING.** The manufacture of soap, which is a product that is primarily meant for cleaning purposes.

**SPECIAL USE PERMIT.** A permit issued by the Town Council after said Council has held a public hearing. **SPECIAL USE PERMITS** may be issued within any of the use districts outlined in this Ordinance. Such a Special Use shall only be allowed within districts to which the **SPECIAL USE PERMIT** is to correspond. By way of example and not limitation, within an RA-20 District an NB-SU permit may be issued for a site-specific development proposal for any use permitted by right with an ordinary NB District. The development proposal authorized by a **SPECIAL USE PERMIT** shall comply with all provisions of the corresponding district. Additional conditions may not be added onto any **SPECIAL USE PERMIT**.

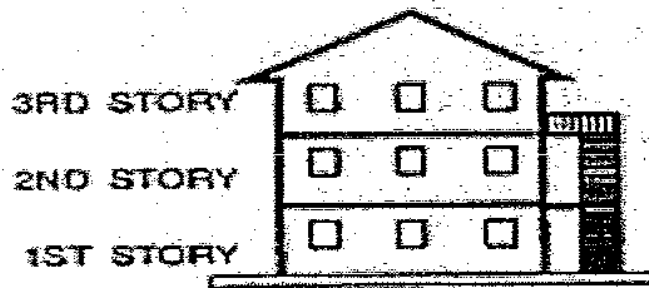
**SPORTING GOODS STORE.** A store that is solely dedicated to the primary retail sale of various sporting equipment.

**STORY.** That portion of a building comprised between a floor and the floor next above. The first floor of a two or multi-story building shall be deemed the **STORY** that has no floor immediately below it that is designed for living quarters or for human occupancy. Those **STORIES** above the first floor shall be numbered consecutively.

**STONE CRUSHING, CUTTING, AND POLISHING.** An establishment that is dedicated to the sole purpose of forming rock for various purposes. This shall not include **ROCK QUARIES**.

**STORAGE, MATERIALS AND EQUIPMENT OUTDOORS.** This definition is for uses that allow the storage of materials outside.

**STORAGE UNITS.** Small units that are dedicated to the storage of personal goods of persons that lease or buy the unit, for that storage purpose.



**STREET.** A dedicated right-of-way for vehicular traffic which affords the principal means of access abutting properties. (Also see Town Subdivision Regulations set forth in Chapter 152 which are incorporated here by reference.)

**STRUCTURE.** Anything constructed or erected, the use of which requires more or less permanent location on or in the ground or which is attached to something having more or less permanent location on or in the ground.

**STRUCTURAL ALTERATIONS.** Any change on the supporting members of a building, such as load bearing walls or partitions, columns, beams, or girders, or any structural change in the roof, or dimensions or the rooms therein.

**SUBDIVISION.** See Town Subdivision Regulations set forth in Chapter 152 which are incorporated here by reference.

**SURFACING MATERIAL.** A material whose natural characteristics provide a hard, nonflexible, rigid, and relatively flat groundcover. Examples include but are not limited to concrete and asphalt. Gravel shall not be considered a **SURFACING MATERIAL**.

**TAILOR.** An establishment that is dedicated to the process of fitting the general public for various types of clothing. This shall also include **DRESSMAKING**.

**TELECOMMUNICATIONS TOWER.** Any tower, pole or similar structure 20 feet or more in height, used to support one or more antennas.

**TEXTILE MANUFACTURING.** A shop dedicated to the conversion of fiber into yarn, and then the yarn into fabric. From here the fabric may be dyed or printed. This shall also be known as a **TEXTILE FABRICATION SHOP**.

**TOBACCO STORE.** A tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.

**TOURIST HOUSE.** An establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation, including establishments known as bed-and-breakfasts.

**TOWER BASE.** The foundation, usually concrete, on which the telecommunications tower is situated. For measurement calculations, the **TOWER BASE** is the actual or geometric center of the tower.

**TOWER HEIGHT.** The vertical distance measured from the tower base to the highest point on a telecommunications tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

**TOWER SITE.** The land area which contains, or will contain, a proposed telecommunications tower, and related equipment enclosures and other equipment.

**TOY STORE.** A store dedicated to the sole purpose of selling toys to the general public. This toys are specific to young children for their enjoyment for playing.

**TREATMENT INSTITUTIONS.** An institution dedicated to the treatment of, but not limited to, mental illness, alcoholism, narcotics. This shall also include the term **REHABILITATION CENTER.**

**TREE, LARGE.** A tree which has an expected height at maturity of at least 35 feet. These types of trees shall at the time of planting have a diameter of at least two inches. The diameter shall be measured four and one-half feet above grade.

**TREE, PROTECTED.** Any tree located on a development site having a circumference of 30 inches or more measured four and one-half feet above natural grade.

**TREE, SMALL.** A tree which has an expected height at maturity of at least 15 feet. These types of trees shall at the time of planting have a diameter of at least one inch. The diameter shall be measured four and one-half feet above grade.

**TRUCKING TERMINAL.** A establishment (land or building) used as a relay station for the transfer of a products from one party to another (truck-to-truck).

**VARIANCE.** A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**VARIETY STORE.** A retail store that sells a wide variety of relatively small and inexpensive items.

**VESTED RIGHT.** The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.

**VETERINARY CLINIC.** A facility whose practitioners are licensed by the state to treat diseased or injured animals.

**VISIBLE.** Capable of being seen by the unaided eye in daylight.

**VITEOUS CHINA MANUFACTURING.** The manufacture of Fine China, however, having a glass like consistency.

**WASHING COMPOUND MANUFACTURING.** The manufacture of different compound meant for cleaning purposes of multiple varieties.

**WATER SYSTEM, PUBLIC / TRADITIONAL MUNICIPAL.** Water supply systems serving multiple connections are classified as a public water supply by State law. Plans and specifications must be approved

by the Town Engineer and the Sanitary Engineering Section, Division of Health Services, North Carolina Department of Human Resources.

**WATER SYSTEM, SEMI-PUBLIC.** Water supply systems serving from two to nine connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the Town Engineer and the County Health Department.

**WATER SYSTEM, INDIVIDUAL.** A drilled or bored well or spring which serves a single connection. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.

**WATERSHED, CRITICAL.** Refer to the Town Watershed Protection Ordinance, set forth in Chapter 155.

**WATERSHED, PROTECTED.** Refer to the Town Watershed Protection Ordinance, set forth in Chapter 155.

**WAREHOUSE ESTABLISHMENT.** Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

**WHOLESALE ESTABLISHMENT.** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

**WIRELESS TELECOMMUNICATION FACILITY.** Equipment at a single location used by a private business user, governmental user or commercial wireless service provider to transmit, receive or relay electromagnetic signals (including microwave). Such facility includes antennas or antenna arrays, telecommunications towers, support structures, transmitters receivers, base stations, combiners, amplifiers, repeaters, filter or other equipment; together with all associated cabling, wiring, equipment enclosures and other improvements.

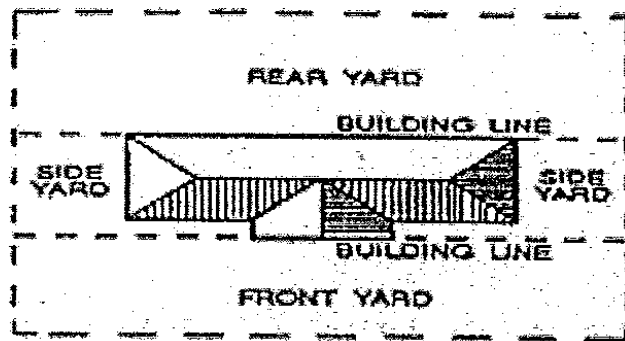
**WOOD FABRICATION SHOP.** A shop with the dedicated purpose of the different varieties to machine wood materials.

**YARD.** The open space on the same lot with a principal building, or structure unoccupied and unobstructed from the ground upward.

**YARD, FRONT.** The open, unoccupied space on the same lot with a principal building or structure, between the front line of the principal building or structure (exclusive of uncovered porches, patios, steps, gutters and similar fixtures) and the front property line or street right-of-way line and extending across the full width of the lot.

**YARD, REAR.** The open, unoccupied space on the same lot with a principal building or structure, between the rear line of the principal building or structure (exclusive of uncovered porches, patios, steps, gutters and similar fixtures) and the rear property line and which extends the full width of the lot.

**YARD, SIDE.** The open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.



**ZONING ADMINISTRATOR.** Town official charged with the responsibility of enforcing this chapter.

**ZONING PERMIT.** Permit issued by the Zoning Administrator indicating that a proposed use is in compliance with requirements of this chapter.

(Ord. Art. VI, §60B, passed 2-19-2008; Ord. passed 8-16-2011; Ord. Passed 10-19-2021)

## **APPLICABILITY**

### **§153.015 JURISDICTION, TERRITORIAL APPLICATION**

The provisions of this chapter shall be applicable to all property within the corporate limits of the town and to the extraterritorial jurisdiction as adopted by later resolution of the Town Council.

(Ord. Art. VI, §40A, passed 2-19-2008)

### **§153.016 BONA FIDE FARMS EXEMPT**

The provisions of this chapter shall not apply to bona fide farms. This chapter does not exercise any control over crop lands, timber lands, pasture lands, orchards, idle or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings including tenant or other houses for persons working on said farms, as long as such houses be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulation. Residences for nonfarm use or occupancy and other nonfarm uses shall be subject to the provisions of this chapter.

(Ord. Art. V, passed 2-19-2008)

### **§153.017 OFFICIAL ZONING MAP**

The districts established within the Zoning Code of the Town of Sawmills, North Carolina and shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted a part of this chapter. See the Appendix to this chapter. The Zoning Map shall be maintained for public inspection in the office of the local government clerk. The maps may be in paper or a digital format approved by the local government (G.S. 160D-105).

(Ord. Art. V, passed 2-19-2008)

§153.018 – 153.029      RESERVED

## ESTABLISHMENT OF DISTRICTS

### **§153.030 USE DISTRICT NAMES.**

For the purposes of this chapter, the Town is hereby divided into seven use districts with the designations as listed below.

#### **R-20 Residential Low Density District**

This district is composed of certain quiet, low density residential sections of the community, plus certain open areas where similar residential development appears likely to occur, as indicated by the Land Development Plan. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of single family residences in the district and which would be detrimental to the quiet residential nature of the areas included within this district.

#### **RA-20 Residential Medium Density District**

This district is composed of medium density residential development and of open areas which are used for farmland and woodland. The RA-20 district shall consist of single-family dwellings, two-family dwellings, manufacture and modular homes on individual lots and related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where either or both public water or sewer facilities are available.

#### **R-15 Residential High Density District**

The R-15 Residential High Density District is established as a district in which the principal use of land is for single-family, two-family, modular homes and manufactured homes on individual lots, and manufactured home parks. The regulations are intended to prohibit any use, which, because of its character, would interfere with the residential nature of this district. It is expected that municipal water and sewage facilities will be available to each lot in such districts.

#### **O-I Office and Institutional District**

The Office and Institutional District is designed to provide a wide range of professional and economic office space, as well as space for public and quasi-public uses.

#### **N-B Neighborhood Business District**

The Neighborhood Business District is intended for the use of those businesses and other uses which are properly located near residential areas and which cater to the everyday needs of a limited residential area.

#### **H-B Highway Business District**

The Highway Business Districts are located on major thoroughfares and collector streets in the Town Planning Area. They are intended to provide for offices, personal services, and the retailing of durable and convenience goods for the community. Because these commercial uses are subject to public view and are important to the economy of the community, they should have ample parking, controlled traffic movement and suitable landscaping.

#### **G-M General Manufacturing District**

The General Manufacturing District provides a place for the location of industrial and other uses which would be incompatible with highway business, office and institutional, or residential districts. It is intended to permit in this district any use which is not inherently obnoxious to urban areas because of noise, odor, smoke, light, dust, or the use of dangerous materials.

