

CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known as the “Town of Grifton Zoning Ordinance”.
(Ord. passed 1-11-2005, § 1-1)

§ 152.002 AUTHORITY.

In accordance with G.S. Article 19, Part 3, Chapter 160A, the town is given the authority to adopt and enforce this chapter.
(Ord. passed 1-11-2005, § 1-2)

§ 152.003 PURPOSE.

The purpose of this chapter shall be to promote the public health, safety, morals and general welfare; provide for the orderly development of the town; secure safety from fire, panic and other dangers; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision of transportation, water, sewage, schools, parks and other public services. They have been made with reasonable consideration, among other things, as to

the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the community.
(Ord. passed 1-11-2005, § 1-3)

§ 152.004 JURISDICTION.

This chapter shall apply to all lands within the town and its extraterritorial planning area, as defined by the town.
(Ord. passed 1-11-2005, § 1-4)

§ 152.005 RELATIONSHIP TO LAND USE POLICIES.

This chapter is designed to assist the citizens, elected officials and appointed boards in guiding land development within the planning jurisdiction. It has been developed with a spirit of concern for both the individual rights of the land owners and the public responsibility to promote the orderly development of the community. These development guidelines were specifically designed to implement land use policies formulated by the town.
(Ord. passed 1-11-2005, § 1-5)

§ 152.006 FEES.

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for various permits. The amount of the fees charged shall be established by the Board of Commissioners. Fees shall be paid upon submission of a signed application or notice of appeal.
(Ord. passed 1-11-2005, § 1-6)

§ 152.007 DEFINITIONS.

(A) *General terms.*

(1) The present tense includes the future tense, and the future tense shall include the present tense.

(2) The singular number includes the plural number and the plural number includes the singular number.

(3) The word “may” is permissive; the word “shall” is mandatory.

(4) The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(5) Words “used” or “occupied” include the words “intended, designed or arranged, to be used or occupied”.

(Ord. passed 1-11-2005, § 16-1)

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

ACCESSORY USE. A use that is secondary to a principal use.

ACCESSORY STRUCTURE. A minor building that is located on the same lot as a principal building or structure and that is used incidentally to a principal building or structure. On a residential lot, any ***ACCESSORY USE*** such as a private garage or carport, family garden, personal storage building or workshop shall be for personal use only.

ACCESSORY DWELLING UNIT. A dwelling unit that exists either as part of a principal dwelling or as an accessory building, and is secondary and incidental to the use of the property as a single-family residential.

ADMINISTRATOR. Person or persons appointed by the Board of Commissioners to implement this chapter.

ALTER. To make any structural changes in the supporting or load-bearing members of a building, such as walls, columns, beams, girders or floor joists.

APPEAL. A request for a review by the Board of Adjustment of the Zoning Administrator’s interpretation of any provision of this chapter.

AUTOMOBILE REPAIR SHOP. A place where the following services may be carried out: major repair, engine rebuilding, rebuilding and reconditioning of motor vehicles, collision service such as body, frame or fender repairs, painting and undercoating of vehicles.

AUTOMOBILE SERVICE STATION. An establishment where the retail sale of accessories and services for automobiles are provided as a primary use, including the customary space and facilities for the installation of the commodities on or in the vehicles, but excluding storage for more than two days, major repair, painting and refinishing.

BED AND BREAKFAST DWELLINGS. An owner-occupied or manager-occupied residential structure providing rooms for overnight lodging or lodging and meals.

BONA FIDE FARM. Purposes include the production of and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.

BOARD OF COMMISSIONERS. Grifton Board of Commissioners.

BUILDING. Any structure having a roof supported by columns or walls that encloses a space used for occupancy, storage or shelter. Each portion of a building separated from other portions by a firewall shall be considered a separate **BUILDING**.

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

BUILDABLE AREA. The portions of a lot remaining after setback line requirements have been met.

BUILDING HEIGHT. The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridges for gable, hip and gambrel roofs.

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

CERTIFICATE OF OCCUPANCY. A statement signed by the local Zoning Administrator that a structure and the use(s) within the building complies with this chapter.

COLLECTOR ROAD. A road whose principal function is to carry traffic between cul-de-sac, local and subcollector roads, and roads of higher classification, but which may also provide direct access to abutting properties.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this chapter, planned unit developments and mixed use developments are considered as **CLUSTER DEVELOPMENTS**.

COMMUNICATION TOWER. A tower, pole or similar structure, which supports a telecommunication antenna operated for governmental/commercial purposes, above ground, in a fixed location, free standing, guyed or on a building.

COMMON OPEN SPACE. The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration of restrictive covenants and normally in common use.

COMPREHENSIVE PLAN. A planning document that identifies in a community existing conditions, establishes development goals as well as outlines specific development strategies to achieve them, and an evaluation process.

CONDITIONAL USE PERMIT. A permit issued by the Board of Commissioners or the Planning Board, if so authorized, that authorizes the recipient to make use of property in accordance

with the general development requirements of this chapter as well as any other specific conditions imposed during the additional review process.

CONDOMINIUM. Real estate, portions of which are designated for separate ownership and solely the owners of those portions designate the remainder of which for common ownership. For example, in an attached multi-family dwelling unit, an owner has control of his or her unit, but all common areas (i.e., open space, swimming pool, laundry room and the like is held in common ownership the owners of the other units).

CONVENIENCE STORE. A retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends upon a large volume of stop and go traffic. Examples of **CONVENIENCE STORES** are fast fare, trade mart and pantry chains.

DAY CARE CENTER (ADULT OR CHILD). Any adult/child care arrangement, for payment of a fee that provides day care service (no transfer or assignment of custody) on a regular basis for more than four hours per day to a group of six or more adults/children of preschool age.

DEDICATION. A gift, by the owner, of the right to use or possess land for a specified purpose or purposes. This transfer of property rights requires a written document stating dedication and is completed with an acceptance.

DISABLED PERSON. A person with a temporary or permanent physical, emotional or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11).

DOMESTICATED ANIMALS. Dogs, cats and other generally acceptable household pets.

DRIVE-INS (BANKS, RESTAURANTS AND THE LIKE). A business establishment that serves patrons inside motor vehicles through drive-thru window(s) as well as within a building or structure. In some cases, drive-thru window(s) are the only means of serving their patrons.

DWELLING, MULTIPLE-FAMILY. A detached building to be used as a residence for more than two families living independently of each other. Also commonly known as **APARTMENTS**, **TOWNHOUSES** or **CONDOMINIUMS**.

DWELLING, SINGLE-FAMILY. A detached residential building to be occupied by not more than one family.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units to be occupied by not more than two families. Also commonly known as a **DUPLEX**.

DWELLING UNIT. One room or rooms connected together constituting a separate, independent housekeeping establishment with complete living facilities.

EASEMENT. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation or other entities.

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

(a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;

(b) Having an outstanding valid building permit as authorized by G.S. Chapter 160A; or

(c) Having an approved site specific or phased development plan as authorized by G.S. Chapter 160A.

FACADE. The exterior walls of a building or structure visible to the public from adjoining streets, sidewalks or parking areas.

FAMILY. One or more persons occupying a premise and living as a single housekeeping unit but not including a group occupying a boarding house, club, fraternity house or similar type dwelling.

FAMILY CARE HOME. A home defined and described in G.S. Chapter 168, Article 3, as having support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident disabled persons. A “disabled person” is defined as a person with temporary, or permanent physical, emotional or mental disability, including but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including, mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11).

FARM, BONA FIDE. An agricultural land use that includes the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, fish and all other forms of agricultural products having a domestic or foreign market.

FAST-FOOD RESTAURANT. (See **RESTAURANT, FAST FOOD.**)

FLEA MARKET. A business operation, which normally operates on weekends or another, specified day in a permanent structure or out-of-doors. Unlike a yard sale, which allows individuals or organizations to sell goods one or two times per year, this is a for-profit business venture where people sell goods as a full time business, or part time to supplement other sources of income.

GOVERNING BODY. Grifton Board of Commissioners. (See also **TOWN COUNCIL.**)

GROUP CARE FACILITY. A facility licensed by the state with support and supervisory

personnel that provides room and board, personal care or habilitation services in a family environment for not more than 30 people.

GROUP DEVELOPMENT. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses or other enterprises.

GROUP HOME. A residential facility for not more than 12 persons licensed by the state, by whatever name it is called (e.g., domiciliary home, home for the aged, rest home and the like) other than a “family care home”, as defined herein, which has support and supervisory personnel and which provides room, board and personal care in a family or group setting. (See G.S. § 131D-2.)

GROUP HOME, NON-PROTECTED. A licensed residential use for six or fewer residents who are not disabled or otherwise protected by the Fair Housing Act. Examples may include homes for battered individuals, homeless individuals, abused children, pregnant teenagers or runaway children. Non-protected group homes shall not accommodate non-disabled individuals who are mentally ill, alcoholics, drug addicts or ex-offenders in transition between release from incarceration and return to freedom.

GROUP HOME, PROTECTED. A licensed facility, protected by the Fair Housing Act, even if the use does not conform, in a single-family zoning district which provides room and board, personal care and habilitation services in a family environment for not more than six resident disabled persons.

HOME OCCUPATION. A commercial activity that:

(a) Is conducted by a person on the same lot (in a residential district) where the person resides; and

(b) Is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

HOMEOWNERS ASSOCIATION. A private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating and maintaining common properties. Also known as a **DECLARATION OF A UNIT OWNERSHIP** in a condominium development.

HOTEL and **MOTEL.** A building or other structure which is used, kept, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which rooms are furnished for the accommodation of the guests, and having or not having one or more dining rooms, restaurants or cafés, if existing, being conducted in the same building or buildings in connection therewith.

INDUSTRY. Manufacturing facility, which produces, refines or processes basic materials or assembles finished or partly finished products from materials or components prepared on-site or

obtained from other facilities.

INTENSIVE LIVESTOCK OPERATION. Any enclosure, pen, feedlot, building or group of buildings intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, turkeys, chickens or swine where their dietary needs are met primarily by means other than grazing, or any combination thereof with at any time sufficient numbers of animals on site to equal or exceed the following threshold levels:

- (a) One hundred head of cattle;
- (b) One hundred horses;
- (c) One hundred swine;
- (d) One hundred sheep or goats;
- (e) One hundred birds (with a liquid waste system); or

(f) A tract of land devoted to raising animals of the porcine species served by or requiring animal waste systems having a design capacity of 600,000 pounds steady live weight or greater.

JUNKYARD. Any land or area used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal or other junk, and including storage of motor vehicles, and dismantling of the vehicles or machinery.

KENNEL. An for profit establishment where a person engages in the boarding, breeding, grooming, letting for hire or training of more than three domesticated animals at any one time; or an establishment where a person engages in the business or practice, for a fee, of selling more than one litter of domesticated animals at any one time; or the selling of three or more domesticated animals at any one time. Excluded from the definition of a ***KENNEL*** are: ownership of domesticated animals as household pets or for hunting or tracking purposes; or exhibiting at shows, obedience or field trials; or protecting or guarding of residences or commercial establishments.