(Ord. §70A, passed 2-19-2008)

**§153.031 DISTRICT BOUNDARIES SHOWN ON MAP**

The boundaries of the districts are shown on the map accompanying this chapter and made a part thereof entitled "Official Zoning Map, Town of Sawmills, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this chapter the same as if such information set forth on the map were all fully described as set forth herein. The Zoning Map properly attested is posted at the Town Hall and is available for inspection by the public. (Ord. §70B, passed 2-19-2008)

**§153.032 DUE CONSIDERATION GIVEN TO DISTRICT BOUNDARIES**

In the creation of this chapter of the respective districts, careful consideration is given to the general suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with the Sawmills Comprehensive Plan, also refilled to as "Land Development Plan" (adopted 2006). (Ord. §70C, passed 2-19-2008)

**§153.033 RULES GOVERNING BOUNDARIES**

Where uncertainty exists as to the boundaries of any aforesaid districts as shown on the Zoning Map, the following rules shall apply (such uncertainty shall be determined by the Board of Adjustment):

- (A) Where district boundaries are indicated as approximately following the centerline of streets or highways, railroad right-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.
- (B) Where district boundaries are so indicated that approximately follow lot lines, such lot line shall be construed to be such boundaries.
- (C) Where district boundaries are so indicated that they are approximately parallel to the centerline of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distances there from as indicated on the map. If no distance is given, such dimension shall be determined by use of the scale shown on the map.
- (D) Where a district boundary line divides a lot in single ownership, the district requirements for the least restrictive portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than 35 feet beyond the district boundary line. The term **LEAST RESTRICTIVE** shall refer to zoning restrictions, not lot or tract size.

(Ord. § 70D, passed 2-19-2008)

**§153.034 – 153.049 RESERVED**

**USE REQUIREMENTS BY DISTRICT****§153.050 GUIDE TO TABLE OF PERMITTED USES.**

- (A) The Table of Permitted Uses contains a listing of uses which may be permitted in one or more of the various zoning districts.
- (B) The following is a list of the meanings of table entries:

P – Indicates that the use is permitted by right in the zoning district

C – Indicates that the use is permitted with a Special Use Permit in the zoning district

SR - Supplemental Requirements – A section number listed in the column indicates that the use has special requirements for the zoning district in which it is permitted. The section number refers to the pertinent section in §153.070- 153.080.

**§153.051 TABLE OF PERMITTED AND SUPPLEMENTAL REQUIREMENTS**

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Abattoirs	-	-	-	-	-	S	P	
Accessory Dwelling	S	S	S	-	-	-	-	§153.070
Accessory Structure, commercial	-	-	-	P	-	S	-	§153.071
Accessory Structure, residential	P	P	P	-	-	-	-	§153.072
Adult establishments	-	-	-	-	-	S	-	§153.073
Airport, Commercial	-	-	-	-	-	-	-	
Airport, Private	-	S	-	-	-	-	-	
Animal feed manufacturing	-	-	-	-	-	-	P	
Antenna	-	-	-	-	-	P	P	
Antenna, Concealed	-	-	-	P	P	P	P	
Antiques store	-	-	-	-	P	P	P	
Armory	-	-	-	P	-	-	-	
Art gallery	-	-	-	P	P	P	P	
Art goods store	-	-	-	-	P	P	P	
Assembly hall	-	-	-	-	-	P	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Auditorium	-	-	-	P	-	-	-	
Automobile parking lot and structure	-	-	-	-	P	P	P	
Automobile parts/retail establishment	-	-	-	-	-	P	P	
Automobile repair services establishment	-	-	-	-	-	P	P	
Automobile sales	-	-	-	-	-	P	P	
Automobile washing establishments	-	-	-	-	P	P	P	
Bakery	-	-	-	-	-	P	P	
Banks, with drive thru	-	-	-	S	P	P	P	
Banks, without drive thru	-	-	-	P	P	P	P	
Barber shops and beauty salon	-	-	-	-	P	P	P	
Bedding manufacturing	-	-	-	-	-	-	P	
Boarding House	-	-	S	-	P	P	P	
Boat sales and rentals	-	-	-	-	-	P	P	
Bookstore	-	-	-	-	P	P	P	
Bowling alleys	-	-	-	-	-	S	-	
Building supply and equipment sales	-	-	-	-	-	P	P	
Bus shelter	S	S	S	P	P	P	P	
Bus Station	-	-	-	-	P	P	P	
Business, professional, government, religious, charitable or fraternal offices or agencies	-	-	-	P	P	P	-	
Campground	-	-	-	-	-	-	-	
Candy store	-	-	-	-	P	P	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Carpet manufacturing	-	-	-	-	-	-	P	
Cemeteries	S	S	S	-	-	-	-	
Clinic	-	-	-	P	P	P	-	
Clothing manufacturing	-	-	-	-	-	-	P	
Clothing store	-	-	-	-	P	P	P	
Concrete or paving materials mixing plant	-	-	-	-	-	-	P	
Contractors office, shop	-	-	-	P	P	P	P	
Convalescent center	-	-	-	-	-	P	P	
Convenience store	-	-	-	P	P	P	P	
Correctional intuitions	-	-	-	-	-	-	-	
Country Club	S	S	S <sup>1</sup>	-	-	-	-	
Day Care	-	-	-	P	P	P	-	
Dental Clinic	-	-	-	P	P	P	P	
Dental Laboratory	-	-	-	-	P	P	P	
Detergent manufacturing	-	-	-	-	-	-	P	
Department store	-	-	-	-	P	P	P	
Drug stores	-	-	-	-	P	P	P	
Dry Cleaners	-	-	-	-	P	P	P	
Dry goods store	-	-	-	-	P	P	P	
Dwelling, Duplex	-	P	P		-	-	-	
Dwelling, Multi-Family	-	-	S <sup>1</sup>	-	-	-	-	
Dwelling, Single Family	P	P	P	-	-	-	-	
Dwelling, Two Family	-	P	P	-	-	-	-	
Electrical and electronic products sales	-	-	-	-	P	P	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Electrical and electronic product manufacturing	-	-	-	-	-	-	P	
Fabric store	-	-	-	-	P	P	P	
Family Care Home	P	P	P	-	-	-	-	
Feed and seed store	-	-	-	-	-	P	P	
Fire Station	S	-	-	-	-	-	-	
Flea Market	-	-	-	-	-	-	-	
Flooring store	-	-	-	-	P	P	P	
Florists	-	-	-	-	P	P	P	
Food processing establishment	-	-	-	-	-	-	P	
Foster care	P	P	P	-	-	-	-	
Fowl	P	P	P	P	P	P	P	<i>§ 153.081</i>
Funeral Home	-	-	-	P	-	P	P	
Furniture manufacturing	-	-	-	-	-	-	P	
Furniture store	-	-	-	-	P	P	P	
Gasoline, oil, or fuel storage above ground	-	-	-	-	-	-	P	
Gift shop	-	-	-	-	P	P	P	
Glass manufacturing	-	-	-	-	-	-	P	
Greenhouse	-	S	S	-	-	P	P	
Grocery, food, produce, fruit, and meat stores	-	-	-	-	P	P	P	
Gun store	-	-	-	P	P	P	P	
Gunsmith	-	-	-	-	P	P	P	
Gymnasium	-	-	-	-	-	P	P	
Hardware store	-	-	-	-	P	P	P	
Hatcheries	-	-	-	-	-	-	P	

[illegible]

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Loan offices and agencies	-	-	-	P	P	P	P	
Locksmith	-	-	-	-	P	P	P	
Machine tool manufacturing	-	-	-	-	-	-	P	
Manufactured home, individual lot	-	P	P	-	-	-	-	\$153.075
Manufactured home park	-	-	P	-	-	-	-	
Manufactured home, temporary	-	S	S	-	-	-	-	\$153.080
Manufacturing uses not otherwise named	-	-	-	-	-	-	S	
Medical clinic	-	-	-	P	P	P	P	
Medical laboratory	-	-	-	-	P	P	P	
Metal and metal products manufacturing	-	-	-	-	-	-	P	
Metal Fabrication shop (10 or fewer employees)	-	-	-	-	-	P	P	
Millinery shop	-	-	-	-	-	P	P	
Miniature Golf courses	-	-	-	-	-	S	-	
Motel	-	-	-	-	-	P	P	
Museum	-	-	-	P	P	P	P	
Newspaper office	-	-	-	P	P	P	P	
Office: business, professional and public	-	-	-	P	P	P	P	
Office: supplies and equipment, sales and services	-	-	-	P	P	P	P	
Open Storage	-	-	-	-	-	-	P	
Optician	-	-	-	-	P	P	P	
Paint manufacturing	-	-	-	-	-	-	P	
Paint store	-	-	-	-	P	P	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Paper processing or manufacturing	-	-	-	-	-	-	P	
Parks, and similar facilities operated on a non-profit basis	P	P	P	P	P	P	P	
Pet store	-	-	-	-	P	P	P	
Pillow manufacturing	-	-	-	-	-	-	P	
Plastic and rubber products manufacturing	-	-	-	-	-	-	P	
Porcelain manufacturing	-	-	-	-	-	-	P	
Pottery manufacturing	-	-	-	-	-	-	P	
Prepared foods and miscellaneous food product manufacturing	-	-	-	-	-	P	P	
Produce stands for sale of products grown on site	-	S	S	-	P	P	P	
Public Service facility	-	P	P	P	P	P	P	\$153.077
Publicly owned institutions	-	-	-	P	-	-	-	
Recreational and community centers	S	-	-	P	-		-	
Recreational facilities, public	-	-	-	P	P	P	-	
Recreational facilities, private	S	S	S	P	P	P	-	
Recreation vehicle park	-	-	-	-	-	-	-	
Religious institutions	S	S	S	P	P	P	P	
Repair uses not otherwise named	-	-	-	-	S	S	P	
Rest home	-	-	-	-	-	P	P	
Restaurant, with drive thru	-	-	-	-	-	S	-	
Restaurant, without drive thru	-	-	-	-	P	P	P	
Retail establishments not otherwise named	-	-	-	-	S	S	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Riding stables	P	P	-	-	-	S	-	
Rooming House	-	-	S	-	-		-	
School, Art	-	-	-	P	P	P	P	
School, Barber and beauty	-	-	-	P	P	P	P	
School, College/university	S	S	S	P	P	P	P	
School, Elementary and high school	S	S	S	P	P	P	P	
School, Nursery	-	-	-	-	P	P	P	§153.076
Service or storage tanks	-	-	-	S	-		P	
Service stations, automobile	-	-	-	-	P	P	P	§153.078
Skating rinks	-	-	-	-	-	S	-	
Soap manufacturing	-	-	-	-	-	-	P	
Sporting goods store	-	-	-	-	P	P	P	
Stone crushing, cutting and polishing	-	-	-	-	-	-	P	
Storage of materials and equipment outdoors	-	-	-	-	-	-	P	
Storage units	-	-	-	S	S	P	S	
Tailor and dressmaking shop	-	-	-	-	P	P	P	
Telecommunication towers and antennas	-	-	-	-	-	S	S <sup>1</sup>	§153.079
Textile Fabrication shop (10 or fewer employees)	-	-	-	-	-	P	P	
Textile manufacturing	-	-	-	-	-	-	P	
Tobacco store	-	-	-	-	P	-	-	
Tourist House	-	-	S	-	P	P	P	
Toy store	-	-	-	-	P	P	P	

Use	R-20	RA-20	R-15	O-I	N-B	H-B	G-M	SR
Treatment intuitions (rehabilitation center) for mental illness, alcoholism, or narcotics	-	-	-	-	-	-	-	
Trucking terminal	-	-	-	-	-	P	P	
Variety store	-	-	-	-	P	P	P	
Vitreous china manufacturing	-	-	-	-	-	-	P	
Washing compound manufacturing	-	-	-	-	-	-	P	
Wholesale and warehousing establishments (except for uncured hides, explosives, oil products, gas storage, and the like)	-	-	-	-	-	P	P	
Wholesale establishments not otherwise named	-	-	-	-	-	S	P	
Wholesale storage of gasoline and oil products, including bottled gas and oxygen	-	-	-	-	-	S	P	
Wood Fabrication shop (10 or fewer employees)	-	-	-	-	-	P	P	
<b>S – Special Use Permit</b> <b>P – Permitted Use</b>								

<sup>1</sup> Must be reviewed by the Planning Board prior to a quasi-judicial public hearing by the Board of Adjustment



# §153.052 DIMENSIONAL REQUIREMENTS

Zoning District	Minimum Lot Size (sf)			Minimum Density (dwelling units per acre)			Minimum Lot width (ft)	Minimum setback (ft)				Maximum Building Height (ft)	Maximum Impervious Surface
	Without public water & sewer	Without public water	With public water & sewer	Without public water & sewer	Without public water	With public water and sewer		Front	Side yard	Street side yard	Rear		
<b>R-20</b>	32,670	21,780	10,890	1	3/4	1/4	100	30 <sup>4</sup>	10	15	25	35	50%
<b>RA-20</b>	32,670	21,780	10,890	1	3/4	1/2	100	30 <sup>4</sup>	10	15	25	35	50%
<b>R-15</b>	32,670	21,780	10,890	1	3/4	1/2	100	30 <sup>4</sup>	10	15	25	35	50%
<b>O-I</b>	10,000	10,000	10,000	-	-	-	80	40 <sup>4</sup>	15	15	20	35	40%
<b>N-B</b>	10,000	10,000	10,000	-	-	-	100	40 <sup>4</sup>	15	20	30	35 <sup>1</sup>	40%
<b>H-B</b>	-	-	-	-	-	-	100	50 <sup>4</sup>	15	20	30	50 <sup>2</sup>	40%
<b>G-M</b>	43,560	43,560	43,560	-	-	-	200	50 <sup>4</sup>	30 <sup>3</sup>	30 <sup>3</sup>	30 <sup>3</sup>	50 <sup>2</sup>	40%

<sup>1</sup>Structures may exceed a height of 35 feet by increasing the setback line one foot for each two feet of rise above 35 feet.