LANDOWNER. Any owner of a legal or equitable interest in real property, including the heirs, devisee, successors, assigns, and personal representative of the owner. The owner may allow a person holding a valid option to purchase, to act as his or her agent or representative for purposes of submitting a proposed site-specific development plan in the manner allowed by this chapter.

LITTER. Progeny resulting from the breeding of two domesticated animals.

LOT. A parcel of land under single ownership occupied or capable of being occupied by a principal building, together with its accessory building, including the open space required by this chapter.

LOT AREA. The total area circumscribed by the boundaries of a lot, except that:

(a) When the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street; and

(b) In a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

LOT COVERAGE. The portion of a lot occupied by a structure, either at ground level or equivalent thereto when a structure is elevated on pilings.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

LOT FRONTAGE. The portion of a lot abutting a street or right-of-way.

LOT, CORNER. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a **CORNER LOT** if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meeting at an interior angle of less than 135 degrees.

LOT, FLAG. A lot that has less than the required amount of frontage on a road and relies on a panhandle-shaped corridor for access to the bulk of the lot.

LOT INTERIOR. A lot other than a corner lot with only one frontage on a street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one street. **THROUGH LOTS** abutting two streets may be referred as double frontage lots.

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

LOT WIDTH. The distance between the side lot lines as measured at the rear of the required front yard, except for lots on the running circle of cul-de-sacs which shall be at least 80% of the required lot width and maintain an average lot width between the front and rear property lines of at least the minimum lot width for the zoning district in which the lots are located.

MANUFACTURED HOME. A dwelling unit that:

(a) Is not constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes;

(b) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and

(c) Exceeds 40 feet in length and eight feet in width.

MANUFACTURED HOME PARK. A plot of land, together with all contiguous or adjoining parcels of land that are owned or controlled by the same person(s), which has been planned or improved for the placement and rental of either two or more manufactured homes or two or more land sites for placement of manufactured homes for dwelling or sleeping purposes.

MANUFACTURED HOME, CLASS A. A double-wide manufactured home constructed after 7-1-1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the appearance criteria herein.

MANUFACTURED HOME, CLASS B. A single-wide manufactured home constructed after 7-1-1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and meets the appearance criteria herein.

MANUFACTURED HOME, CLASS C. Any manufactured home that was constructed prior to 7-1-1976 and does not meet the appearance criteria of a double-wide (class A) or single-wide (class B) Manufactured home.

MASSAGE. Any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

MASSAGE BUSINESS. Any establishment or business wherein massage is practiced, including establishments commonly known health clubs, physical culture studios, massage studios or massage parlors.

MINING. The breaking of the surface soil of an acre or more including access roads, in order to facilitate or accomplish the extraction or removal of mineral, ores or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of mineral, ores, soils and other solid matter from its original location; and/or the preparation, washing, cleaning or other treatment of minerals, ores or other solid matter so as to make them suitable for commercial, industrial or construction use, as regulated by The Mining Act of 1971, as amended through 2000, (G.S. Chapter 74, Article 7) and the State Administrative Code Title 15A by the Department of Environment and Natural Resources, Chapter 5, "Mining".

MIXED USE. A parcel, tract of land, building or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing and retail.

MODULAR HOME or SECTIONAL HOME. A factory-fabricated transportable building constructed to meet State Building Code standards and designed to be used by itself or, in the case of a

sectional home, to be joined with similar units into a modular whole, placed on a permanent foundation and used for residential purposes.

NEIGHBORHOOD GROCERY STORE. A store of not more than 5,000 square feet designed to be compatible with the immediately surrounding neighborhood and which stocks and sells produce, general grocery and sundry items to supply the immediately surrounding neighborhood.

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

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

NONCONFORMING USE. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a **NONCONFORMING USE**.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a retail clothing store in a residentially zoned area constitutes a **NONCONFORMING USE**.)

NURSING HOME. An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Retirement homes are not included in this definition.

OFF-STREET PARKING SPACE. The storage space of not less than nine feet by 18 feet for one automobile, located outside the dedicated street right-of-way.

OPEN SPACE. An area of land and/or water that is generally unimproved and is reserved for recreation, resource protection, amenity or buffer purposes.

OUTDOOR ADVERTISING SIGN (OFF-SITE). Any sign, either freestanding or attached to a structure, which advertises or attracts attention to a business, commodity, service, entertainment or other activity conducted, sold or offered elsewhere than on the premises on which the sign is located.

OVERLAY DISTRICT. A zoning district which overlays and combines with one of the principal zoning districts established by this chapter. In such case, the property involved is subject to the requirements of both districts.

PARCEL. A continuous area of land in the possession of or owned by, or recorded as the property of, the same person or persons, and which is uniquely identified by the Pitt County Tax Office.

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

PARKING SPACE, DISABILITY. Parking spaces designed and assigned to disabled drivers or passengers.

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

PLANNING JURISDICTION. The area, which the community is authorized to plan for and regulate development, as set forth herein.

PLANNED UNIT DEVELOPMENT (PUD). An unconventional subdivision of land not subsequently to be subdivided into conventional streets and designated for ownership by separate property owners. A **PUD** may include a variety of forms of residential, commercial or industrial developments appropriate to the zoning district in which the **PUD** is located. Significant areas of common properties, which may include private streets, are owned and maintained by private ownership associations.

PUBLIC BUILDINGS. Buildings and structures owned and/or operated by a political subdivision of the state or the U.S. government, but not including service or storage yards.

PUBLIC SEWER TREATMENT FACILITY. Facility owned by the town or sewerage district for the purpose of collection, treatment and disposal of sewage.

PUBLIC UTILITIES AND PUBLIC FACILITIES. Public facilities such as transformers, substations, lift stations, transmission lines, radio and TV towers, wells, water tanks and the like, but not including service or storage yards.

PRIVATE ROAD. A vehicular travelway not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system.

RECREATIONAL VEHICLE. A vehicular type portable structure which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers, auto truck and recreational vans. A manufactured home shall not be deemed a **RECREATIONAL VEHICLE**.

RECREATIONAL VEHICLE PARK, PUBLICLY OWNED. Land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles or travel trailers which are used for recreation or vacation purposes. A “manufactured home park” shall not be deemed a **CAMPING AND RECREATIONAL VEHICLE PARK**.

RECREATIONAL, VEHICLE SPACE. A plot of land within a recreational vehicle park

designed for the accommodation of one recreational vehicle.

RECREATIONAL FACILITIES. Golf courses, miniature golf courses, health clubs, playing fields and courts of all types, whether or not within a park, and similar facilities.

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

RESTAURANT, FAST FOOD. A facility where rapidly prepared food and/or beverage are sold in a form ready for consumption, in disposable wrappers, containers or plates where all or a significant portion of the consumption takes place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

RESTAURANT. An establishment open to the general public which has the following characteristics:

- (a) Does not require a membership, cover or minimum charge for admittance or service;
- (b) At least 75% of total sales per month consisted of prepared and/or packaged foods ready to consume;
- (c) Provides sit-down dining areas which may include over-the-counter service or take out; and
- (d) May offer bar service.

SHOPPING CENTERS. A type of planned business development involving two or more businesses clustered in a unified project constructed on a tract of land under single ownership, planned and developed as an integral unit.

SIGN. Any form of publicity which is visible from any public way, directing attention to an individual, business, commodity, service, activity or product, by means of words, lettering, parts of letters, figures, numerals, phases, sentences, emblems, devices, designs, trade name or trademarks or other pictorial matter designed to convey the information, and displayed by means of paint, bills, posters, panels or other devices erected on an open framework, attached or otherwise applied to stakes, posts, trees or other structures or supports. Murals approved by the Board of Commissioners shall be exempt from this definition of a **SIGN**.

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 having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is also a **FREESTANDING SIGN**.

SIGN, NONCONFORMING. A sign that, on the effective date of this chapter, does not

conform to one or more of the regulations set forth in the sign regulations of this chapter.

SIGN, OFF-PREMISES. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction or other activity that is conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, PERMIT. A permit issued by the Land Use Administrator that authorizes the recipient to erect, move, enlarge or substantially alter a sign.

SIGN, TEMPORARY.

(a) A sign that:

1. 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 the sign; or

2. Is intended to remain on the location where it is erected or placed for a period of not more than 15 days.

(b) If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as ***TEMPORARY***.

SITE ANGLE. The distance between intersecting roads that should be clear of any buildings or scrubs, trees, and the like in order to give the driver of a motor vehicle clear site distance before entering the transversing traffic lanes.

SITE SPECIFIC DEVELOPMENT PLAN. A plan submitted to the town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, as set forth and further defined in G.S. § 160A-385.1, and which, upon approval by the Board of Commissioners, grants a vested right to the landowner. The site specific development plan may be for a planned unit development, a subdivision plat, preliminary or general development plan, a plan required for a conditional use permit or any other type of plan the Board of Commissioners deems sufficient in detail to warrant granting a vested right to the landowner.

SPECIAL EVENTS. Circuses, fairs, carnivals, festivals or other types of special events that:

(a) Run for longer than one day, but not longer than two weeks;

(b) Are intended or likely to attract substantial crowds; and

(c) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.

STACKING SPACE. A space to store an automobile off-street while waiting in line for a

drive through service such as an automatic teller service, drive-through restaurant and the like.

STICK-BUILT HOME. A residential dwelling designed to be a permanent residence, built on-site, but which may include minor pre-engineered components that meet local Building Code standards.

STREET, PRIVATE. A vehicular travel way not dedicated as a public street or a dedicated but unaccepted vehicular travel way.

STREET, PUBLIC. A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by a municipality or the State Department of Transportation for public use or which has been otherwise obtained by the agencies for the use or which is proposed to be constructed and then dedicated to and accepted by the agencies as a public right-of-way for vehicular traffic for public use.

SWINE FARM (INTENSIVE LIVESTOCK OPERATION). A tract of land devoted to raising animals of the porcine species served by or requiring animal waste systems having a design capacity of 600,000 pounds steady live weight or greater.

TELECOMMUNICATION TOWER. A telecommunications facility consists of the equipment and structures (including any accessory structures required to house transmitting or maintenance equipment) designed to support antennas used for transmitting or receiving communications and data transmissions. Towers, antennas, or similar structures installed in or attached to tops of buildings, water tanks or similar facilities as “stealth” locations, shall be included in this definition. This definition also includes accessory buildings and related equipment required for the telecommunications facility. This definition does not include ham radios operations, radio-broadcast towers or television broadcast towers. Examples of ***TELECOMMUNICATIONS TOWERS*** include monopoles and lattice construction steel structures.

TEMPORARY BUILDING. Any building or structure used or designed for a limited period of time.

TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE. A residence (which may be a manufactured home) that is:

(a) Located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by the disaster;

(b) Located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in the permanent residence when the work is completed; or

(c) Located on a nonresidential construction site and occupied by persons having construction or security responsibilities over the construction site.

THOROUGHFARE PLAN. A plan adopted by the Board of Commissioners for the

development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOWN COUNCIL. Grifton Board of Commissioners. (See **GOVERNING BODY** above.)

TOWNHOUSE DWELLING. A building consisting of single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open space in common area.

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

USES BY RIGHT. A use by right designed herein by the letter “X”, because of its nature and impact, is automatically allowed within a designated use district.

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

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

- (a) Having an outstanding valid building permit as authorized by G.S. § 160A-385.1;
- (b) Having expended substantial resources (time, labor and money); and
- (c) Having an approved site specific or phased development plan as authorized by the G.S. § 160A-385.1.

YARD. An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward, except where encroachments and accessory buildings are expressly permitted.

YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street or highway right-of-way line and the front line of the building, projected to the sideline of the lot. On all corner lots, the **FRONT YARD** shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. On all corner lots, the **REAR YARD** shall be at the opposite end of the front yard.

YARD, SIDE. An open, unoccupied space on the same lot with the principal building, situated between the sideline of the building and the adjacent sideline of the lot and extending from the rear line of the lot and extending from the rear line of the front yard to the front line of the rear yard. On all corner lots, the **SIDE YARD** shall be considered as parallel to the street upon which the lot has its greatest dimension.

ZONING ADMINISTRATOR. The person, officer or official and his or her authorized representative whom the town has designated as its agent for the administration of this chapter. The administrator may provide for the enforcement of this chapter by means of withholding zoning compliance certificates/permits, and by instituting injunctions, mandamus or other appropriate action or proceeding to prevent unlawful erection, improvement, construction, reconstruction, alteration, conversion, maintenance or use; to correct or abate the violation, or to prevent the occupancy of the building, structure or land.

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

ZONING COMPLIANCE CERTIFICATE. A certificate signed by the Zoning Enforcement Officer, or his or her designee, specifying zoning requirements and listing any other municipal regulations that may govern the use of the subject property.
(Ord. passed 8-8-1995; Ord. passed 1-11-2005, § 16-2)

PLANNING BOARD

§ 152.020 GENERAL RULES.

The Planning Board shall be governed by the provisions of G.S. Chapter 160A, Article 19, as well as by any other special or general laws related to planning in the town, and by the code of ordinances of the town and any changes thereto shall take the precedence over the rules contained herein.
(Ord. passed 1-11-2005, § 2-1)

§ 152.021 MEMBERSHIP, APPOINTMENT AND TERM OF MEMBERS.

(A) The Planning Board, hereinafter after called the Board, consisting of ten voting members and one ex-officio member of the Board of Commissioners appointed by the Mayor of the town that will serve as a non-voting liaison between the Planning Board and the Board of Commissioners. Five members of the Board shall be appointed by the Board of Commissioners, three members shall be appointed by the Board of Commissioners of Pitt County, and two members shall be appointed by the Board of Commissioners of Lenoir County. The members of the Board serving on the effective date of this chapter under prior resolutions of the Council of the town, the Board of Commissioners of Pitt

County and the Board of Commissioners of Lenoir County shall serve the balance of the terms to which they have been appointed by the respective Boards of Commissioners. At the completion of the initial term of office for each member, all subsequent appointments to vacancies on the Planning Board shall be for a term of three years.

(B) (1) The five members appointed to the Board by the Pitt and Lenoir County Boards of Commissioners as representative of the extra-territorial two-mile area outside of and contiguous to the town limits shall be residents of the area and citizens of their respective counties. Each member of the Planning Board, whether inside the corporate limits or in the ETJ, shall represent approximately the same number of people. (For example, if each inside member represents 100 residents, there shall be an appointee for each 100 residents in the ETJ.)

(2) The members shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the regulation of the extra-territorial two-mile area.

(C) Before the Pitt or Lenoir County Board of Commissioners makes any appointments, they shall hold a public hearing on the selection. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The Pitt and Lenoir County Board of Commissioners shall select appointees only from those who apply at or before the public hearing. They shall make the appointments within 45 days following the public hearing.

(D) Once a town provides proportional representation, no power available to a town under G.S. § 160-360 shall be ineffective in its extraterritorial areas solely because county appointments have not yet been made.

(E) If there is an insufficient number of qualified residents of the area to meet membership requirements, the Board may appoint as many other residents of the Counties as necessary to make the requisite number. If the Pitt or Lenoir County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the Board of Commissioners requesting that they be made, the Board of Commissioners may make them.

(Ord. passed 1-11-2005, § 2-2)

§ 152.022 TERMS OF OFFICE.

Appointments to the Planning Board shall be for three-year terms. A member shall be eligible for reappointment. Upon a member's resignation for any reason, the Secretary of the Planning Board shall inform the Board of Commissioners and request that a new appointment be made to complete the unexpired term.

(Ord. passed 1-11-2005, § 2-3)

§ 152.023 ATTENDANCE.

Regular attendance and interest shall be considered prerequisites of continued membership. At the

June regular meeting, annual attendance shall be reviewed, and the Board may request that the Board of Commissioners or County Commissioners relieve any member who has missed four or more regular meetings during the preceding 12 months without good and sufficient reason.

(Ord. passed 1-11-2005, § 2-4)

§ 152.024 OFFICERS AND DUTIES.

(A) *Election of officers.* Elections shall be held annually for all offices, except Secretary. Elections shall be held at a regular scheduled meeting early in the calendar year.

(B) *Chairperson.* The voting members of the Board shall elect a Chairperson. The term shall be one year and shall be eligible for re-election. The Chairperson shall decide all points of order and procedures, subject to these rules. He or she shall appoint any committees found necessary to investigate any matters before the Board. The Chairperson shall have all voting powers.

(C) *Vice-Chairperson.* A first Vice-Chairperson shall be elected in the same manner and for the same term as the Chairperson. He or she shall serve as Acting Chairperson in the absence of the Chairperson, and at such times shall have the same duties and powers as the Chairperson.

(D) *Secretary.* The Town Manager shall act as Secretary to the Board. He or she shall keep all records, and generally supervise the clerical work of the Board. The Secretary shall not have voting rights. He or she shall keep the minutes for every meeting, which shall include the record of all important facts pertaining to each meeting, of every resolution acted upon, and all votes taken in final determination of any question. Minutes shall indicate by name members abstaining from a vote. The official minutes of the meeting of the Planning Board shall be a public record, kept in Town Hall and available for inspection during normal business hours.

(Ord. passed 1-11-2005, § 2-5)

§ 152.025 MEETINGS.

(A) *Regular meetings.* The Planning Board shall meet regularly at a time and place determined by them. If a conflict occurs, the Board may move to another time and place within town provided a majority of the board agrees to the change. The Planning Board shall also meet as necessary for conducting public hearings in joint session with the Board of Commissioners, at a time and place determined by the two boards.

(B) *Special meetings.* Special meetings of the Planning Board may be called at any time by the Chairperson, Town Manager or a quorum of regular members. At least 48 hours' notice must be given of the time and place of special meetings to each member and be advertised on the general bulletin board in Town Hall.

(C) *Cancellation of meetings.* Whenever there is no business for the Board, the Secretary or Chairperson may dispense with a regular meeting by giving notice to all the members.

(D) *Quorum*. A quorum shall consist of a majority of the members. The Chairperson shall not open a meeting of the Planning Board unless and until a majority (six or more) members appointed are present.

(E) *Voting*. A majority vote of Board members present shall be required to approve any type of business. It is the responsibility of all members to cast a vote, except that no members shall vote on any matter in which he or she has a conflict of interest as defined in § 152.031. Board members shall have equal voting rights, whether town or county designees.

(F) *Agenda*. The Secretary shall prepare an agenda for each regular meeting and all items of business to come before the Board shall appear on the agenda. An item not on the published agenda may be brought up after all other items have been considered. (An agenda for special meetings is not required, but may be prepared at the request of the Chairperson.) The agenda shall be mailed or delivered to the Board members by the Secretary or a person designated to do so as soon as possible, but in no event later than five calendar days preceding the scheduled meeting. Application for rezoning or other business to be considered by the Board must be complete and accompanied by all necessary forms and information required by the Zoning Administrator 14 calendar days prior to a scheduled meeting.

(G) *General conduct of meetings*.

(1) Meetings not held in joint session with the Board of Commissioners shall be subject to the following order of business:

- (a) Call to order;
- (b) Confirmation of minutes of the previous meeting;
- (c) Consideration of agenda items;
- (d) Other business; and
- (e) Adjournment.

(2) During joint sessions, the following order shall be observed:

- (a) The Mayor turns the hearing over to the Chairperson of the Planning Board;
- (b) The Chairperson explains the sequence and limitations on presentations;
- (c) Comments and presentations are heard, then the hearing is closed to further oral comment with the understanding additional written comments and documentation may be submitted to the Secretary of the Planning Board; and
- (d) The Chairperson turns the meeting back over to the Mayor or Planning Board

adjourns. (Planning Board may adjourn to another room for clarifications, if necessary, or adjourn to go home).

(Ord. passed 1-11-2005, § 2-6)

§ 152.026 PUBLIC MEETINGS.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his or her absence or failure to vote, indication of the fact, and shall also keep records of its examination and any other official action.

(Ord. passed 1-11-2005, § 2-7)

§ 152.027 FORMAT OF MEETINGS.

(A) Although all meetings shall be open to the public, the public may be permitted to address the Board only in the manner prescribed and at the discretion of the Chairperson. For any matter to be heard in the context of a public hearing, the following sequence shall be followed:

(1) The planning staff and/or applicant explains the request;

(2) Supporters of the request are permitted to speak;

(3) Opponents of the request are allowed to speak;

(4) Rebuttals from the supporters;

(5) Rebuttals from the opponents;

(6) The Chairperson closes the floor to public oral comments;

(7) Planning staff makes comments, if appropriate;

(8) (a) If a joint session, Planning Board closes the hearing until the next regular meeting, limiting further comments to written submissions.

(b) If a separate session, Planning Board deliberates and votes on the matter.

(9) Chairperson or planning staff explains the action taken and its significance.

(B) The Chairperson may, at his or her discretion, limit the number of speakers for each side of a public debate and impose time limits on public presentations by announcing those restrictions prior to consideration of that particular matter. Presentations may be limited as follows:

(1) Applicant/planning staff presentation: five minutes;

(2) Individual comment: three minutes;

(3) Speaker representing a group: five minutes; and

(4) Rebuttals: two minutes.

(Ord. passed 1-11-2005, § 2-8)

§ 152.028 PARLIAMENTARY PROCEDURES.

The latest edition of “Robert’s Rules of Order Revised” shall be used as a guide for all Planning Board meetings. However, the Planning Board may deviate if a majority of the members agrees to do so.

(Ord. passed 1-11-2005, § 2-9)

§ 152.029 REHEARINGS.

Upon the finding of the Planning Board that a rezoning classification be denied for a particular piece of property, the Board shall not act on a resubmission until one year has elapsed from the month the request was denied, unless there have been significant changes as determined by a majority of the members.

(Ord. passed 1-11-2005, § 2-10)

§ 152.030 REPORT TO THE BOARD OF COMMISSIONERS.

(A) (1) The Planning Board may submit to the Board of Commissioners a report on issues important to the town.

(2) This report may be presented whenever an important issue arises or on an annual basis.

(3) The contents may include: minutes of Planning Board meetings; the number of cases reviewed; suggestions for studies to be undertaken and, recommendations for improving the enforcement of the planning program.