<sup>2</sup>Structures may exceed a height of 50 feet by increasing the setback line one foot for each two of rise above 50 feet.

<sup>3</sup>An additional 15 feet is required if the lot abuts a residential district.

<sup>4</sup>In the absence of a dedicated right-of-way, it shall be deemed there is a 45 foot right-of-way, in which the existing street is centered.

### §153.053 WATERSUPPLY WATERSHED REGULATIONS

- (A) *Critical Area.* Within the critical area of the watershed, residential land abutting an impounded water supply body shall have a minimum lot size of 65,340 square feet. Lot sizes within a subdivision that are not directly abutting the impoundment may average 54,450 square feet with a minimum lot size of 43,560 square feet. Where the lots are served by both public water and sewer, lots may average 43,560 square feet with a 32,670 square feet minimum lot size.
- (B) *Protected Area.* Within the protected area of the watershed, residential land shall have a minimum lot size average of 35,000 square feet with a minimum lot size of 25,000 square feet. Where the residences are served by public water and sewer, lots shall average a minimum of 20,000 square feet with a minimum lot size of 15,000 square feet.
- (C) Maximum Coverage for land lying within a designated watershed shall comply with the Town Watershed Protection Ordinance, set forth in Chapter 155.

### §153.054 RMHP MANUFACTURED HOME PARK DISTRICT/FLOATING ZONE

- (A) *Purpose.* The Manufactured Home Park District/Floating Zone is designed to provide for manufactured home parks in a floating zone within the R-15 Districts by an amendment to the town zoning map. A **MANUFACTURED HOME PARK** is defined as any lot, tract, or parcel of land used, maintained Or intended to be used, leased or rented for occupancy of manufactured homes, consisting of not less than two acres in area, excluding street right-of-way, but including seven manufactured home stands (spaces) completed at first occupancy. This definition shall not include sales lots on which unoccupied manufactured homes are parked for purposes of inspection and/or sale.
  - (B) *Provisions for manufactured home parks.* These provisions govern the establishment of a Manufactured Home Park RMHP District within the R-15 Districts.
    - (1) The provisions, procedures, and development standards for manufactured home parks shall be as required in §153.079. If the site is located in either of the Watershed Protection Districts and the development activity requires an Erosion and Sedimentation Control Plan, the minimum lot size requirements of the underlying R-15 zoning district shall apply.
    - (2) An application for rezoning a lot(s) or parcel(s) from R-15 to RMHP must be submitted for initial review to the zoning administrator 20 days prior to its introduction to the Town Planning Board.
    - (3) The rezoning application, including recommendations of the Planning Board, is brought before the Town Council for final review.
    - (4) A public hearing is required in accordance with G.S. §160D-601 prior to any amendment to establish a Manufactured Home District R-MHP to the Town Zoning Code.
- (Ord. §80I, passed 2-19-2008)

## §153.055 PLANNED UNIT DEVELOPMENT

### (A) *Purpose.*

- (1) The purpose of a planned unit development (PUD) is to allow diversification in the relationship of industrial, commercial, office and/or residential uses and structures to their sites and to permit a more flexible development of such sites through, unified site planning. The application of PUD concepts is intended to encourage good architectural and site design, to use public facilities efficiently, to avoid development of environmentally sensitive areas, and to insure substantial compliance with the intent of the town zoning ordinance and other provisions related to public health, safety, and general welfare.
- (2) Furthermore, it is the purpose of this Section to:
  - (a) Encourage development that enhances the quality of life while protecting the health, safety and general welfare of residents;
  - (b) Encourage variety in housing opportunities;
  - (c) Encourage the development of a viable economic base;
  - (d) Encourage the development of land uses that will complement existing adjacent land uses; and
  - (e) Provide guidelines for development of planned unit developments.

### (B) *Permitted Uses.* Planned unit developments may be approved for any use or combination of uses except combinations of residential and industrial uses.

### (C) *Minimum Site Area.* The minimum site area required for PUDs shall be determined based upon its use. The following table outlines the area requirements for each type of PUD.

PUD TYPE	MINIMUM AREA
Industrial	10 acres
Industrial Office/Commercial Mixed Use	10 acres
Office and/or Commercial	5 acres
Office/Commercial/Residential Mixed Use	5 Acres
Residential (Single-Family)	2 acres
Residential (Multi-Family)	2 acres
Residential (Single-and Multi-Family Mixed Use)	2 acres

### (D) *Relationship to Adjacent Areas.* The design and layout of a PUD shall take into account the relationship of the site to the surrounding areas. Additionally, the perimeter of the PUD shall be so designed as to minimize any negative impact on adjacent properties.

### (E) *Phased Development.* Development of a PUD may be phased, in which case all the property anticipated for PUD development shall be submitted as part of the PUD development plan showing a conceptual depiction of the eventual development and approximate phase lines shown. During the phased development of a PUD proportional overall open space required shall be incorporated

into each phase and be dedicated and installed or improved by the end of the construction of each proposed phase.

- (F) *Concurrent Platting.* Plats for PUDs requiring platting may be processed concurrently with the PUD approval procedures.
- (G) *Design Standards and Requirements.*
  - (1) *Subdivision Requirements.* If land or structures within a proposed PUD are to be sold to more than one person, partnership, firm or corporation, or are to include the dedication of land, then the proposed PUD shall be subject to the Town of Sawmills Subdivision Regulations. Minor deviations from the subdivision standards may be approved by the Town Council provided they are stated as part of the PUD development standards.
  - (2) *Zoning Requirements.* A PUD shall be exempt from the minimum lot size, building height, setback, and density requirements of the underlying zoning district, but shall be subject to all other applicable requirements.
  - (3) *Density.* The basic density in a PUD shall be established on the approved development plan and/or development standard sheets.
  - (4) *Open Space Requirements.* The PUD shall provide not less than 25% of the gross land area for common open space. In residential or residential mixed use PUDs required open space may not be part of any proposed or platted single-family residential lots.
  - (5) *Setbacks between buildings.* A distance between all structures shall at a minimum comply with any applicable local, state, and/or federal standards; including by way of example and not limitation, the North Carolina Building Code
- (H) *Procedure for Approval of Planned Unit Developments.* Planned Unit Developments shall be approved by the Town Council upon recommendation of the Town Planning Board and shall be in accordance with the following procedures:
  - (1) *Who May Apply.* Any owner, group of owners, or representative of such owners of contiguous property acting jointly may submit an application for a PUD.
  - (2) *Pre-Application.* Prior to acceptance of an application for PUD approval a pre-application conference between representatives of the Town and the potential applicant is advised and may be set up by contacting the Town Planning Department.
  - (3) *Application.* The applicant(s) shall file an application for PUD approval with the Town Planning Department. All applications shall be processed in accordance with the provisions for amendments and rezonings. The application shall be accompanied by the following:
    - (a) The required filling/processing fee;
    - (b) A vicinity map;
    - (c) Sufficient copies of maps and plans, as determined by the Town Planning Department.

- (4) *PUD Development Plan.* The PUD development plan shall indicate or include the following:
- (a) Written documentation involving the following:
    - 1. Statement of Intent, including plans for selling or renting the property;
    - 2. Approximate timetable of development, including approximate phasing lines if project will be developed in phases; and
    - 3. Provision to assure maintenance of all common areas and open space; which includes by way of example and not limitation, property owners' association, private conservancy, and the like.
  - (b) Relationship of the property to surrounding areas including identification of adjacent property owners' existing land uses and zoning of both the proposed PUD site and adjacent properties;
  - (c) Names and right-of-way widths or pavement dimensions, in the event adjacent streets lack dedicated right-of-ways of streets bounding, traversing or touching upon the proposed site;
  - (d) Location and layout of the proposed landscape design of all common yards, open space and recreational areas;
  - (e) Location of street lighting, if any;
  - (f) Signage plan, if it will vary from base zoning ordinance;
  - (g) Approximate location, maximum size and maximum height of nonresidential structures indicating either the dimensions or the limits within which structures will be constructed;
  - (h) Total number of residential structures to be constructed with approximate number of each type. By way of example and not limitation: total 300; approximately 200 single-family and 100 multi-family; and
  - (i) Statement of understanding that the applicant will comply with items listed in division (H)(5) prior to construction commencing.
- (5) *Additional items to be submitted.* If approved, prior to construction the following items must be submitted to planning staff:
- (a) Professionally prepared plans of each phase with the items listed below as a minimum must be submitted and approved by the Planning Board. Should the Planning Board recommend denial of the proposal, the plan can move on for review by the Town Council;
  - (b) Existing site topographical conditions, showing contours at five-foot intervals, if available, and location of significant geographical features including watercourses;
  - (c) The location of drainage facilities/basins and other similar features;
  - (d) A boundary survey;

- (e) Construction specifications for streets and pedestrian ways including typical roadway sections showing locations of all utilities; these specifications must be sealed by a professional engineer licensed in the state;
  - (f) Sealed engineering plans for water, sewer, storm drainage and erosion/sedimentation;
  - (g) Preliminary subdivision plat if the property is to be subdivided;
  - (h) General concept landscape plans for open space, common areas, streets, pedestrian ways and recreational facilities;
  - (i) Location, arrangement and number of parking facilities and loading areas; and
  - (j) Architectural concept plans of typical structures.
- (6) *Planning Board Consideration.* Following consideration, the Town Planning Board shall, within 60 days upon original receipt, recommend to the Town Council approval or denial of the application and accompanying PUD plans or may recommend to the Town Council special approval with such conditions as are necessary to insure conformity to all applicable requirements. If conditions are placed on the approval of the PUD, a revised plan including the required changes must be submitted to the Town Council. A PUD may be recommended for approval only when it has been determined that:
- (a) The PUD will be compatible/complimentary with nearby developments and land uses;
  - (b) Peripheral treatment insures proper transition between PUD uses and nearby external developments and land uses;
  - (c) The development will be consistent with the purpose of the PUD section; and
  - (d) The health, safety, and welfare of the public have been preserved.
- (7) *Sawmills Town Council Consideration.*
- (a) After receiving Planning Board's recommendation, the applicant, through the Town Planning Department, shall submit to the Town Council an adequate number of copies of a detailed final development plan in conformity with the requirements of this Chapter and with any additional requirements specified by the Planning Board. Upon receiving the recommendation from the Planning Board, the Town Council, following a Public Hearing, shall consider the PUD request and shall approve, conditionally approve or disapprove the PUD within a period of 60 days, unless an extension is requested by the applicant.
  - (b) If the PUD is approved conditionally by the Town Council, the applicant must provide to the Town Planning Department, within 30 days of approval, a revised plan including any required changes. Approval of the PUD shall constitute a zoning map change to the PUD designation. The Ordinance establishing the PUD change shall enumerate the uses and requirements within the district.
- (8) *Expiration and Time Limitations.* Construction of improvements in a PUD shall begin within two years from the date of approval by the Town Council. An extension of one year for

construction to begin may be granted by the Council upon written request by the applicant. If construction has not commenced within this time constraint the PUD designation shall be dropped from the official zoning map and zoning shall revert to the original zoning designation. Once construction has commenced the work shall not cease for more than 12 months unless approved by the Council.