(B) The Board shall appoint a committee from its membership to prepare the reports, with the aid of the town staff. No report shall be submitted to the Board of Commissioners without the approval of at least a majority of the membership of the Planning Board.

(Ord. passed 1-11-2005, § 2-11)

§ 152.031 CONFLICT OF INTEREST.

(A) No member of the Town Planning Board may discuss, advocate or vote on any matter in which he or she has a separate, private or monetary interest. A member may be excused from voting on a particular issue under any one of the following circumstances:

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

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

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

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

(B) A Planning Board member who has removed themselves from the Planning Board due to a conflict of interest may discuss that item as a general member of the public.

(C) The member who has a conflict in any official act or action shall publicly disclose on the record of the Board the nature and extent of the interest, and shall withdraw from any consideration of the matter.

(D) Any member who violates this provision may be subject to removal from the Board.

(E) If any Board member believes that another member has a conflict of interest that was not disclosed, he or she can make a motion to excuse that Board member with the conflict of interest. If this motion is passed by a majority of the Board, the member in question shall withdraw from voting on the matter before the Board.

(Ord. passed 1-11-2005, § 2-12)

§ 152.032 POWERS AND DUTIES OF PLANNING BOARD.

(A) The Planning Board may:

(1) Make studies and recommend to the Board of Commissioners plans, goals, and objectives relating to the growth, development, and redevelopment of the community;

(2) Develop and recommend to the Board of Commissioners policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(3) Make recommendations to the Board of Commissioners on conditional use permits, if applicable and proposed zoning amendments (map or text) changes;

(4) Perform any other duties assigned by the Board of Commissioners; and

(5) Function as the Board of Adjustment.

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

(Ord. passed 1-11-2005, § 2-13)

BOARD OF ADJUSTMENT

§ 152.045 MEMBERSHIP OF THE BOARD OF ADJUSTMENT.

Five members of the Planning Board shall function as the Board of Adjustment with the remaining five members serving as alternate members.

(Ord. passed 1-11-2005, § 2-14)

§ 152.046 MEETINGS OF THE BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall use the format specified for the Planning Board. However, when the Board functions as the Board of Adjustment, it shall conduct its meetings in accordance with the quasi-judicial procedures set forth in §§ 152.315 through 152.319 and 152.330 through 152.335.

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

(Ord. passed 1-11-2005, § 2-15)

§ 152.047 QUORUM.

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

(B) A member who has withdrawn from the meeting without being excused as provided in § 152.048 below shall be counted as present for purposes of determining whether a quorum is present.

(Ord. passed 1-11-,2005 § 2-16)

§ 152.048 VOTING.

(A) The concurring vote of four-fifths of the regular Board of Adjustment membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision or determination of the Administrator or to decide in favor of the applicant any matter upon which it is required to pass under

any ordinance (including the issuance of a conditional use permit) or to grant any variance. All other actions of the Board of Adjustment shall be taken by majority vote, a quorum being present.

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

(C) A member may be excused from voting on particular issues under the following circumstances:

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

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

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

(4) A member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest; and

(5) A member may withdraw from the entire remainder of a meeting for any good and sufficient reason.

(Ord. passed 1-11-2005, § 2-17)

§ 152.049 BOARD OF ADJUSTMENT OFFICERS.

The Planning Board officers shall also serve in similar capacities with the Board of Adjustment.
(Ord. passed 1-11-2005, § 2-18)

§ 152.050 POWERS AND DUTIES OF BOARD OF ADJUSTMENT.

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

(1) Appeals from any order, decision, requirement or interpretation made by the Administrator, as provided in §§ 152.315 through 152.319;

(2) Applications for variances, as provided in §§ 152.315 through 152.319;

(3) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in §§ 152.315 through 152.319; and

(4) Any other matter the Board is required to act upon by any other ordinance.
(Ord. passed 1-11-2005, § 2-19)

LAND USE ADMINISTRATOR

§ 152.065 DUTIES OF THE LAND USE ADMINISTRATOR.

(A) Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned by the Board of Commissioners to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this chapter as, the “Land Use Administrator” or “Administrator”.

(B) The term “staff” or “planning staff” is sometimes used interchangeably with the term “Administrator”.

(Ord. passed 1-11-2005, § 2-20)

BOARD OF COMMISSIONERS

§ 152.080 POWERS AND DUTIES OF THE BOARD OF COMMISSIONERS.

(A) In considering proposed changes in the text of this chapter or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of §§ 152.365 through 152.370.

(B) An appeal from a decision of the Board of Adjustment impacting property in Lenoir County shall be taken to the Superior Court in Lenoir County and an appeal impacting property in Pitt County shall be taken to Pitt County Superior Court. Under no circumstances, shall an appeal be taken to the Board of Commissioners.

(C) The Board of Commissioners shall approve, approve conditionally or disapprove all conditional uses as specified in § 152.129.

(Ord. passed 1-11-2005, § 2-20)

ZONING DISTRICTS

§ 152.095 RESIDENTIAL DISTRICTS ESTABLISHED.

(A) *General.* The following residential districts are hereby established: RA-20, RA-20 MH, R-14,

R-10, R-8, R-6SF, R-6.

(B) *RA-20 Residential District.* This district is intended to accommodate a variety of low-density single-family residential and agriculture uses where public water and sewer is not available. Compatible uses such as churches and recreational facilities may be allowed. As the community grows and public sewer is extended, areas within the RA-20 District may be converted to more intense urban development.

(C) *RA-20 MH Residential District.* This district, like the RA-20 District, is intended to accommodate low-residential development. However, the focus is on promoting high quality manufactured home development.

(D) *R-14 Residential District.* This district is intended to accommodate a limited variety of single-family dwellings at a density of at least 14,000 square feet where both public water and sewer is available. Compatible uses such as churches and recreational uses may also be allowed. However, high impact uses such as multi-family dwellings or manufactured home parks as defined in this chapter are specifically excluded because they are inconsistent with the single-family residential character of this district.

(E) *R-10 Residential District.* This district is intended to accommodate a limited variety of single-family dwellings at a density of at least 10,000 square feet per dwelling where both public water and sewer is available. Compatible uses such as churches and recreational uses may also be allowed. However, high impact uses such as multi-family dwellings or manufactured home parks as defined in this chapter are specifically excluded because they are inconsistent with the single-family residential character of this district.

(F) *R-8 Residential District.* This district is intended to accommodate a wide variety of housing types at a density of at least 8,000 square feet per dwelling where public water and sewer is available. Compatible uses such as churches and recreational facilities may also be allowed.

(G) *R-6 SF Residential District.* In contrast to the R-6 Residential, where a wide variety of housing types are accommodated, this district is intended to accommodate only single-family dwellings, at a density of at least 6,000 square feet per dwelling, where public water and sewer is available. Compatible uses such as churches and recreational facilities may also be allowed.

(H) *R-6 Residential District.* This district is intended to accommodate a wider variety of housing types (single-family dwellings as well as duplexes, multi-family dwellings and manufactured home parks) than in the R-6 SF District, at a density of at least 6,000 square feet, where public water and sewer is available. Compatible uses such as churches and recreational facilities may also be allowed.
(Ord. passed 1-11-2005, § 3-1)

§ 152.096 BUSINESS DISTRICTS ESTABLISHED.

(A) *General.* The following business districts are hereby established: CBD, B-1.

(B) *CBD - Central Business District.*

(1) This district is intended for areas within the town designated to accommodate the type of commercial and governmental development that has characterized the central downtown area of the town. Older structures are clustered together with common walls with only sidewalks separating them from the public street. Parking is provided directly on the street or to the rear of the building. Some of the newer development has departed from older pattern. Individual units located on lots with setbacks and off-street parking. Future development here shall be consistent with the pattern that has already occurred in order to enhance the small town, pedestrian scale that characterizes the core area of the town.

(2) (a) Only low impact uses that are compatible with the goal of preserving the small town character of the town will be allowed. Low impact activities are characterized as uses that:

1. Are located in small structures, usually under 5,000 square feet on lots containing less than one acre;
2. Operated with less than ten employees;
3. Normally operate between the hours of 9:00 a.m. to 5:00 p.m.; and
4. Are primarily conducted inside an enclosed structure with few negative external impacts such as outdoor storage of equipment or products, high noise levels or offensive odors.

(b) (These are not precise development criteria, but more illustrations of low impact uses.)

(C) *B-1 District (Highway Business).*

(1) This district is intended for areas within the town's planning jurisdiction established for higher impact commercial uses than in the CBD District. The town wants to encourage this type of development along major highways in clusters at strategic locations rather than in continuous strips. High impact is defined as activities that:

- (a) Are located in large structures, often over 5,000 square feet in area on lots larger than one acre;
- (b) Employ more than ten employees;
- (c) Can generate a large number of customers at any one time;
- (d) Operate during the daytime and evening hours; and
- (e) Conduct business inside and outside an enclosed structure with some negative

external impacts such as outdoor storage of materials (equipment, products or raw materials) that can generate high noise levels or offensive odors.

(2) Uses in this area will be discouraged that undermine the integrity of businesses in the downtown area. In addition the community wants to promote new development where signage is in scale with the structure and the site is appropriately landscaped. Each project needs to design its driveways and parking areas so they provide convenient and safe vehicular flow and minimize traffic disruption. (These are not precise development criteria, but more illustrations of low impact uses.)

(D) *Neighborhood Commercial District.* This district is intended for areas within the town's planning jurisdiction established for low impact commercial activities along local streets that are compatible with adjoining residential areas. The intent is to accommodate a limited number of uses that will allow property owners to pursue economic opportunities while minimizing any disruptive characteristics such as high traffic volume on local streets.

(E) *Office/Institutional District.* This district is intended for areas within the town's planning jurisdiction that are established to promote the development of moderately intensive commercial and institutional uses that are characterized more as a service provider than selling a product. Generally, these uses can provide a transition from a commercial (where a wide range of goods and services are sold) and residential districts (where only residential uses and a limited number of compatible uses are permitted.)

(Ord. passed 1-11-2005, § 3-2)

§ 152.097 INDUSTRIAL DISTRICTS ESTABLISHED.

(A) *General.* The following manufacturing districts are hereby established: I-1, I-2.

(B) *I-1 Light Industrial District.*

(1) This district is intended for areas established to accommodate a limited number of industrial, wholesale, warehouse and related commercial uses/services, which in their normal operation, have little or no adverse effect upon adjoining properties. Low impact is defined here to include activities that are:

(a) In structures containing less than 50,000 square feet on small lots (five acres or less);

(b) Employ less than 100 people on any single shift; and

(c) Conduct most of their operation inside the principle structures on the property with few negative external impacts such as outdoor storage of equipment or products, high noise levels or offensive odors.

(2) Conversely, uses that have a detrimental impact on adjoining uses shall be prohibited. These activities need to be located in areas better suited to accommodate heavy industrial uses in other

parts of the planning area. (These are not precise development criteria, but more illustrations of light manufacturing uses.)

(C) I-2 Heavy Industrial District.

(1) This district is intended for areas established to accommodate a wider range of industrial, wholesale and related business uses/services than permitted in the I-1 District. Uses here may in their normal operations, have a high impact on the community, particularly adjoining properties. High impact is defined generally to include activities that:

(a) Are in structures containing more than 50,000 square feet on large lots (five acres or more);

(b) Employ more than 100 people on any single shift; and

(c) Conduct some of their operation outside the principal structures on the property with negative external impacts such as outdoor storage of equipment or products, high volume of truck or rail traffic, high noise levels or offensive odors or smoke.

(2) Because of the potential negative impacts, these types of uses generally need to be located near major highways or railroad lines on relatively large tracts of land, away from commercial or residential areas. (These are not precise development criteria, but more illustrations of heavy manufacturing uses.)

(Ord. passed 1-11-2005, § 3-3)

§ 152.098 GREENWAY-RECREATIONAL DISTRICT.

This district is intended to accommodate a limited range of uses adjacent to Contentnea Creek that are consistent with best management practices (BMPs) within floodplains.

(Ord. passed 1-11-2005, § 3-4)

§ 152.099 FLOODPLAIN OVERLAY DISTRICT.

The floodplain district is established to promote appropriate development in the 100-year floodplain that will protect humans and minimize damage to property. As an overlay district it shall supplement, not replace, the underlying zoning regulations. Pitt County administers the Flood Hazard Ordinance within the planning jurisdiction of the town. The specific development guidelines are specified in § 7.2 of the Pitt County Zoning Ordinance.

(Ord. passed 1-11-2005, § 3-5)

§ 152.110 OFFICIAL ZONING MAP.

(A) There shall be a map known and designated as the “Official Town of Grifton Zoning Map”, which shall show the boundaries of all zoning districts within the town’s planning jurisdiction. This map shall be dated and shall be kept in Town Hall.

(B) Should the Official Town of Grifton Zoning Map be lost, destroyed or damaged, the Administrator may have a new map prepared. No further authorization or action by the Board of Commissioners is required so long as no district boundaries are changed in this process.
(Ord. passed 1-11-2005, § 3-6)

§ 152.111 AMENDMENTS TO OFFICIAL ZONING MAP.

(A) Amendments to the Official Town of Grifton Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter.

(B) The Administrator shall update the Official Grifton Zoning Map as soon as possible after the Town Board of Commissioners adopts amendments to it. Upon entering any amendment on the map, the Administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(C) No unauthorized person may alter or modify the Official Town of Grifton Zoning Map.

(D) The Administrator shall keep copies of superseded prints of the zoning map for historical reference.

(E) The official zoning map shall be in a paper, Mylar or digital format.
(Ord. passed 1-11-2005, § 3-6)

USES BY ZONING DISTRICTS

§ 152.125 GENERAL.

(A) Except as hereinafter provided, the regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

(B) *Buildings, structures and land must conform.* No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all the regulations specified herein for the district in which it is located.

(C) *Limits.* No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height limits;
- (2) To accommodate or house a greater number of families than specified;
- (3) To have narrower or smaller front yards, side yards, rear yards or other open space than required;
- (4) To occupy a greater percentage of lot area than permitted herein; or
- (5) In any other manner contrary to the provisions of this chapter.

(D) *Yards, open space must remain separate.* No part of a yard or other open space required about or in connection with any building for the purpose of complying with this chapter shall be included as a part of a yard or other open space similarly required for any other building or use.

(E) *Reductions below minimums prohibited.* No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established.

(F) *One building per lot.* Every principal building hereafter erected or moved shall be located on a separate lot and in no case shall there be more than one principal building and permitted accessory buildings on the lot, except for a planned unit development, planned business development, planned industrial development or multi-family developments.

(G) *Lot adjacent to street right-of-way required.* Every building hereafter erected or moved shall be on a lot adjacent to a dedicated public street right-of-way or town-approved private street or drive, and all structures shall be so located as to provide safe and convenient access for services, fire protection and required off-street parking.

(H) *Front yard setbacks.*

(1) The front yard setback requirements of this chapter shall not apply to any lot where the average setback of existing buildings located within 100 feet on either side of the dwelling and on the same side of the block is less than the minimum required front yard depth.

(2) In such cases, the setback on the lots may not be less than the average of the existing setbacks, but not less than ten feet from the street right-of-way.

(I) *Corner lots.* In any residential district, the side yard requirements for corner lots along the side street right-of-way shall be the same as the front yard setback.

(J) *Exceptions to height regulations.* The height limitations contained in § 152.140 do not apply to spires, belfries, antennas, water tanks, fire towers, chimneys or roof structures for the housing of elevators, stairways or air conditioning apparatus.

(K) *Curb cuts.* No portion of any entrance driveway leading from a public street shall be closer than 20 feet from the corner of any intersection measured from the right-of-way line. The width of any entrance driveway leading from the public street shall not exceed 30 feet at its intersection with curb or street line. No two driveways on a single lot leading from a public street shall be within 20 feet of each other measured along the right-of-way. Curb cuts on state streets or highways may be subject to permitting and approval by the State Department of Transportation.

(L) *Setbacks.* Where a business or industrial district abuts a residential area, an additional side and rear yard of 15 feet shall be required.

(M) *Performance requirement.* All development within all zoning districts shall conform to the most current legislation, standards and regulations of the federal government, the state, Pitt County and the town, including the standards and regulations of the U.S. Environmental Protection Agency (EPA) and the U.S. Occupation, Safety and Health Administration (OSHA) regarding water and air quality, noise control and life safety requirements.

(N) *Greenway corridor.*

(1) If any portion of the area proposed for a development lies within an area designated in an officially adopted greenway master plan as a greenway corridor, the area so designated shall be included as part of the area set aside to satisfy the open space requirements.

(2) The area within the greenway corridor shall be dedicated and/or reserved for the public at the option of the town.

(Ord. passed 1-11-2005, § 4-1)

§ 152.126 PERMISSIBLE USES AND SPECIFIC EXCLUSIONS.

(A) Because the list of permissible uses set forth in the Table of Uses by Districts cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed ones.

(B) Uses that are not listed in the Table of Uses by Districts even with the liberal interpretation mandated by division (A) above are prohibited.

(C) Without limiting the generality of the foregoing provisions, the following uses are prohibited as specified below:

(1) A manufactured home built more than ten years from the present date may not be moved into the planning area (corporate limits or extraterritorial planning area);

(2) Any existing Class C manufactured unit may not be moved to a new location within the planning area;

(3) No manufactured home or travel trailer may be used as a storage facility on any lot;

(4) The manufacturing, processing, fabrication and/or bulk storage of acetylene gas (except for use on-premise) explosives, fireworks, ammunition or matches;

(5) Junk or salvage yards;

(6) Intense livestock operations such as commercial chicken, turkey and hog operations (see § 152.007);

(7) Junked vehicles in all residential districts (see § 152.007); and

(8) Animal processing operations where animals are dressed for consumption by humans.
(Ord. passed 1-11-2005, § 4-2)

§ 152.127 ACCESSORY USES.

(A) (1) The Table of Uses by Districts classifies different principal uses according to their different impacts.

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

(3) For example, a swimming pool is an accessory to a dwelling, which is a principal use in a residential district.

(B) The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

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

(2) Hobbies or recreational activities of a noncommercial nature; and

(3) The renting out of one or two rooms within a single-family residence to not more than

two persons who are not part of the family that resides in the single-family dwelling.
(Ord. passed 1-11-2005, § 4-3)

§ 152.128 PERMISSIBLE USES NOT REQUIRING PERMITS.

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

(A) Roads; and/or

(B) Electric power, telephone, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
(Ord. passed 1-11-2005, § 4-4)

§ 152.129 TABLE OF USES BY DISTRICTS.

[Please insert Table 152-129.wpd here. Nine pages.]

(Ord. passed 1-11-2005, § 4-5)

DIMENSIONAL REQUIREMENTS

§ 152.140 DIMENSIONAL REQUIREMENTS SUMMARY TABLE.

| <i>Dimensional Requirements Summary Table</i> | | | | | | |
|---|---------------------------------------|--|--------------|----------------------------------|----------------------|--------------------|
| <i>Districts</i> | <i>Minimum Lot Area (1) (sq. ft.)</i> | <i>Minimum Zoning Lot Width and Depth (ft)</i> | | <i>Minimum Setbacks (2) (ft)</i> | | |
| | | <i>Width at Front Line</i> | <i>Depth</i> | <i>Front (3)</i> | <i>Side Interior</i> | <i>Side Corner</i> |
| RA-20 and R20-MH | | | | | | |
| Single-family dwellings | 20,000 | 100 | | 30 | 16 | 30 |
| Two-family (duplex) dwellings | 25,000 | 100 | | 30 | 16 | 30 |
| Manufactured homes class A, subject to §§ 152.160 and 152.161 | 20,000 | 100 | | 30 | 16 | 30 |
| Manufactured homes class B, subject to §§ 152.160 and 152.162 | 20,000 | 100 | | 30 | 16 | 30 |
| Multi-family dwellings, subject to development standards in § 152.164 | | | | | | |
| Manufactured home parks, subject to development standards in § 152.163 | | | | | | |
| Planned unit developments , subject to development standards in § 152.167 | | | | | | |
| Nonresidential uses | 20,000 | 100 | | 30 | 16 | 30 |
| R-14 | | | | | | |
| Single-family dwellings | 14,000 | 90 | | 30 | 14 | 30 |
| Nonresidential | 14,000 | 90 | | 30 | 14 | 30 |

| | | | | | | |
|---|--------|----|--|----|----|----|
| R-10 | | | | | | |
| Single-family dwellings | 10,000 | 90 | | 30 | 10 | 30 |
| Nonresidential | 10,000 | 90 | | 30 | 10 | 30 |
| R-8 | | | | | | |
| Single-family dwellings | 8,000 | 80 | | 25 | 8 | 25 |
| Two-family dwellings | 10,000 | 80 | | 25 | 8 | 25 |
| Manufactured homes class A, subject to development criteria in §§ 152.160 and 152.161 | 8,000 | 80 | | 25 | 8 | 25 |
| Multi-family dwellings, subject to development criteria in § 152.164 | | | | | | |
| Planned unit developments subject to development criteria in § 152.167 | | | | | | |
| Nonresidential | 8,000 | 80 | | 25 | 8 | 25 |
| R-6 SF | | | | | | |
| Single family dwellings | 6,000 | 60 | | 20 | 8 | 20 |
| Two-family dwellings | 8,000 | 60 | | 20 | 8 | 20 |
| Nonresidential use | 6,000 | 60 | | 20 | 8 | 20 |
| R-6 | | | | | | |
| Single-family dwellings | 6,000 | 60 | | 20 | 8 | 20 |
| Two-family dwellings | 8,000 | 60 | | 20 | 8 | 20 |
| Manufactured homes class A or B, subject to development criteria in §§ 152.160 through 152.162 | 6,000 | 60 | | 20 | 8 | 20 |
| Multi-family dwellings, subject to development criteria in § 152.164 | | | | | | |
| Nonresidential use | 6,000 | 60 | | 20 | 8 | 20 |
| CBD | | | | | | |