(9) *Changes and Modification*

(a) Major changes to the approved PUD development plan shall be considered as a new application for approval. Major changes include:

1. Change in use;
2. Major realignment of vehicular circulation patterns;
3. Increase in density or relocation of density pattern;
4. Reduction of open space;
5. Change in exterior boundaries except survey adjustments;
6. Increase in number of structures;
7. Increase in structure height.

(b) The Planning Director may approve changes in the development which are minor in nature and are consistent with the intent of the approved PUD development plan.

- (10) *Building Permits.* No building permits shall be issued for the PUD or phase, if a phasing schedule was approved, until the required physical infrastructure (streets, sidewalks, sewer lines, etc.) has been properly installed and inspected. The applicant/developer shall provide to the Town Planning Department a construction and inspection report certified by a professional engineer licensed in the state which verifies that the physical infrastructure has been installed as approved and inspected. The one year warranty must be approved by the Town Engineer. (Ord. § 80J, passed 2-19-2008)

**SUPPLEMENTAL REGULATIONS****§153.070 ACCESSORY DWELLINGS**

- (A) The accessory dwelling shall not exceed 50% of the square footage of the livable area of the principal structure;
- (B) The accessory dwelling shall meet all setback requirements of a principal use;
- (C) The exterior of the accessory dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, and roofing materials; and
- (D) Accessory dwellings shall only be allowed on parcels that contain owner-occupied single-family dwelling units.

**§153.071 ACCESSORY STRUCTURES, COMMERCIAL**

May not be erected in any required front yard or within 20 feet of any street line or within ten feet of a lot line not a street line, and provided that, in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. An accessory building shall never be closer than ten feet to the principal structure; and

**§153.072 ACCESSORY STRUCTURES, RESIDENTIAL**

- (A) May not be rented or occupied for commercial purposes;
- (B) Shall not be used for human habitation, unless an approved accessory dwelling;
- (C) May not be erected in any required front yard or within 20 feet of any street line or within ten feet of a lot line not a street line, and provided that, in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. An accessory building shall never be closer than ten feet to the principal structure; and
- (D) For lots exceeding two acres, an accessory structure may be located in the front yard but not closer than 75 feet from the street right-of-way or front lot line. In the absence of dedicated right-of-way, it shall be deemed that there is a 45-foot right-of-way in which the existing street is centered.

**§153.073 ADULT ESTABLISHMENTS**

May not be within 500 feet of any lot this residentially zoned, or a church, daycare, school or private school, or another adult use. This then shall be measured from property line to property line. All windows, doors, entries and the like for all adult uses shall be located, covered, screened or otherwise treated (the treatment shall not include painting), so that the views of the interior of the establishment are not possible from any public or semi-public area, street or way.

**§153.074 HORSES**

- (A) R-20 – Must have a minimum of three acres per horse
- (B) RA-20 – Must have a minimum of one acre per horse

**§153.075 MANUFACTURED HOMES ON INDIVIDUAL LOTS**

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. Manufactured homes are permitted on individual lots in the RA-20 and R-15 districts subject to the following conditions:

- (A) The lot must be recorded as an individual lot.
- (B) If municipal utilities are not available, the well and/or septic tank must be approved by the County Health Department.
- (C) All yard dimensional requirements for the respective district must be met.
- (D) The lot must front a public street and said street frontage will be considered the front of the lot.
- (E) Before a zoning permit is issued a Caldwell County or other governmental Building Inspector shall sign a “Manufactured Home Checklist” to assure that items 1, 2, 3, 4, and 5 below are met.
  - (1) The exterior siding of each manufactured home shall consist predominately of vinyl or aluminum siding, wood or hardwood, comparable in composition, appearance and durability to the exterior siding used in standard residential site-built construction. The siding shall be in good repair and in no instance shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white paint.
  - (2) Walls or partitions or supporting members, sills, joist, rafters or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
  - (3) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
  - (4) The roof, flashings, exterior walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
  - (5) All windows and exterior doors shall be in sound working condition and good repair.
- (F) The exterior siding shall consist predominately of vinyl or aluminum siding, wood or hardwood, comparable in composition, appearance and durability to the exterior siding used in standard residential site-built construction. The siding shall be in good repair and in no instance shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white paint.
- (G) A continuous foundation enclosure, unpierced except for required ventilation and access shall be installed in accordance with *North Carolina State Building Codes*. The enclosure shall consist of brick or concrete block. Wood, vinyl, or fabrication metal will be permitted for temporary use not to exceed six months upon approval of the Zoning Enforcement Officer. Any wood framing for foundation skirting shall be constructed with treated lumber.

- (H) Permanent steps shall be constructed at all exterior doors as necessary, and a permanent porch or patio measuring at least 35 square feet shall be constructed at the front or main entrance to the manufactured home. Steps constructed from loose, stacked materials shall not be construed as properly installed.
- (I) The running lights shall be removed and the hitch shall be removed.
- (J) At least two off-street parking spaces shall be provided.
- (K) Pitch of the main roof of the building shall have a pitch of two and half feet of every 12 feet of the horizontal run.
- (L) The manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. Proof of the age of the home such as a bill of sale, title or certified appraisal must be provided at the time the zoning permit is requested.
  - (1) A manufactured home constructed before July 13, 1994, that was once permanently and legally located and used as a residence in Sawmills' Zoning Jurisdiction, only so long as the location and placement of the relocated home meets with all other Town of Sawmills codes, rules, and regulations. At the time of the zoning permit is requested the applicant must provide the address where the home was used as a residence and the address of the current location if different.

(Ord. §90H, passed 2-19-2008; Ord. passed 10-1-2002; Ord., passed 6-21-2011)

#### **§153.076 NURSERY SCHOOLS AND KINDERGARTEN**

- (A) At least 200 square feet of outdoor play area is provided for each child.
- (B) The play area must be enclosed by a sturdy fence of at least four feet in height.

#### **§153.077 PUBLIC SERVICE FACILITIES.**

Public service facilities are permitted in all zoning districts (except the R-20 district) subject to the following requirements:

- (A) Front, rear and side setbacks shall be a minimum of 50 feet.
- (B) The facility shall blend with its surrounding. Whenever possible, such facilities shall be designed and constructed to have similar height, bulk and appearance as adjacent structures.
- (C) When operating requirements necessitate heights above the district maximum, an additional one foot setback shall be required for each foot of height above the district maximum.
- (D) Buffers and screening shall be provided as follows:
  - (1) All dead or dying trees, stumps, litter, brush, weeds or other debris shall be removed from the site at the time of occupancy.

- (2) Landscaping of all cuts and fills shall be sufficient to prevent erosion. All roadway slopes shall also be landscaped.
- (3) Existing topography such as hills, ridges and berms shall be used, to the maximum extent possible, to screen parking and maintenance areas.
- (4) When a public service facility directly abuts a residential zoning district, a natural buffer must be provided that includes a row of evergreen trees placed not more than five feet apart which would grow to form a continuous hedge of at least eight feet tall at planting. Low-growing evergreen shrubs shall fill in all gaps between the trees. Attractive opaque fencing (six feet tall) or existing topography may be used in place of vegetative screening for all or part of the buffer area if the same or better screening will result.
- (5) All-loading, shipping, storage, maintenance, trash/refuse and mechanical areas shall be heavily landscaped with mature trees (at least six feet tall) or other suitable screening (also six feet tall) while providing sufficient space for ingress and egress of vehicles.
- (6) Reasonable landscaping shall be provided at site entrances, in public spaces, parking lots, along interior streets and adjacent to buildings.

(Ord. §100G, passed 2-19-2008)

#### **§153.078 SERVICE STATIONS**

- (A) All gasoline pumps and other stationary equipment shall be located at least 12 feet from any property line.
- (B) All sides where the station abuts a residential district, a six-foot high visual barrier and suitable landscaping shall be provided.

#### **§153.079 TELECOMMUNICATIONS TOWERS AND ANTENNAS.**

All towers, antennas and dishes designed for the purpose of transmitting radio, television and telecommunications signals are permitted in the Highway Business District and the General Manufacturing District with the issuance of a Special Use Permit and subject to the following regulations.

- (A) Application for the permit must include construction drawings showing proposed method of installation, structural engineering analysis, failure characteristics and a site plan depicting structures and plantings on the property and all adjacent properties. At the request of administrative authority, documentation of a maintenance program may be required.
- (B) The setbacks from the base of the structure to any property line, right-of-way or occupied building shall be as specified below.
  - (1) For structures up to 50 feet, the setbacks shall be equal to the proposed structure plus five feet.
  - (2) For structures greater than 50 feet, the setbacks shall be one foot for every four feet in height of the proposed structure.
  - (3) The site must be large enough to contain on-site substantially all ice-fall or debris from tower failure. If engineering specifications indicate that the minimum required setbacks are too small

to contain any debris from the proposed tower, the administrative authority may require increased setbacks up to the height of the proposed structure plus five feet.

- (4) The distance of any guy anchorage or similar device shall be at least 30 feet from any property line. An additional 15 feet must be provided if the site abuts a residential district.
- (C) Suitable anti-climb fencing and a landscape planting screen shall be required and maintained around the structure and accessory attachments, including all guy anchor points. Additionally, along any property lines where the site abuts residentially zoned property, a continuous screen of evergreen plant, with an initial height of six feet within a two-year period, must be planted and maintained. Existing on-site vegetation shall be preserved to the maximum extent possible.
- (D) The applicant shall present documentation of the possession of any required license by any federal, state or local agency.
- (E) If any modifications are made to the structure, the Zoning Enforcement Officer shall have the authority to require proof that said addition, change or modification is in authority with the Zoning Permit and applicable Building Codes.
- (F) The owner of such a structure shall assume complete liability in case of personal property damage. (Ord. §100F, passed 2-19-2008)

#### **§153.080      TEMPORARY MANUFACTURED HOME**

- (A) One Class B or Class C manufactured home on the same lot as another site built or manufactured home may be permitted as a special use in the RA-20 and R-15 zoning districts after the Board of Adjustment hold a quasi-judicial public hearing on the matter. The Zoning Administrator shall bring the special use application to the Board of Adjustment within seven days after the notification of the public hearing has been advertised in accordance with §§153.150(2).
- (B) In reviewing the special use, the following requirement must be met:
  - (1) *Dimensional requirements.* The additional unit shall be located to the rear of the principal residence. The unit shall be located no closer than 15 feet from any side property line, 35 feet from any rear property line, and 40 feet from the principal structure. The lot shall have 20,000 square feet of area for the second unit in addition to 20,000 square feet from the principal dwelling unit. If the homes are located in the Watershed Protection District, the lot size and lot coverage requirements for the appropriate zoning district shall apply.
  - (2) *Setup and appearance.* The second manufactured home shall meet each of the setup and appearance requirements of §153.077 pertaining to manufactured homes on individual lots.
  - (3) *Granted to owner.* A permit shall only be granted to the owner of the principal structure.
  - (4) *Circumstances.* The permit shall only be issued in the following cases:
    - (a) The Class B or Class C manufactured home will be occupied by relatives to the second of degree of kinship (sons, daughters, mothers, fathers, brothers, sisters, grandparents) of the principal dwelling on the lot. In addition, evidence must be submitted that indicates that the inhabitants of either the existing or proposed home will be either temporarily or permanently

disables or afflicted with a temporary or long-term medical condition that requires close supervision from the people living in the other home;

- (b) For temporary purposes incidental to construction or development of property within the Town for a period not to exceed 180 days. Extensions may be granted for a period as may be determined by the Board of Adjustment, but no longer than construction shall continue. Furthermore, no Class B or Class C manufactured home shall be placed on land until construction commences not when there is any existing structure or facility on the property which may be suitable or designed for the purpose for which the manufactured home is sought to be used; and/or
  - (c) To be used as temporary living quarters in the event of natural disaster such as fire, flooding and the like, which would render the formal residence uninhabitable.
- (C) For the purposes of this section, **TEMPORARY** shall be determined to longer than two months but less than one year.
- (D) The Class B and Class C manufactured home shall have access to potable water and a sewage disposal system approved by the Caldwell County Health Department. The Class B or Class C manufactured home shall also have access to electric service. In addition, the Class B or Class C manufactured home shall also have access to natural gas service if the Class B or Class C manufactured home contains appliances or other items that use natural gas.
- (E) A sketch plan of the property must be submitted to the Board of Adjustment with the special use permit application. At a minimum, the sketch plan must include the following information:
- (1) The size of the property and location of property lines;
  - (2) The location of existing and proposed structures;
  - (3) Existing driveways, roads, right-of-ways and approximate widths;
  - (4) The zoning classification and uses of surrounding property.
- (F) Any adverse effect this hardship case may pose to its neighbors or the public health, safety, and general welfare shall be a valid reason for denial of this permit. Additionally, the absence or inadequacy of vehicular access and/or developability of the property shall also be a valid reason to deny the permit.
- (G) The permit will be valid for one year for the date it is issued. The Board of Adjustment may renew the permit for additional one-year time periods when substantial evidence is presented that indicates that the hardship still exists. If none is presented, the home must be removed from the site within 90 days.
- (Agenda Item, 8-15-2000)

#### **§153.081 FOWL**

- (A) Regulation and enforcement of fowl is provided for in the nuisance ordinance Sections, 90.04, 90.05, and 90.99 in the Sawmills Code of Ordinances. The regulations are:

(1) Any person who owns or maintains pens, coops or shelters in which chickens, turkeys, ducks or other fowl are kept shall maintain the pens, coops or shelters in a sanitary condition.

(2) Within town limits no person shall permit chickens, guineas, turkeys, geese, ducks, pigeons or other domesticated fowl to run at large

(B) Within town limits commercial poultry farms (defined as an agricultural primary uses devoted to generating profit from the sale of poultry or poultry products) require Conditional Use Permits.

#### **§ 153.082 LIVESTOCK.**

(A) No swine shall be permitted within town limits, except pot-bellied pigs kept as pets.

(B) Swine and livestock (defined as mule, donkey, cow, sheep, goat, or similar animal) are permitted unrestricted in the ETJ and on all parcels over 10 acres.

(C) Livestock are permitted within town limits, with a zoning permit, if the following regulations are adhered to:

(1) All areas, including but not limited to stable, barn, and pasture, shall be maintained in a clean and sanitary manner to prevent odors, rodents, and flies.

(2) Livestock shall not be permitted to roam unless pastured or staked.

(3) At least one-half (1/2) acre is required for every two (2) livestock animals.

(4) Containment areas for livestock must be at least 100 feet from structures on adjacent properties under different ownership.

#### **§ 153.083– 153.089    RESERVED**

## GENERAL PROVISIONS

### **§153.090 APPLICATION.**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located. (Ord. § 90A, passed 2-19-2008)

### **§153.091 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, except for street widening. Yards or lots created after the effective date of the ordinance upon which this zoning code is based shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of the ordinance upon which this zoning code is based shall meet at least the minimum requirements established by this chapter.

(Ord. § 90B, passed 2-19-2008)

### **§153.092 CORNER VISIBILITY**

On a corner lot, within the area formed by the centerlines of the intersecting streets and a line joining points of the centerlines at a distance of 80 feet from their intersection, there shall be no obstruction to vision between the height of two feet and the height of ten feet above the average centerline grade of each street.

### **§153.093 RELATIONSHIP OF BUILDING TO LOT.**

Every building hereafter erected, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one principal building and its customary accessory buildings on any lot of record, except in the case of a specially designed complex of institutional, residential, or commercial buildings or in a Planning Unit Development in an appropriate zoning district.

### **§153.094 LOT OF RECORD.**

- (A) Where the owner of a lot of official record in any residential district at the time of the adoption of the ordinance upon which this Zoning Code is based his or her successor in title does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this chapter, such a lot may be used as a residential building site; provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.
- (B) (1) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of records are in single ownership at any time after the adoption of the ordinance upon which this Zoning Code is based, and the lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this chapter for the district in which such lots are located.

(2) Every lot to be built upon shall abut by at least 35 feet a public street or an approved private street, and no dwelling shall be placed or built upon a lot which does not abut upon a public street or an approved private street by the same distance.

(Ord. §100A, passed 2-19-2008)

#### **§153.095 FRONT YARD FOR DWELLINGS.**

The front yard requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or in part within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In this case, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten feet from the street right-of-way, whichever is greater.

(Ord. §100A, passed 2-19-2008)

#### **§153.096 HEIGHT LIMITATION.**

(A) Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, skylights, towers, steeples, flagpoles, chimneys, wireless masts, water tanks, silos or similar structures may be erected above the height limits herein specified, but no penthouses or roof structures or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential use.

(B) Building and zoning permits are required for towers. Satellite dishes and antennas must meet the height regulations.

(Ord., §100C, passed 2-19-2008)

#### **§153.097 VISIBILITY OF INTERSECTIONS.**

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than three feet in height measured from the center line of the street or road right-of-way lines and a straight line connecting points on the street or road right-of-way line, each of which is 35 feet distance from the point of intersection.

(Ord. §100D, passed 2-19-2008)

#### **§153.098 BUFFER REQUIREMENTS**

When any H-B or G-M district rear and/or side property line abuts upon a residential district, there shall be a 15-foot wide buffer strip and within a portion of the buffer strip there shall be planted a continuous screen of evergreen plants with an initial height of at least six feet by natural growth within no later than a two-year period. Existing natural buffers may substitute for screening requirements. No such buffer shall extend nearer to a street right-of-way line than the established building line of the adjoining residential lots. No buffer shall be required upon any yard that abuts a public street.

#### **§153.099 – 153.109 RESERVED**

**SIGN REGULATIONS****§153.110 GENERAL.**

- (A) All announcement signs and structures, which include business signs as defined by this chapter, shall be approved by the Zoning Enforcement Officer and shall comply with the following regulations.
- (B) *Location.* No advertising sign or structure shall be erected, constructed or maintained so as to interfere with vision clearance along any street, road or highway or at any intersection or junction of two or more traffic arteries. Nor shall any advertising sign or structure be located within the street, road or highway right-of-way.
- (C) *Illumination.* No flashing or intermittent lights may be permitted. Only one illuminated sign per professional office per building is permitted. All illuminated signs or structures shall be placed so as to prevent the light rays or illuminations from being cast upon residential dwellings. However, any sign performing a public service function indicating time, temperature, stock market quotations or similar services shall be permitted.
- (D) *Billboards.* No billboards or other off-site signs are permitted within the jurisdiction of this chapter.
- (E) *Portable signs.* No portable or other temporary signs are permitted within the jurisdiction of this chapter.
- (F) *Maintenance.* All advertising structures, together with any supports, braces, guys and anchors shall be kept in good repair and in a safe state of preservation. All signs, including political signs, erected to serve temporary purposes shall be removed within 60 days.
- (G) *Administration.* The Zoning Enforcement Officer shall refuse a permit for the erection or construction of any advertising sign or structure which does not meet the requirements of this section. The Zoning Enforcement Officer shall order the removal of any signs that are not constructed or maintained in accordance with the provisions of this section.
- (H) *Traffic safety precautions.* The following practices in relation to signs are prohibited, notwithstanding any other provisions in this chapter, in order to preserve the safety of pedestrians and vehicular movement:
  - (1) No signs shall use such words as “stop”, “slow”, “caution”, “danger” or similar admonitions which may be confused with traffic directional signs erected by governmental agencies; and
  - (2) No sign shall be erected so as, by its location, color, nature or message, to permit it to be confused with or obstruct the view of traffic signals or signs, or so it would tend to be confused with warning lights of an emergency or public safety vehicle.
- (I) *Prohibited locations for signs.* No sign shall be attached to any utility pole, tree, rock or other natural object.
- (J) *Signs not subject to control.* The following signs are not subject to the control of this chapter:

- (1) Non-illuminated identification signs on private property not exceeding two square feet in area, not of a commercial nature and bearing only property identification numbers and names, post office box numbers and name(s) of occupants of the premises;
  - (2) Historic markers erected by a governmental body;
  - (3) Legal notices, identification and informational signs and traffic directional signs erected by or on behalf of a governmental body;
  - (4) Not more than one sign total, with not more than one per public street frontage, located on private property, directing and guiding traffic on private property, with the permission of the owner, by which bear no advertising matter and do not exceed eight square feet in area on each side and do not exceed six feet in height;
  - (5) Bulletin signs incidental to churches, located on-site, provided they do not exceed 12 square feet in area and have a maximum height of six feet; or
  - (6) Non-illuminated, temporary yard sale signs located entirely on private property and less than 6 square feet containing the date of the sale and/or property address, provided such signs are removed within two days following the sale.
- (K) *Violation.* In addition to the remedies provided in GS §§160D-404c as amended and otherwise as law provided, whenever, by the provisions of this section, the performance of any act is prohibited, or whenever any regulation limitation is posed on the erection or removal of a sign, a failure to comply with the provision shall constitute a violation of this chapter. Violation of any provision of this chapter shall subject the offender to a civil and/or criminal penalty as set forth in §153.999.
- (Ord. §90F, passed 2-19-2008) Penalty, see §153.999

#### **§153.111 SIGNS IN THE RESIDENTIAL ZONING DISTRICTS**

Small professional or announcement sign, non-illuminated, not over two square feet in area mounted flat to the main wall of the building, and any non-illuminated real estate signs not over six square feet in area.

#### **§153.112 SIGNS IN THE O-I ZONING DISTRICT**

- (A) *Wall Signs.* Wall signs shall not exceed more than six inches from the building's wall, shall not exceed 15 square feet in area for any one premise, and shall not exceed ten feet in height above the natural ground line.
- (B) *Ground signs.* Ground signs, not exceeding one per lot, shall not exceed more than ten feet in height above the natural ground line, shall meet all yard requirements for the district and shall not exceed 15 square feet in surface area
- (C) *Roof signs.* Roof signs are not permitted.
- (D) *Window signs.* Window signs shall be placed only on the inside of professional buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.

**§153.113 SIGNS IN THE N-B ZONING DISTRICT**

- (A) *Wall Signs.* Wall signs shall not exceed more than six inches from the building's wall, shall not exceed 100 square feet in area for any one premise, and shall not exceed 20 feet in height above the natural ground line.
- (B) *Ground signs.* Ground signs, not exceeding one per lot shall not exceed 15 feet in height above the natural ground line, shall meet all yard requirements for the district and shall not exceed 60 square feet in surface area
- (C) *Roof signs.* Roof signs are not permitted.
- (D) *Window signs.* Window signs shall be placed only on the inside of professional buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed. Only one illuminated sign per business per building is permitted.

**§153.114 SIGNS IN THE H-B AND THE G-M ZONING DISTRICTS**

- (A) *Wall Signs.* Wall signs shall not exceed more than six inches from the building's wall, shall not exceed 200 square feet in area for any one premise, and shall not exceed 20 feet in height above the natural ground line.
- (B) *Ground signs.* Ground signs, not exceeding one per lot, shall not exceed 20 feet in height above the natural ground line, shall meet all yard requirements for the district and shall not exceed 60 square feet in surface area.
- (C) *Roof signs.* Roof signs shall not exceed ten feet in height above the roof, shall meet all the yard and height requirements for the zoning district and shall not exceed 200 square feet on a side for one premise.
- (D) *Window signs.* Window signs shall be placed only on the inside of professional buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed. Only one illuminated sign per business per building is permitted.
- (E) *Illumination.* Only one illuminated sign per professional office per building is permitted.