| | | | | | | |
|---|--------|-----|--|----|----|----|
| R-10 | | | | | | |
| Single-family dwellings | 10,000 | 90 | | 30 | 10 | 30 |
| Nonresidential | 10,000 | 90 | | 30 | 10 | 30 |
| Multi-family and single family residential dwellings subject to the development criteria in § 152.165 | | | | | | |
| Nonresidential | | | | | | |
| B-1 Highway Commercial | | | | | | |
| Residential dwellings | | | | | | |
| Nonresidential | 20,000 | 100 | | 25 | 15 | 25 |
| NB Neighborhood Commercial | | | | | | |
| Nonresidential | 20,000 | 100 | | 25 | 15 | 25 |
| O/1 Office/Institutional | | | | | | |
| Single-family dwellings | 8,000 | 80 | | 25 | 8 | 25 |
| Nonresidential | | | | 20 | 8 | 20 |
| Light Industrial | | | | | | |
| Nonresidential | 20,000 | 100 | | 35 | 20 | 35 |

| Heavy Industrial | | | | | | |
|--|---------|-----|--|----|----|----|
| Nonresidential | 2 acres | 200 | | 35 | 20 | 35 |
| <p>(1) When public sewer is not available, the Pitt County Health Department may require larger lots.</p> <p>(2) Any yard setback (front, side or rear) fronting on a public roadway shall be measured from the right-of-way line. All other setbacks shall be measured from the property line.</p> <p>(3) The front yard setback requirements of this chapter shall not apply to any lot where the average setback of existing building located on either side of the dwelling and on the same side of the block, is less than the minimum required front yard depth. In such cases, the setback shall be less than the average of the existing setbacks, but not less than ten feet from the street right-of-way line.</p> <p>(4) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the top of the building. When measuring heights, the following features are exempt from the district height limitations: chimneys, water tanks, towers, masts, flagpoles, heating and air conditioning equipment, signs, antennas, towers, masts, flagpoles, heating and air conditioning equipment, and similar equipment.</p> | | | | | | |

(Ord. passed - -, § 5-1)

DEVELOPMENT STANDARDS FOR SPECIFIC USES

§ 152.155 ACCESSORY BUILDINGS.

(A) *Numbers.* No more than two accessory buildings may be placed on any residential lot as an accessory use.

(B) *Location.* The accessory building or use shall be placed in the rear yard in corner lots and in the rear and side yard of all other lots.

(C) *Separation.* No separate accessory building or use shall be erected within five feet of any other building, or within five feet from any property line.

(D) *Area.* The total square footage of all accessory buildings shall not exceed the area of the principal structure.

(Ord. passed 1-11-2005, § 6-1)

§ 152.156 ADULT ORIENTED BUSINESSES.

(A) *Location.* No adult oriented businesses shall be permitted in any building located:

(1) Within 1,500 feet in any direction from a residential building or residentially zoned property;

(2) Within 1,000 feet in any direction from a building in which an adult oriented business is located;

(3) Within 1,500 feet in any direction from a building used as a church, synagogue or other house of worship;

(4) Located within 1,500 feet in any direction from a building used as a public or private elementary or secondary school, child day care or nursery school;

(5) Located within 1,500 feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located; and/or

(6) Located within 1,500 feet in any direction from any establishment with an on-premise ABC license.

(B) *Maximum floor area.* The gross floor area of any adult oriented business shall not exceed 3,000 square feet and all business-related activity shall be conducted in a building.

(C) *Sleeping quarters.* Except for an adult motel, no adult oriented business may have sleeping quarters.

(D) *One business/structure.* There shall not be more than one adult oriented business in the same building, structure or portion thereof. No other principal or accessory use may occupy the same building, structure, property or portion thereof with any adult oriented business.

(E) *Signage.* Except for signs as may be permitted by §§ 152.185 through 152.198.

(F) *External impacts.* No printed material, slide, video, photograph, written text, live show or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

(G) *Parking.* No enclosed or underground parking shall be permitted.

(H) *Nonconforming adult oriented businesses.* Any adult oriented business lawfully operating on 4-10-2001, that is in violation of this subchapter shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. The nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for period of 30 days or more it may not be reestablished. If two or more adult oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and later established businesses shall be considered nonconforming. An adult oriented business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park within one 1,000 feet of the adult oriented business.

(Ord. passed 1-11-2005, § 6-2)

§ 152.157 BED AND BREAKFAST DWELLINGS.

(A) *Resident operators.* The facility is operated by someone who resides full time in the house.

(B) *Dwelling only.* The use shall be located in a structure which was originally constructed as a dwelling.

(C) *Food.* Meals served on the premise shall only be for guests.

(D) *Public health rules.* All facilities shall comply with the rules governing the sanitation of bed and breakfasts as specified in 15A NCAC 18A.2200; and

(E) *Signs.* Signage shall be limited to one home occupation sign not to exceed two foot square in area, which shall be mounted on the building or freestanding.

(Ord. passed 1-11-2005, § 6-3)

§ 152.158 HOMES FOR INFIRM OR AGED, CONGREGATE CARE, LIFE CARE, NON-PROTECTED GROUP HOMES, INTERMEDIATE CARE AND NURSING HOMES.

(A) These facilities or homes shall certify that they are able to satisfy the requirements of the State Department of Human Resources.

(B) Notwithstanding any provision to the contrary, for each person to be cared for there shall be:

(1) At least 25 square feet of indoor space per person, which is usable for common leisure and recreational activities of the residents, exclusive of closets, passageways, kitchens, bathrooms and bedrooms; and

(2) At least 500 square feet of outdoor leisure and recreation area per person, 100 square feet of which shall be in lawn and facilities as opposed to wooded area.

(C) Outdoor leisure and recreation areas shall provide suitable screening with a type B buffer along the street right-of-way and adjacent properties in residential use. The areas shall be on land suitable for the use intended and may include wooded and vegetated areas. Adequate leisure and recreation facilities shall be provided considering the age and disability of the residents.

(D) Where a facility will provide care for seven or more persons, the minimum lot size shall be increased by 750 square feet for each adult in excess of six to be cared for.

(E) New facilities covered by this division must be separated from existing protected group homes and facilities covered by this division by a distance of no less than one-half mile measured from the closest point of each lot property line in a straight line.

(Ord. passed 1-11-2005, § 6-4)

§ 152.159 HOME OCCUPATIONS.

(A) *Maximum area.* Area set aside for home occupations can occupy no more than 25% of the gross floor area of the residence.

(B) *Outside storage.* No outside storage of items associated with the home occupation is permitted.

(C) *Inside principal or accessory buildings.* The home occupation must be conducted entirely within the residence or accessory use and be a use which is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the residence. Home occupations are permitted in a detached garage or other accessory buildings on that lot

(D) *Types of uses.* Examples of uses permitted include, but are not limited to, daycare for less than five preschool children and three school age children (preschool children of operator counted, but school age children excluded), telephone sales, barber/beauty services, doctor/dentist office, accountants and hand crafts. The Board of Adjustment shall decide whether other occupations not listed above are within the spirit of this category of uses.

(E) *Limited sales items.* Only displays, stock-in-trade or commodities made on the premise shall be permitted.

(F) *Employees.* Only one person may be employed who is not an occupant of the residence.

(G) *External appearance.* There shall be no changes in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, except one non-illuminated sign not exceeding four square feet in size.

(H) *Traffic generation/off-street parking.* No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street, but not in any required front yard.

(I) *External impacts.* No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot in which the home occupation is located. No equipment or process shall be used which creates visual or audible interference with radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

(Ord. passed 1-11-2005, § 6-5)

§ 152.160 MANUFACTURED HOMES; GENERAL REQUIREMENTS.

(A) *Grouping.* Single wide manufactured homes shall not be grouped together to form a single unit.

(B) *Connecting to other units.* No manufactured home shall be connected to any other dwelling or other building to form a single unit.

(C) *Attachments.* Enclosed living space shall not be added to a class A or B manufactured home. However, porches and decks may be permitted.

(D) *Underpinning.* All manufactured homes placed within the town after the effective date of this chapter shall have a permanent masonry wall, unpierced except for ventilation and access on individual lots, except within a manufactured home park. There shall be no authorization for electrical hookup until this condition is met.

(E) *Permits.* The owner of each manufactured home placed in the town is required to obtain all necessary inspection certificates and permits from the town and Pitt County. Fees may be charged for this service. Appropriate information as to owner, location, lot size, road frontage and other information may be required to process necessary permits.

(F) *Compliance with Pitt County Inspection Department.* All manufactured homes set up in the town shall meet all requirements of the Pitt County Building Inspections Department. Electrical service shall not be authorized without proof that all requirements have been met.

(G) *Age of units.*

(1) No manufactured unit constructed more than ten years from the present date shall be moved into the town limits or its planning area. The Planning Board may consider variances for manufactured units that are older than ten years, but are in good condition. When considering the variances, the Planning Board shall consider:

- (a) Physical age of the manufactured unit;
- (b) Effective age (condition) of the manufactured unit;
- (c) Any upgrades that may have been performed on the manufactured unit; and
- (d) Any upgrades that will be performed on the manufactured unit.

(2) Photographs and the VIN number of the unit shall be submitted. The photographs shall show both the exterior and the interior of the unit. The photographs shall provide the close-up views so that the Planning Board may make a reasonable interpretation of the condition of the unit.

(Ord. passed 1-11-2005, § 6-6; Ord. passed 3-11-2008)

§ 152.161 MANUFACTURED HOMES, CLASS A.

Each unit shall satisfy each of the following criteria.

(A) *Width.* The home has a minimum width of 16 feet (double wide units only);

(B) *Pitch.* The pitch of the roof has a minimum vertical rise of three feet for each 12 feet of horizontal run. A different pitch may be acceptable if compatible with neighboring residential units;

(C) *Roof material.* The roof is finished with a type of shingle that is commonly used in standard residential construction;

(D) *Projecting eave.* The roof structure shall provide an eave projection of no less than six inches, which may include a gutter;

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

(F) *Foundation.* A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home before an electrical permit is issued;

(G) *Set up.* The unit is set up in accordance with the standards set by the State Department of Insurance;

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

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

(Ord. passed 1-11-2005, § 6-7)

§ 152.162 MANUFACTURED HOMES, CLASS B.

Each unit satisfies each of the following criteria:

(A) *Width.* The home has a minimum width of eight feet (single-wide units);

(B) *Pitch.* The pitch of the homes roof has a minimum vertical rise of three feet for each 12 feet of horizontal run;

(C) *Roof material.* The roof is finished with a type of shingle that is commonly used in standard residential construction;

(D) *Projecting eaves.* The roof structure shall provide eaves projecting not less than six inches, which may include a gutter;

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

(F) *Foundation.* A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home, except in a mobile home park;

(G) *Set-up.* The unit is set up in accordance with the standards set by the State Department of Insurance;

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

(I) *Materials removed.* The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot and before occupancy; and

(J) *Orientation.* The longest side shall face the front of the lot.
(Ord. passed 1-11-2005, § 6-8)

§ 152.163 MANUFACTURED HOME PARKS.

(A) *Types of manufactured home parks.*

- (1) Minor manufactured home parks: four spaces or less with no new street(s); and
- (2) Major manufactured home parks: all others.

(B) *Preliminary plan procedure for minor manufactured home parks.*

(1) *Step 1.* Submit 15 copies of preliminary plan to the town along with appropriate fee and preliminary plan application.