**§153.115 COMPREHENSIVE SIGN PACKAGES**

- (A) As an option to the permanent signage standards set forth in this section, institutional, commercial, or industrial developments shall be allowed to submit an application for a Comprehensive Sign Package. All Comprehensive Sign Packages shall be reviewed as a Special Use Permit in accordance with the procedures set forth in this chapter. Any signage not specifically identified in the Comprehensive Sign Package shall conform to the minimum signage criteria contained in this Chapter.
- (B) The Comprehensive Sign Package shall include a master signage plan including the following:

- (1) Site plan identifying locations of freestanding, multi-tenant, and directional signs;
- (2) List of each type of sign to be permitted in the development with accompanying allowances. At a minimum, the following information shall be provided:
  - (a) Freestanding sign regulations to include dimensions of support structures, dimensions of sign face, permitted sign copy area (maximum individual and aggregate sign area per establishment), and maximum height of sign;
  - (b) Wall sign allowances to include permitted sign copy area (maximum individual and aggregate sign area per establishment), heights (in relation to storefront height) and area (in relation to storefront area);
  - (c) Directional sign allowances to include height and sign area;
  - (d) Illumination guidelines describing the type(s) allowed, placement, intensity, and hours of illumination;
  - (e) Changeable copy guidelines ;
  - (f) Temporary signage guidelines; and
  - (g) Theme and/or color guidelines – Provide graphic depictions of sign designs, color palettes, font style and letter size, illumination, materials, and sample sign copy areas.

**§153.116 – 153.129      RESERVED**

**NONCONFORMITIES****§153.130 NONCONFORMING USES**

- (A) After the effective date of the ordinance upon which this chapter is based, existing structures, or the uses of land or structures which could be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of the ordinance upon which this Zoning Code is based), shall be considered as nonconforming.
- (B) Nonconforming structures or uses may be continued provided they conform to the following provisions:
  - (1) A nonconforming use of any building or land shall not be enlarged or extended, provided that a nonconforming use of any building may be extended to any portion of such building which was, at the time such use became nonconforming, manifestly arranged or designed for such use.
  - (2) A nonconforming use shall not be changed to any but a conforming use. When a nonconforming use has been changed to a conforming use, the premises shall not thereafter be used for any nonconforming use.
  - (3) No structural alterations shall be made in a building housing a nonconforming use, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building.
  - (4) A nonconforming use of any building or structure which is damaged to an extent exceeding 50% of its reproduction value, exclusive of foundations, by fire, flood, explosion, earthquake, war, riot, or act of God, shall be discontinued, and such building or structure shall thereafter be used only in compliance with the provisions of the district in which it is located.
  - (5) If a nonconforming use is discontinued for a continuous period of more than 120 days, any future use of the land or building shall be in conformity with the provisions of this chapter.  
(Ord. §90D, passed 2-19-2008)

**§153.131 NONCONFORMING BUILDINGS AND STRUCTURES.**

Nonconforming buildings or structures shall be allowed to remain subject to the following provisions:

- (A) A nonconforming building or structure shall not be enlarged or extended unless such extension shall comply with all the requirements of this chapter for the district in which it is located.
- (B) A nonconforming building or structure which is damaged to an extent exceeding 75% of its then reproduction value, exclusive of foundation, by fire, flood, explosion, earthquake, war, riot, or act of God, shall not be reconstructed except in conformity with the provisions of this chapter.
- (C) Nonconforming buildings used for residential purposes shall comply with the dimensional requirements of the R-15 Residential District.  
(Ord. §90E, passed 2-19-2008)

**§153.132       NONCONFORMING SIGNS.**

Nonconforming signs will be allowed to remain in good repair, for a period of two years after the adoption of the ordinance upon which this zoning code is based, after which time all signs must conform to the regulations of this section.

**§153.133 – 153.149       RESERVED**

**MANUFACTURED HOME PARKS****§153.150 REGULATIONS GOVERNING MANUFACTURED HOME PARKS.**

Manufactured home parks constructed after July 1, 1999 are subject to the following regulations and all other ordinances which may be applicable:

- (A) *General provisions.* Manufactured homes because of their use, transportability, manufacture and manner of construction, location and susceptibility for use in high-density concentration tend to place inhabitants of manufactured homes in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this division to provide protection to the public against unwise and hazardous manufactured home development and provide a reasonably safe and sound environment for manufactured home inhabitants and to:
  - (1) Promote public health, safety and orderly residential development;
  - (2) Prevent overcrowding of the land;
  - (3) Provide adequate open space to ensure privacy, natural light and ventilation for each manufactured home;
  - (4) Provide sufficient open space for outdoor uses essential to the manufactured home;
  - (5) Ensure the furnishing of adequate water supply and sewage disposal systems; and
  - (6) To provide an acceptable environment for small communities of manufactured homes.
- (B) *Regulation.* Manufactured home parks are, therefore, strictly regulated with respect to their location, installation, provisions for services, privacy and additional specific regulations herein.
- (C) *Permits and procedure; preliminary plat.* Persons wishing to construct, maintain, occupy or operate a manufactured home park, are subject to the following requirements for a preliminary plat. The manufactured home park developer shall submit a preliminary plat containing the following information:
  - (1) Name of the proposed manufactured home park;
  - (2) Name and address of owner and operator;
  - (3) Drawn to a scale of one inch equals 40 feet;
  - (4) Contain date submitted, a north arrow and scale of plat;
  - (5) Show the boundaries of the manufactured home park property to include intersections and adjacent property of the manufactured home park properties and the names and addresses of all adjoining property owners;
  - (6) Plans for continued water supply and/or sewage disposal must be accompanied by letters of approval by appropriate town, county, and state authorities;

- (7) Existing streets on adjoining properties and in the park, right-of-way, and proposed pavement widths. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval as required by the North Carolina Department of Transportation;
  - (8) Outline of all existing spaces/buildings within the manufactured home park property with lot numbers indicated;
  - (9) Location of parking bays, patios, walkways, service and accessory buildings, utility easements, utility poles, and buffer and screening areas;
  - (10) Method of sewer disposal in accordance with existing town, county, and state regulations;
  - (11) Method of water supply in accordance with existing town, county, and state regulations; and
  - (12) Plan of electric lighting, showing location and details of the light fixtures to be used.
- (D) *Review by Planning Board.* The Planning Board shall review the preliminary plat for general compliance with the requirements of this chapter and shall advise the manufactured home park developer of the regulations pertaining to the proposed manufactured home park and the procedures to be followed in the preparation and submission of the final plat.
- (E) *Planning Board recommendations.* The Planning Board, after determining that all requirements of this chapter have been met on the preliminary plat, shall recommend approval of the submitted preliminary plat to the Town Council.
- (F) *Review by Town Council.* Upon receiving the recommendation of the Planning Board, the Town Council shall then approve, approve with conditions, or deny the manufactured home park preliminary plat.
- (G) *Final Plat.* If the preliminary plat is approved or conditionally approved, the final plat shall be prepared by a registered land surveyor and shall contain the following information:
- (1) Name and address of the manufactured home park, name and address of the owner, name and address of the registered engineer or land surveyor responsible for preparation of the plat;
  - (2) A manufactured home park design drawn to scale of one inch equals 40 feet;
  - (3) Date, north arrow, and scale;
  - (4) Boundaries of the manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property and the names and addresses of all adjoining property owners;
  - (5) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal must be accompanied by letters of preliminary approval by appropriate town, county and state authorities. Plan must show line size, the location of fire hydrants, blow-offs, manholes, pumps, force mains and gate valves

and shall include profiles based upon mean sea level datum for sanitary sewers and storm sewers;

- (6) Proposed streets, existing streets and platted streets on adjoining properties and in the proposed manufactured home park, right-of-way, pavement widths, approximate grades, design engineering data for all corners and curves, and typical street cross-sections. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an approved driveway permit required by the North Carolina Department of Transportation, Division of Highways' *Manual on Driveway Regulations*;
  - (7) Outline of all existing and proposed buildings within the manufactured home park property with appropriate setbacks;
  - (8) Location of parking bays, patios, walkways, service and accessory buildings, utilities easements, utility poles, and buffer and screening areas;
  - (9) The location of outlets for utilities connection to manufactured home;
  - (10) Indication of how future expansion will be made, if applicable;
  - (11) Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas, and utility rooms;
  - (12) Method and plan of sewage disposal in accordance with existing town, county, and state regulations;
  - (13) Location and quantity of refuse containers;
  - (14) Plan of water supply in accordance with existing town, county, and state regulations;
  - (15) Plan of electric lighting; and
  - (16) In the case of land with irregular topographic features, show finished contours, and (by separate map or otherwise) existing contours.
- (H) *Final approval.* Upon approval of the final plat, the Zoning Enforcement Officer may issue a permit to proceed and construction of the park may begin, provided that all applicable county and state laws and regulations have been met.
- (I) *Manufactured home park development standards.*
- (1) A site, tract of land, or lot to be developed as a manufactured home park shall be not less than two acres in area, excluding street right-of-way, but including utility easements, and it shall have not less than nine manufactured home spaces completed at first occupancy.
  - (2) Two-way access streets within the site proposed shall have a pavement width of at least 20 feet. One-way access streets shall have a pavement width of no less than 18 feet. Permanent dead-end streets or cul-de-sacs shall not exceed 600 feet in length unless necessitated by topography and shall be provided with a turnaround of at least 80 feet in diameter. Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a

street intersects a highway, the design standards of the North Carolina Department of Transportation shall apply. Street jogs of less than 150 feet shall not be allowed. All manufactured home spaces shall have access to a street and there shall be no less than two off-street parking spaces per manufactured home space, which shall be accommodated in parking bays. Each parking space shall be provided by the owner or operator of the park.

- (3) All manufactured home shall be properly tied down in accordance with the provisions of the *North Carolina Uniform Residential Building Code*.
- (4) The manufactured home park shall be divided into lots, the limits of which shall be clearly marked on the ground by permanent flush stakes or markers. No manufactured home lot shall be occupied or partially occupied by any structure, park driveway or common area or facility, other than:
  - (a) The manufactured home;
  - (b) Its related automobile parking spaces; and
  - (c) Utility storage.
- (5) Every manufactured home park shall be located on ground that is above any probable flooding from any natural watercourse and shall be graded so as to prevent the accumulation or ponding of water on the premises.
- (6) The minimum area of a manufactured home lot shall be 5,000 square feet and shall not have a width of less than 40 feet or a length of less than 80 feet at the narrowest point of the width or length. When individual septic tanks are proposed, the minimum space size shall be 7,500 square feet and it shall be increased if the results of percolation test and subsoil investigations or other Health Department requirements indicate a need for a larger lot size.
- (7) No manufactured home or other structures within a manufactured home park shall be closer to each other than 20 feet, except that storage or other auxiliary structures for the exclusive use of the manufactured home may be closer to that manufactured home than 20 feet.
- (8) No manufactured home or other structure shall be located closer than 30 feet to an exterior boundary of the park or a bounding street light-of-way.
- (9) All manufactured home lots shall abut upon a paved street.
- (10) At least 10% of the gross land area of the manufactured home park shall be designed and developed as a recreation area. Recreation areas shall be located so as to be free of traffic hazards and easily accessible to the park residents.
- (11) A densely planted buffer strip consisting of trees, shrubs, other planting, or screen fence, at least ten feet in height shall be provided along the rear and side lines of the manufactured home park, or park property. No such buffer shall, however, be upon or extend into a street right-of-way.
- (12) The site proposed shall provide covered racks or holders for all refuse containers at each manufactured home space. Such container racks or holders shall be so designed as to prevent

containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. There shall be one rack or holder to each manufactured home space of sufficient size to accommodate a refuse container of 30-gallon capacity. The site proposed shall also provide racks or holders for large commercial type containers. Such container racks or holders shall be designed to facilitate cleaning around them and shall be located not more than 150 feet from the manufactured home space served.