(2) *Step 2.* Preliminary plan is reviewed by the Town Administrator for compliance with the manufactured home park ordinance regulations.

(3) *Step 3.* Preliminary plan copies are transmitted to the applicable reviewing and regulatory agencies such as:

- (a) Pitt County Environmental Health Division;
- (b) Pitt County Emergency Services Department;
- (c) Utility providers;
- (d) State Department of Transportation;
- (e) Natural Resources Conservation Service;

- (f) U.S. Army Corps of Engineers;
- (g) U.S. Postal Service;
- (h) Pitt County Board of Education; and

(i) If the town does not receive a response within 30 days, it will be assumed the reviewing agency does not have any comments and concurs with the project as described.

(4) *Step 4.* Preliminary plan is acted upon by the Administrator as approved, conditionally approved or disapproved. Comments, requirements and recommendations from the Administrator and review agencies are compiled into a list and forwarded to the developer and surveyor/engineer as part of a conditional approval.

(5) *Step 5.* If conditionally approved, developer may proceed with as-built plan procedure.

(C) *Preliminary plan procedure for major manufactured home parks preliminary plat application.*

(1) *Step 1.* Submit 15 copies of the preliminary plan to the Town Administrator along with appropriate fee and preliminary plan application.

(2) *Step 2.* Review preliminary plan by Town Administrator for compliance with the manufactured home park ordinance.

(3) *Step 3.* Transmit copies of the preliminary plan to the applicable reviewing and regulatory agencies such as:

- (a) Pitt County Environmental Health Division;
- (b) Pitt County Emergency Services Department;
- (c) Utility providers;
- (d) State Department of Transportation;
- (e) Natural Resources Conservation Service;
- (f) U.S. Army Corps of Engineers;
- (g) U.S. Postal Service;
- (h) Pitt County Board of Education; and

(i) If the town does not receive a response within 30 days, it will be assumed the reviewing agency does not have any comments and concurs with the project as described.

(4) *Step 4.* Forward the preliminary plan to the Administrator for review of all requirements, conditions and comments made by the reviewing agencies.

(5) *Step 5.* Then forward the preliminary plan to the Planning Board, with recommendation from the Administrator. They shall approve, conditionally approve or disapprove the plat. Comments, requirements and recommendations from Administrator and review agencies are compiled into a list and forwarded to the developer and surveyor/engineer as part of a conditional approval.

(6) *Step 6.* If conditionally approved, developer may proceed with construction plan procedure.

(D) Construction plan procedure for major manufactured home park construction plat application.

(1) *Step 1.* Submit 12 copies of construction plan to Town Administrator along with appropriate fee and construction plan application when installing a new street or other major improvement(s);

(2) *Step 2.* Review construction plan by Town Administrator for compliance with the manufactured home park ordinance regulations;

(3) *Step 3.* Transmit copies of the construction plan to the applicable reviewing and regulatory agencies such as:

(a) Pitt County Environmental Health Division;

(b) Pitt County Emergency Services Department;

(c) Pitt County Building Inspections Department;

(d) Water provider; and

(e) If the town does not receive a response within 30 days, it will be assumed the reviewing agency does not have any comments and concurs with the project as described.

(4) *Step 4.* Forward the construction plan to the Town Administrator for review and discussion of all requirements, conditions and comments made by the review agencies;

(5) *Step 5.* Act upon the construction plan by the Town Administrator as approved, conditionally approved or disapproved. Comments, requirements and recommendations from Administrator, Planning Board and review agencies are compiled into a list and forwarded to the developer and surveyor/engineer as part of a conditional approval; and

(6) *Step 6.* Proceed if conditionally approved is given with the final plat procedure.

(E) *As-built plan procedure for minor and major manufactured home parks; application.*

(1) *Step 1.* Submit 15 copies of as-built plans to town along with appropriate fee and application to the State Department of Transportation;

(2) *Step 2.* Review by Administrator as-built plan for compliance with the manufactured home park ordinance regulations and compliance with preliminary plan and construction plan conditions and requirements;

(3) *Step 3.* Transmit copies of as-built plan to the applicable reviewing and regulatory agencies such as:

(a) Pitt County Environmental Health Division;

(b) Utility providers; and

(c) Local Soil Erosion and Sedimentation Control Specialist: Dwane Jones.

(4) *Step 4.* Approved or disapproved as-built plan.

(F) *Design and improvement standards.*

(1) *Adverse development.* MHPs shall be designed to avoid an adverse effect on groundwater and aquifer recharge; to reduce site grading and cut and fill; to prevent accelerated erosion; to prevent flooding; to provide adequate access to spaces and building sites; and to mitigate adverse effects of noise, traffic, and drainage on neighboring properties.

(2) *Protect natural features.* Development shall be located to preserve the natural features of the site by minimizing alterations of natural features. Particularly:

(a) Unique or fragile areas, such as wetlands;

(b) Flood hazard areas;

(c) Habitats of endangered wildlife; and

(d) Historically significant structures and sites.

(3) *Drainage system.* An adequate surface and subsurface drainage system shall be designed, installed, and maintained.

(4) *Parking.* Each unit shall have two off-street parking spaces, at least 20 feet by 20 feet. Each parking pad shall be directly connected to a driveway or the travel way of a manufactured home park street.

(5) *Driveways.* Each manufactured home park space shall have direct access onto an approved manufactured home park street or state road by way of a driveway. Driveways shall be at least ten feet wide and graded and surfaced with impervious materials. No more than two manufactured home park spaces may share a common driveway.

(6) *Streets.* All streets shall be private and paved. In addition, streets shall be constructed to NCDOT standards.

(7) *Cul-de-sacs.* Every permanent dead-end street shall be developed as a cul-de-sac and not exceed 1,200 feet in length, except where natural features makes this requirement impractical. The length of the cul-de-sac shall be measured from the centerline of the nearest intersecting through street to the center of the turnaround.

(8) *Temporary turnarounds.* In cases where streets are proposed to be extended, the Administrator may permit a temporary turnaround for a period of two years. It shall be designed as a cul-de-sac and constructed to NCDOT standards, but not necessarily paved.

(9) *Street offsets.* Whenever possible, offsets shall be avoided. If necessary internal streets offsets shall be at least 125 feet apart and streets intersecting primary highways or secondary roads shall be at least 250 feet.

(10) *Access.* Each manufactured space shall have access to a public or private street.

(11) *Space size.*

| | <i>Septic System</i> | <i>Public or Community Sewage System</i> |
|---------------|---|---|
| Minimum size | 12,500 square feet | 10,000 square feet |
| Minimum width | 60 feet, except 40 feet for flag-shaped space or space adjacent to the bulb of cul-de-sac | 60 feet, except 40 feet for flag-shaped space or space adjacent to the bulb of cul-de-sac |

(12) *Setbacks.*

| | <i>Principle Structures</i> | <i>Accessory Structures</i> |
|--------------------|-----------------------------|-----------------------------|
| Private road R-O-W | 30 feet | |
| Other R-O-W | 40 feet | |
| Space boundary | 10 feet | 5 feet |
| Other structures | 20 feet | 5 feet |

(13) *Drainage.*

(a) *Drainage aspects of construction plan.* The proposed plan for managing drainage for all areas of the development shall be shown on the preliminary plan. The plan shall show all pertinent information required to evaluate the proposed system, including the location, elevation, type and size of all existing and proposed drainage improvements, including existing drain tile used for agriculture purposes.

(b) *Off-site drainage easements.* Drainage easements of appropriate widths and lengths, as deemed reasonably necessary by the town to allow for future drainage maintenance and improvements to effectively control surface and/or subsurface water, shall be identified on construction and as-built plans. Off-site easements across property(ies) not be developed on construction and as-built plans. Off-site easements across property(ies) not being developed may be deemed necessary by the town when no natural drainage outlet exists to effectively control surface and /or subsurface water. Evidence of a recorded easement and agreement if applicable, shall be provided to the Administrator at the time of as-built plan submittal and may require review and approval by the County Attorney. Any revisions to recorded drainage easements required by this section must be approved by the Administrator.

(14) *Utilities.*

(a) *Utility ownership and easements.* Where a developer installs or causes the installation of water, sewer, electrical power, telephone, natural gas, cable television or other similar facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer the necessary ownership or easement rights to enable operation and maintenance of the facilities. Where practicable, the easements should be located adjacent to or centered on space lines, or adjacent to the street right-of-way to avoid conflicts with the placement of other required improvements.

(b) *Necessary utilities.* The developer shall ensure that every space within a development is served with or designed to allow the adequate utilities, including water, sewage disposal, electric power and telephone services.

1. *Water supply.* All new MHPs shall be connected to an existing public water supply and, when practicable, a public or community sewage system. Fire protection provisions must be met for development sites served with a six-inch or larger water line. An individual water meter is required for each space. During as-built plan review, the agency or entity which owns and operates such a system shall certify that the new development is accepted for addition to the system.

2. *Sewage disposal.* The MHPs shall be connected to the public sewage system, if possible.

3. *Electrical power and telephone service.* Both services shall be provided by locally authorized suppliers.

4. *Solid waste.* The manufactured home park operator is responsible for proper collection and disposal of all solid waste.

(15) *Screening.* MHPs shall provide screening and bufferings as specified in §§ 152.235 through 152.247 and 152.260 through 152.267.

(G) *Public safety and service provisions.*

(1) *Fire protection.* Every manufactured home park shall be provided adequate fire protection. If a six inch or larger water line serves the site, the following standards shall be met.

(a) *Hydrant location.* Hydrants shall be located adjacent to the street right-of-way, if practicable, hydrants shall be located at street intersections, or on space lines if located other than at an intersection.

(b) *Hydrant spacing.* Each space located along an internal development street shall be located no further than 400 feet from a hydrant, as measured along the road right-of-way. Spaces developed along an existing state road external to the development, or along an existing private street, shall be no further than one mile from a hydrant.

(c) *Minimum line size.* Six inches in diameter.

(d) *Design and installation.* All hydrants shall have two and one-half inch and four and one-half inch hose connections which shall be located 18 and 24 inches from finished grade. All hydrant threads shall be national standards.

(2) *Street lights.* All spaces and streets shall be sufficiently illuminated to ensure the security of property and safety of persons using streets. The distance between street lights shall not exceed 400 feet, as measured along street rights-of-way.

(3) *Park/street name.* The name of the proposed MHP or any street in the park shall not duplicate or be phonetically similar to the name of any other park/ planned development or street in the town's planning area.

(4) *Street addresses.* Assigned street addresses shall be displayed for each unit in accordance with the town or Pitt/Lenior Counties policies and regulations.

(5) *Street signs and traffic control signs.* Street name signs shall meet city/county specifications and traffic control signs which conform to the *Manual of Uniform Traffic Control Devices* and NCDOT specifications shall be installed at the expense of the developer, or payment collected for installation by the town, prior to as-built plan approval.

(6) *Entrance identification sign.* Each MHP shall have an identification sign at entrance of the park. The signs shall not be located in the road right-of-way, sight distance triangles or any other location which would obstruct the view of motorists. If lighted, the signs shall be illuminated, internally or externally.