- (13) The site proposed shall provide area lighting adequate to meet the requirements of the County Electrical Department.
- (14) In every Manufactured Home Park and related building, all installations of plumbing, electrical wiring, and all gas and oil appliances shall comply with the provisions of the *North Carolina State Building Code* and any other applicable regulation of the town. In addition the following must be met:
  - (a) Each manufactured home lot shall be provided with plumbing and electrical connections; and
  - (b) The water supply for each manufactured home shall be obtained only from faucets located inside each mobile home.
- (15) A manufactured home park shall have direct access to a dedicated street or road.
- (16) No parking bay shall be located with direct access to a public street or road.
- (17) The site proposed shall have an office either as a separate structure or in connection with the dwelling quarters of the owner or operator.
- (18) The water system shall be in conformance with applicable state, county, and town regulations.
- (19) Sewage disposal shall be in conformance with applicable state, county, and town regulations.  
(Ord. §90G, passed 2019-2008; Ord. passed 10-1-2002)

#### **§153.151 PROVISIONS FOR MANUFACTURED HOMES IN MANUFACTURED HOME PARKS**

- (A) The purpose of these regulations is to promote a safe and aesthetic environment inside manufactured home parks, protect community property values and to preserve the integrity and character of neighborhoods.
- (B) If municipal utilities are not available, the well and/or septic tank must be approved by the County Health Department.
- (C) Before a zoning permit is issued a Caldwell County or other governmental building inspector shall sign a “Manufactured Home Checklist” to assure that items 1, 2, 3, 4, and 5 below are met.
  - (1) The exterior siding of each manufactured home shall consist predominately of vinyl or aluminum siding, wood or hardwood, comparable in composition, appearance and durability to the exterior siding used in standard residential site-built construction. The

- siding shall be in good repair and in no instance shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white paint.
- (2) Walls or partitions or supporting members, sills, joist, rafters or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
  - (3) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
  - (4) The roof, flashings, exterior walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
  - (5) All windows and exterior doors shall be in sound working condition and good repair.
- (D) The exterior siding of each manufactured home shall consist predominately of vinyl or aluminum siding, wood or hardwood, comparable in composition, appearance and durability to the exterior siding used in standard residential site-built construction. The siding shall be in good repair and in no instance shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white paint.
- (E) A continuous foundation enclosure, unpierced except for required ventilation and access, shall be installed in accordance with *North Carolina State Building Codes*. The enclosure shall consist of brick, concrete block, vinyl or fabricated metal. Any wood framing for foundation skirting shall be constructed with treated lumber.
- (F) Permanent steps shall be constructed at all exterior doors as necessary and a permanent porch or patio measuring at least 35 square feet shall be constructed at the front or main entrances to the manufactured home. Steps constructed from loose, stacked materials shall not be constructed as being properly installed.
- (G) The running lights shall be removed and the hitch shall be screened or removed.
- (H) At least two off-street parking spaces shall be provided.
- (I) The manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. Proof of the age of the home such as a bill of sale, title or certified appraisal must be provided at the time the zoning permit is requested.
- (1) A manufactured home constructed before July 13, 1994, that was once permanently and legally located and used as a residence in Sawmills' Zoning Jurisdiction, only so long as the location and placement of the relocated home meets with all other Town of Sawmills codes, rules, and regulations. At the time of the zoning permit is requested the applicant must provide the address where the home was used as a residence and the address of the current location if different.

(Ord. passed 10-1-2002; Ord., passed 6-21-2011)

**§153.152      REGULATIONS GOVERNING NONCONFORMING MANUFACTURED HOME  
PARKS.**

To achieve the purpose of this section all existing manufactured home parks must meet the following minimum standards.

- (A) *Paving width and condition.* All streets in the manufactured home park must be paved to a minimum of 16 feet for all streets. All streets must be in good repair and all streets must meet or exceed North Carolina Department of Transportation *Minimum Standards*. **GOOD REPAIR** is defined as being free of potholes, cracks and other conditions that would make the road a hazard to motorists.
- (B) *Lighting.* Lighting inside the park shall be provided in sufficient numbers and spacing to provide continuous and uninterrupted lighting pattern to the streets within the parks. The light fixture shall not exceed 175 watts.
- (C) *Minimum manufactured housing standards; existing stock.*
  - (1) All manufactured homes in a nonconforming manufactured home park shall meet the following standards for existing manufactured housing stock.
  - (2) Existing manufactured housing stock located in the town as of January 1, 2003, may remain within a nonconforming manufactured home park, provided that the following conditions are met.
    - (a) A continuous foundation enclosure unpierced, except for required ventilation and access, shall be installed in accordance with *North Carolina State Building Codes*. The enclosure shall consist of brick, concrete block, vinyl or fabricated metal. Any wood framing for foundation skirting shall be constructed with treated lumber.
    - (b) Permanent steps shall be constructed at all exterior doors as necessary, and a permanent porch or patio measuring at least 35 square feet shall be constructed at the front or main entrance to the manufactured home. Steps constructed from loose, stacked materials shall not be construed as being properly installed.
    - (c) The running lights shall be removed and the hitch shall be screened or removed.
    - (d) When replaced, the replacement home must meet or exceed the provisions of §153.146.
- (D) *Numbering.* All lots must display a lot number or address. The number must be displayed in a fashion that is visible from the street and must be consistent throughout the park.
- (E) *Solid waste disposal.* All garbage and waste disposal within the town must be in accordance with the Town Code Chapter 50.
- (F) *Compliance schedule.* All nonconforming manufactured home parks shall conform to the improvement requirements listed herein within the following phased time schedule:
  - (1) Within six months of notification, the property owner shall submit, and have approved, a preliminary improvement proposal, including a plat for upgrading the park. Deadline for compliance: December 31, 1999.

- (2) (a) Within 24 months of notification, the property owner shall have completed an approved improvement proposal, and have submitted to the town a final plat for upgrading the park. Deadline for compliance: December 31, 2002.  
  
(b) If at the end of the 24-month period, a manufactured home park owners has not submitted the final plat and improvement schedule then the Zoning Enforcement Officer shall notify the park owner via certified mail that when a space within the nonconforming park is vacated, no further zoning permits shall be issued for the manufactured home park in question until the park meet the standards set forth in this division (F)(2).
  - (3) At the end of the 24 months, the manufactured home park owners that did not comply with the minimum standards will also be given notification via certified mail that they have 60 months to either comply with the town's manufactured home park regulations as set forth in §153.147 or be ordered by the town to cease and desist. Deadline for compliance: December 31, 2008.
  - (4) At the end of the 60 months, the town may use any and all remedies listed in §§153.134 and 153.999.
- (G) *Contents of improvement schedule.* The park improvement schedule must include the following:
- (1) A list of improvements done to date;
  - (2) A list of work remaining to be done to bring the park into compliance;
  - (3) A schedule listing each individual action needed to bring the park into compliance and a date when each action will be completed; and
  - (4) Signed statement by the owner agreeing to abide by the time frame listed on the improvement schedule.
- (H) *Contents of preliminary and final plat.* The preliminary and final plat shall include the following:
- (1) Must include the name of the manufactured home park;
  - (2) Must include the name and address of the owner and operator;
  - (3) Must be drawn to a scale of one inch equals 40 feet;
  - (4) Must contain date submitted, a north arrow and scale of plat;
  - (5) Must shown the boundaries of the manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park properties and the names of addresses of all adjoining property owners;
  - (6) Plans for continued water supply and/or sewage disposal must be accompanied by letters of approval by appropriate town, county and state authorities;
  - (7) Existing streets on adjoining properties and in the park, right-of-way and proposed pavement widths. If any street is proposed to intersect with a state maintained road, the plat shall be

accompanied by an application for driveway approval as required by the North Carolina Department of Transportation;

- (8) Outline of all existing spaces/buildings within the manufactured home park property with lot numbers indicated;
  - (9) Location of parking bays, patios, walkways, service and accessory buildings, utility easements, utility poles, and buffer and screening areas;
  - (10) Method of sewer disposal in accordance with existing town, county and state regulations;
  - (11) Method of water supply in accordance with existing town, county and state regulations;
  - (12) Plan of electric lighting, showing location and details of the light fixtures to be used.
- (I) *Approval process.* No improvements will be accepted as meeting the minimum standards of this section without submitted a final plat and improvement schedule. The final plat shall be reviewed by the Planning Board and approved by Town Council. Upon completion of all items listed in this section, the park will have met the minimum requirements and will be allowed to continue to operate as a nonconforming manufactured home park.  
(Ord. passed 10-1-2002)

#### **§153.153 – 153.169      RESERVED**

### **OFF-STREET PARKING AND LOADING**

#### **§153.170      OFF-STREET PARKING REQUIREMENTS.**

There shall be provided 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 in the amount specified by this subchapter. The parking space may be provided in a parking garage or properly graded open space.

(Ord. §110A, passed 2-19-2008)

#### **§153.171      LOCATION.**

Off-street parking as required by this section in the H-B and G-M zoning districts may be permitted in required yards but shall be no closer than ten feet from the front property line or any street right-of-way or railroad right-of-way line.

#### **§153.172      CERTIFICATION OF MINIMUM PARKING REQUIREMENTS.**

Each application for a zoning permit submitted to the Zoning Enforcement Officer as provided for in this chapter shall include information as to the means of entrance and exit to such space. This information shall

be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this section are met.

(Ord. §110B, passed 2-19-2008)

### **§153.173 MINIMUM OFF-STREET PARKING REQUIREMENTS.**

The following off-street parking spaces shall be required:

<b>Residential and Related Uses</b>	<b>Required Off-Street Parking</b>
Any residential use consisting of one or more dwelling units	Two parking spaces for each dwelling unit
Customary home occupations	In addition to residential requirements, one parking space per 100 square feet devoted to home occupation
Manufactured and modular homes	Two space for each manufactured or modular home
Rooming/board homes	One space for each two guest rooms, plus two additional spaces for the owner or manager

<b>Institutional, Public and Semipublic Public Uses</b>	<b>Required Off-Street Parking</b>
Apartment complexes for the elderly	One space for each apartment
Churches and funeral homes	One space for every four seats in the main chapel
Hospitals	Two spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
Libraries	One space for every four seats provide for patron use
Medical offices and clinics	One space per 150 square feet of gross floor area
Mini-warehouse	One space per 150 square feet in the office space plus one additional space for each five employees
Places of public assembly, including private clubs and lodges, auditorium, dance halls, pool halls, theaters, stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly	One space for each four fixed seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly not including fixed seats
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One space for each six patients beds, plus one space for each staff or visiting doctor plus one space for each four employees
Schools	1.75 spaces per classroom in elementary schools; 1 space per 100 square feet of gross floor area for trade or vocational schools; 1 space per 150 square feet of gross floor area for colleges, universities and community colleges

<b>Business Uses</b>	<b>Required Off-Street Parking</b>
Hotels	One space for each two rooms plus one additional space for each five employees

Hotels, tourist homes, inns	One space for each accommodation plus four additional spaces for employees
Offices, including banks	One space for each 200 square feet of gross floor area
Restaurants	One space for each three seating accommodations, plus one space for each two employees of the shift of largest employment
Restaurant, drive-in	One space for each 100 square feet of gross floor area
Retail business	One space for each 200 square feet of gross floor area
Service stations	One space per 200 square feet of gross floor area of building devoted primarily to gas sales operation
Shopping centers	One space for each 200 square feet of gross floor area
Wholesale and industrial operations	One space for each two employees at maximum employment on a single shift

(Ord. §110C, passed 2-19-2008)

#### **§153.174 OFF-STREET LOADING AND UNLOADING SPACE.**

Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley available, then to a street. For the purpose of this section, an off-street loading space shall have a minimum dimension of 12 feet by 40 feet and overhead clearance of 14 feet in height above the alley or street grade.

Retail operations	One loading space for each 5,000 square feet of gross floor area or fraction thereof
Wholesale/industrial operation	One loading space for each 10,000 square feet of gross floor area or fraction thereof

(Ord. §110D, passed 2-19-2008)

#### **§153.175 – 153.189 RESERVED**

**ADMINISTRATION AND ENFORCEMENT****§153.190 ZONING ENFORCEMENT OFFICER.**

- (A) It shall be the duty of the Zoning Enforcement Officer to enforce and administer the provisions of this chapter. The assistance of other persons may be provided as the Town Council may direct.
- (B) If the Zoning Enforcement Officer finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal use of land, buildings or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions. No zoning permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustments.
- (C) If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.  
(Ord. §120A, passed 2-19-2008)
- (D) The Zoning Enforcement Officer or other staff member shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship (G.S. 160D-109).
- (E) The Zoning Enforcement Officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the city local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

**§153.191 ZONING PERMIT REQUIRED.**

No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot of record for the construction of any building be commenced until the Zoning Enforcement Officer has issued a zoning permit for such work. Every person obtaining a zoning permit hereunder shall pay a fee as provided in a schedule of zoning permit fees to be adopted by the governing body.

(Ord. §120B, passed 2-19-2008)

Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Enforcement Officer may provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a)).

**§153.192 APPLICATION FOR ZONING PERMIT.**

- (A) Each application to the Zoning Enforcement Officer for a zoning permit shall be accompanied by plot plans in duplicate showing:
- (1) The actual dimensions of the lot to be built upon;
  - (2) The size of the building to be erected;
  - (3) The location of the building on the lot;
  - (4) The location of existing structures on the lot, if any;
  - (5) The number of dwelling units the building is designed to accommodate;
  - (6) The approximate setback lines of buildings on adjoining lots;
  - (7) The intended use of the property;
  - (8) The county tax map identification number of the property and a copy of the metes and bounds description of the lot of record; and
  - (9) Such other information as may be essential for determining whether the provisions of this chapter are being observed.
- (B) Vesting. Zoning permits expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).
- (C) Revocation of development approvals. Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the board of adjustment pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable (G.S. 160D-403(f)).

**§153.193 CERTIFICATE OF OCCUPANCY REQUIRED.**

- (A) A certificate of occupancy issued by the Zoning Enforcement Officer is required in advance of:
- (1) Occupancy or use of a commercial or industrial building hereafter erected, altered or moved for commercial or industrial purposes;
  - (2) Change of use of any building or land;
  - (3) A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a zoning permit. The certificate of occupancy shall be issued within ten days after the erection or structural alteration of such building, or part, has been completed in conformity with the provisions of this chapter. If a certificate of occupancy is denied, the Zoning Enforcement Officer shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or the land involved.
  - (4) In addition, a certificate of occupancy shall be required for each non-conforming use created by the passage and subsequent amendments to this chapter.
- (B) The owner of such non-conforming use shall obtain a certificate of occupancy within 30 days of the date of said passage or amendments.
- (Ord. §120D, passed 2-19-2008)

**§153.194 VIOLATION OF CHAPTER; PENALTIES AND REMEDIES.**

- (A) *Complaints regarding violations.* Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Town Clerk. The Zoning Enforcement Officer shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.
- (B) *Violation.* In addition to those remedies provided in G.S. §§14-4 and 160-175, as amended and otherwise as law provided, whenever, by the provisions of this chapter, the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land and water, or on the erection or removal or alteration of a structure, a failure to comply with such provision shall constitute a violation of this chapter.
- (C) *Liability.* The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter shall be held responsible for the violation and be subject to the penalties and remedies herein.
- (D) *Procedures upon discovery of violation.* Upon the determination that any provision of this chapter is being violated, the Zoning Enforcement Officer shall send, within five working days, a written notice by registered mail to the person(s) responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Enforcement Officer's discretion. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the

holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud (160D-404(a)).

- (E) *Final written notice.* The final written notice, which may also be the initial notice, shall state the action the Zoning Enforcement Officer intends to take, if the violation is not corrected, and shall advise that the Zoning Enforcement Officer may seek enforcement without prior written notice by invoking any of the remedies contained in this section.
- (F) *Town Attorney may prevent violation.* If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this chapter, the Zoning Enforcement Officer shall inform the Town Attorney. In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. §120E, passed 2-19-2008) Penalty, see §153.999

**§153.195 – 153.204      RESERVED**

**BOARD OF ADJUSTMENT****§153.205 ESTABLISHMENT OF BOARD OF ADJUSTMENT.**

- (A) A Board of Adjustment is hereby created as provided in G.S. §160D-1-9(d). Said Board shall consist of five members to be appointed by the Town Council for the overlapping terms of three years. Initial terms of office shall be as follows: one member appointed for a term of one year; two members appointed for terms of two years; and two members appointed for terms of three years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the Board shall be for three year terms. The members of the Board of Adjustment shall be residents of the county. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.
- (B) The Town Council may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. This alternate member or members shall be appointed in the same manner as regular members and at the regular times for appointment. The alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.
- (Ord. §130A, passed 2-19-2008)

**§153.206 DECISIONS OF THE BOARD OF ADJUSTMENT.**

- (A) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer pertaining to the town or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Code or to effect any variation of such code in the town.
- (B) On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and shall decide the same within a reasonable time. The Board shall inform all parties involved of its decision in writing, stating the reasons therefore.
- (Ord. §130B, passed 2-19-2008)
- (C) Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).
- (D) Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, and certificates of appropriateness, variances, or any other quasi-judicial decision (G.S. 160D-406).

**§153.207 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.**

The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. This year shall run from July 1 to June 30. The Board shall adopt rules and bylaws in accordance with the provisions of this chapter and G.S. Ch. 160D, Art. 19. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his or her absence the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall keep a record of all proceedings of meetings but shall not have a vote unless he or she is also a regular or alternate member of the Board.  
(Ord. §130C, passed 2-19-2008)

**§153.208 APPEALS, HEARINGS AND NOTICE.**

Any person who has standing under G.S. § 160D-1-2 or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-4-3(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)).

**§153.209 STAY OF PROCEEDINGS.**

An appeal stays in all legal proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certified to the Board of Adjustment after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record, upon appropriate application, on notice to the Zoning Enforcement Officer and on due cause shown.  
(Ord. §130E, passed 2-19-2008)

**§153.210 DECISION OF THE BOARD OF ADJUSTMENT.**

The Board of Adjustment may reverse or reaffirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.  
(Ord. §130F, passed 2-19-2008)

**§153.211 DUTIES OF THE ZONING ENFORCEMENT OFFICER, BOARD OF ADJUSTMENT, COURTS AND TOWN COUNCIL ON MATTERS OF APPEAL.**

It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented to the Zoning Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Enforcement Officer, and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this chapter that the duties of the Town Council in connection with the chapter shall not include the hearing

and passing upon disputed question that may arise in connection with the enforcement thereof. The duties of the Town Council in connection with this chapter shall be only the duty of considering and passing upon any proposed amendments or repeal of this chapter.  
(Ord. §130I, passed 2-19-2008)

**§153.212      POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.**

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter.
- (B) *Special uses; conditions governing application.* To grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses under the various use districts, the Board of Adjustment shall not grant a special use permit unless and until:
  - (1) A written application for a special use permit is submitted indicating the section of this chapter under which the special use permit is sought;
  - (2) A quasi-judicial public hearing is held. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for this hearing (G.S. §160D-601). Any petition may be withdrawn at any time by written notice to the Town Clerk. All property owners within 100 feet of the property in question shall be notified of this hearing by first class mail; and
  - (3) The Board of Adjustment finds that in the particular case, the use for which the special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this chapter.
- (C) *Compliance with other codes.* Granting a special use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- (D) *Revocation.* If at any time after a special use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, the permit shall be terminated and the operation of such use discontinued. If a special use permit is terminated for any reason, it may be reinstated only after a public hearing is held.
- (E) *Expiration.*
  - (1) In any case where a special use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action the permit shall be null and void.
  - (2) **EXERCISED** as set forth in this division shall mean that binding contracts for the construction of the main building shall 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.

- (F) *Careful record.* A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the zoning enforcement officer.
- (G) *Variances.* Any application for a Variance shall be filed with the Town Clerk at least 20 days prior to the date on which it is to be introduced to the Board of Adjustment. The Town Clerk or designated staff member shall be responsible for presenting the application to the Board of Adjustment. Each variance application shall be accompanied by a fee (as adopted by the Town Council) to help defray the costs of advertising the public hearing required by G.S. §160A-364.19.
- (H) *Variance application requirements.* A Variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that:
  - (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;
  - (2) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
  - (3) The circumstances do not result from the action of the applicant;
  - (4) Granting the variance requested will not confer upon the applicant any special privileges that are denied by this chapter to other lands, structures, or buildings in the same district;
  - (5) No nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- (I) *Hearing.* Notice of a public hearing shall be given as set forth in division (A)(2). At the quasi-judicial public hearing, any party may appear in person or by agent or attorney.
- (J) *Findings, general.* The Board of Adjustment shall make findings that the requirements of division (G) shall have been met for a variance.
- (K) *Findings, specific.* The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance is the minimum one that will make possible the reasonable use of the land, building or structure.
- (L) *Findings, environment.* The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (M) *Conditions attached.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with 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 §153.134.

- (N) *Prohibition.* 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 use expressly or by implication prohibited by the terms of this chapter in the district.  
(Ord. §130F, passed 2-19-2008)

**§153.213 – 153.224      RESERVED**

**AMENDMENTS AND CHANGES****§153.225 PROCEDURE FOR AMENDMENTS.**

A petition for an amendment to this chapter and to the Official Zoning Map may be initiated by the town, the Planning Board, any department or agency of the town, the owner of any property within the town, or any interested citizen who can show just cause for an amendment. Applications submitted by individual property owners or interested citizens who are not acting in an official capacity for the town shall comply with the following procedural requirements:

- (A) *Application submission.* Any petition for an amendment to this chapter shall be filed with the Town Clerk at least 20 days prior to the date on which it is to be introduced to the Planning Board. Each petition for an amendment shall be accompanied by a fee (as adopted by the Town Council) to help defray the costs of advertising the public hearing required by G.S. §160D-601.
- (B) *Change to Zoning Map.* Each application involving a change to the Official Zoning Map shall be signed, be in duplicate, and shall contain at least the following information:
  - (1) The applicant's name in full, applicant's address, address or description of the property to be rezoned, including the tax map number;
  - (2) The applicant's interest in the property and the type of rezoning requested;
  - (3) If the proposed change would require a change in the Zoning Map, an accurate diagrams of the property proposed for rezoning, showing:
    - (a) All property lines with dimensions, including north arrow;
    - (b) Adjoining streets with rights-of-way and paving widths;
    - (c) The location of all structures, existing and proposed, and the use of the land;
    - (d) Zoning classification of all abutting property owners; and
    - (e) Names and address of all adjoining property owners.
  - (4) A statement regarding the changing conditions, if any, in the area or in the town generally that makes the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
- (C) *Planning Board consideration.* Every proposed amendment, supplement, change, modification or repeal to this chapter shall be referred to the planning board for its recommendation and report (G.S. 160D-604(c), (e)). The owner of affected parcels of land, and the owners of all parcels of land abutting that parcel of land, shall be mailed a notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. Additionally, the town shall prominently post a notice of the public hearing on the site proposed for rezoning the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing until 10 days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice

to interested persons (G.S. 160D-602). The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.

Members of the Planning Board shall not participate in or vote on any zoning amendment matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).

- (D) *Town Council consideration.* Before adopting or amending this chapter, the Town Council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for this hearing (G.S. 160D-601). Any petition for an amendment to this chapter may be withdrawn at any time by written notice to the Town Clerk.

(Ord. §140A, passed 2-19-2008)

- (E) *Plan consistency.* When adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Council, that at the time of action on the amendment, the Town Council was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

Members of the Town Council shall not participate in or vote on any zoning amendment matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (G.S. 160D-109(d), (e), (f)).

**§153.226      PROTEST PETITION.**

- (A) *General.* A protest petition may be presented against any proposed amendment signed by the owners of 20% or more either of the area of the lots included in the proposed changes, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet there from, or of those directly opposite thereto extending 100 feet from the street fronting on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Council.
- (B) *Petition requirements.* No protest against any change in or amendment to the Zoning Code or Zoning Map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two normal working 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 (G.S. §160D-604).
- (Ord. §140B, passed 2-19-2008)

**§153.227 – 153.269      RESERVED**

**LEGAL PROVISIONS****§153.270      INTERPRETATION, PURPOSE AND CONFLICT.**

In interpreting and applying the provisions of this Zoning Code, the provisions 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 or 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, provided that nothing in this chapter shall be construed to amend or repeal any other existing ordinance of the town.

(Ord. §150A, passed 2-19-2008)

**§153.271      PENALTY.**

- (A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.
- (B) *Civil penalties.* Violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$50, to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a period of 72 hours after being cited. Citation shall be in writing, signed by the Zoning Enforcement Officer, and shall be delivered or mailed to the offender either at his or her residence or at his or her place of business or at the place where the violation occurred.
- (C) *Criminal penalties for violation.* Any person, firm or corporation who violated the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding \$50 or imprisoned not 30 days. Each day that a violation continues to exist shall be considered a separate offence, provided that violation of this chapter is not corrected within 30 days after the notice of the violation has been given.

(Ord. §120E, passed 2-19-2008)