(7) *Mailboxes.* Prior to as-built plan submittal, the park operator shall install neighborhood delivery collection box units. This (These) unit(s) shall be located near a park entrance and have direct access to the park street. Parking for three vehicles shall be constructed adjacent the units.

(H) *Plan requirements.* All preliminary, construction and as-built plans for manufactured home parks shall be submitted for review and shall conform to the map requirements in Appendix A. (Ord. passed 1-11-2005, § 6-9)

§ 152.164 MULTI-FAMILY DWELLINGS IN RESIDENTIAL DISTRICTS.

(A) *Application of standards.* The standards established in this section shall apply to new construction and conversions of all multi-family development.

(B) *Site plan review and approval.* Site plan review by the Planning Board and approval by the Board of Commissioners is required prior to the issuance of any permits and before any construction or site alteration is begun.

(C) *Site plan requirements.* If property is to be subdivided, the site plan drawn to scale shall include all information required by the subdivision ordinance, in addition to the following information:

(1) Existing and proposed lot lines, streets, parking lots, utility easements and drainage facilities;

(2) Existing and proposed building locations;

(3) Existing and proposed open spaces, setbacks and accessory uses;

(4) Any additional information that may be required by the Administrator in order to determine compliance with these and other applicable regulations and requirements; and

(5) Site data:

(a) Site area;

(b) Total floor area of all principal and accessory buildings;

(c) Total parking area;

(d) Total open space; and

(e) Total area in landscaping and screening.

(D) *Development standards.*

(1) Minimum lot size: 15,000 square feet.

(2) Minimum square footage per units: 4,000 square feet for the first unit and 2,500 square feet in addition for each unit over one for apartments with two or more bedrooms, and 2,000 square feet for each unit over one for one-bedroom apartments.

(3) Minimum square footage for conversion of existing structures: 2,000 square feet/unit.

(4) Setbacks from front, sides and rear from dedicated street right-of-way or lot line: minimum setbacks for the zoning districts in which multiple-family dwelling project is located.

(5) Distance between two buildings on a single lot: 25 feet. (Depending on construction materials used, more separation may be required by the State Building Code.)

(6) Accessory structures: minimum setback of an accessory building, attached or detached, from side or rear lot line shall be five feet; provided that, the accessory use building is limited to one story in height and not more than 100 square feet in area.

(7) Maximum density: 15 units per acre.

(8) Landscaping: See §§ 152.235 through 152.247 and 152.260 through 152.267.

(9) Off-street parking: See §§ 152.220 through 152.222.

(E) *Design and site considerations.*

(1) *Driveways.* Points of egress and ingress shall consist of a paved driveway or roadway with a minimum paved width of 27 feet and shall be located a sufficient distance from highway intersections to minimize traffic hazards, congestion and inconvenience.

(2) *Parking.* All parking lots and areas shall be paved, and all spaces and traffic lanes shall be marked clearly in conformity with industry standards. Off-street parking and loading shall be provided in conformance with §§ 152.220 through 152.222.

(3) *Traffic.* Traffic circulation may be via public streets or, where approved by the Board of Commissioners, private drives. Private drives may be considered where the drive(s) will handle only local traffic within the development. If private drives are proposed, the developer shall provide and file subdivision street disclosure statements to buyers in accordance with G.S. § 136-102.6 and shall show evidence that a property owners' association will be established to assume responsibility for maintenance of the private roads.

(4) *Streets.* All public streets shall be developed in conformance with subdivision ordinance requirements. Private drives shall be designed and constructed, including paving, to town standards or equivalent and approved by the town's consulting engineer. A registered civil engineer shall certify that all public and private drives have been designed and constructed to the design and engineering standards set forth herein.

(5) *Landscaping.* Landscaping shall be in conformance with requirements set forth in §§ 152.235 through 152.247 and 152.260 through 152.267, and the landscaping plan for the proposed project shall be incorporated in the site plan submitted in accordance with the requirements of this subchapter and the subdivision ordinance.

(6) *Utilities.* A registered civil engineer shall design all stormwater drainage, sanitary sewer, erosion control, water supply and other necessary utility plans in conformance with all applicable building and development codes and engineering principles and shall certify final construction of such to the town prior to final plat approval. All utility and street improvements shall be reviewed by the town's consulting engineer prior to approval of the preliminary plat.

(7) *Signs.* Two ground signs shall be permitted at each entrance to the development. The maximum size of the signs shall be 16 square feet per sign face. The maximum height shall be 15 feet. The signs shall be set back at least 15 feet from the street right-of-way. No other signs shall be allowed, except for directional, information, traffic and other governmental or public service uses. Moving and flashing signs are prohibited. Line-of-site requirements will be those of the NCDOT. The plan for signage shall be included in the preliminary site plan in conformance with preliminary site plan requirements and in conformance with any provisions of §§ 152.220 through 152.222 which may be applicable.

(8) *Open space.*

(a) Thirty percent of the net area shall be reserved for common and/or private open space.

(b) Public and/or private streets, driveways, off-street parking area, principal and accessory structures shall not be used in calculating the open space requirement.

(c) Recreation areas may be counted as open space provided impervious surfaces constitute no more than 50% of the recreation area.

(d) Detached accessory structures shall not cover more than 20% of any individually designated, reserved or common area.

(e) If any portion of the area proposed for a multiple-family development lies within an area designated in an officially adopted greenway master plan as a greenway corridor, the area so designated shall be included as part of the area set aside to satisfy the open space requirements of this section. The area within the greenway corridor shall be dedicated and/or reserved for the public at the option of the town.

(F) *Recreational areas (private).*

(1) Exemption: requirements shall not apply to developments that contain less than two acres or are located within a one-half mile radius of a public recreation area.

(2) Common recreation areas: 100 square feet per dwelling unit.

(G) *Solid waste management.*

(1) No container pad shall be located closer than 20 feet to any dwelling structure.

(2) Each container pad required to service the development shall be located within 200 feet of the dwelling units the container is intended to serve.

(3) Container pads shall be enclosed on three sides by a solid screen consisting of a fence or foliage, or a combination of both.

(4) Container pads shall conform to specifications of the town.

(H) *Management and maintenance.* All multiple-family developments will be managed and maintained under unified control. Association or maintenance covenants will be prepared, properly recorded and a copy shall be provided to the town.

(Ord. passed 8-8-1995; Ord. passed 1-11-2005, § 6-10)

§ 152.165 MULTI-FAMILY/SINGLE-FAMILY DEVELOPMENTS IN COMMERCIAL DISTRICTS.

(A) Minimum non-ground level building floor area of 800 square feet per residential unit.

(B) All residential usage shall be on second floor or higher levels of buildings.

(C) All ground floor space shall be developed for commercial, nonresidential uses, as permitted in the CBD district.

(D) If a building permit is obtained for exterior renovation, no renovation shall proceed until any plastic, aluminum or other metal system covering the original exterior of the building is removed.

(E) The building exterior shall be restored to its original appearance as closely as possible.

(F) Previous exterior alterations which have, in the opinion of the Zoning Administrator, become a part of the historical record of the building, may be retained as if part of the original exterior.

(G) Existing door or window openings shall not be closed, nor shall unique architectural features such as cornices, mid-cornices and window surrounds be removed, except to be replaced with elements of like design.

(H) If metal canopies are retained, at least the visible edges must be covered with canvas; new canopies or awnings shall be made of canvas or other similar product approved by the Administrator. (Ord. passed 1-11-2005, § 6-11)

§ 152.166 PLANNED BUSINESS DEVELOPMENTS.

(A) *Permitted uses.* All the uses allowed by right and conditional uses in the zoning district where the PBD is located shall be permitted.

(B) *Site plan review.* A site plan as specified in Appendix A shall be approved by the Planning Board.

(C) *Setbacks.* To encourage creativity of design and diversity of uses within a cohesive, unified project, development standards for each use shall be waived, provided any structures located around the perimeter shall comply with the setback requirements from property lines and rights-of-way for the underlying zoning district.

(D) *Size.* Minimum site acreage needed for the development shall be one acre with a 250-foot minimum lot width.

(E) *Landscaping.* Landscaping as specified in §§ 152.235 through 152.247 and 152.260 through 152.267.

(F) *Accessibility.* All planned business developments shall abut and have direct access to a public thoroughfare or collector street adequate to accommodate the projected traffic volume.

(G) *Curb cuts.* The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.

(H) *Signage.* Each project shall contain an identification sign per public entrance in accordance with the development criteria for signage. (Ord. passed 1-11-2005, § 6-12)

§ 152.167 PLANNED UNIT DEVELOPMENTS.

(A) *Subject to review.* Planned unit development (PUD) projects are subject to the review and requirements of this subchapter.

(B) *Pre-application process.* If the owner or developer of property proposed for a PUD so desires, he or she may submit a sketch design plan of the proposed project to the Administrator for the purposes of informal discussion and guidance regarding preparation of preliminary site plans. Decisions made and conclusions reached as a result of the informal preapplication process are not binding on the property owner or developer, nor are they binding on the town or its representatives.

(C) *Application.*

(1) The owner or developer of property proposed for a PUD shall submit an application to the Administrator at least 30 days prior to the meeting of the Planning Board at which the request is to be first heard.

(2) The application shall satisfy all the requirements pertaining to it in this section and all other applicable ordinances, statutes and regulations of the Town of Grifton, Pitt/Lenior Counties, the State of North Carolina, and the United States Government. Applications shall include preliminary site plans and shall be prepared to provide a full and accurate description of the proposed PUD, including its precise location, appearance and operational characteristics.

(3) Upon receipt of a complete application, site plans and fees set by the Board of Commissioners to help defray the costs of advertising and administrative review, the Administrator shall forward copies of the site plans to appropriate local, state and federal review agencies, including the Town Manager and department heads.

(4) The application, together with recommendations and comments on the proposal, shall be forwarded to the Planning Board for review, consideration and recommendation to the Board of Commissioners for their review and approval as set forth in § 152.303 and in the subdivision regulations, as applicable.

(D) *Lot size and density.*

(1) *Area for total development.* For single-family and two-family dwelling projects, the area required for the total development shall be equal to the product of the number of units times the minimum lot size for the proposed use in the district in which the project is to be developed.

(2) *Maximum density for multiple-family dwelling projects.* The maximum density of development shall be 15 units per acre for multiple-family dwellings such as apartments, townhouses and condominiums.

(3) *Minimum lot size for residential development.* The minimum lot size for residential development shall be not less than 75% of the minimum lot size for the district.

(4) *Density for commercial, shopping center and industrial PUDs.* The maximum number of uses or establishments within the development shall be the number of square feet of gross land area minus 20% of the number of square feet of gross land area, divided by the minimum lot size requirement for the district in which the PUD is located. In no case shall the minimum lot size be less than 75% of the minimum lot size for the district.

(E) *Design and site considerations.*

(1) *Access to major highway or collector street.* All PUDs shall abut a major highway or collector street and shall have direct access to it.

(2) *Driveways.* Points of egress and ingress shall consist of a paved driveway or roadway with a minimum paved width of 27 feet and shall be located a sufficient distance from highway intersections to minimize traffic hazards, congestion and inconvenience.

(3) *Parking.* All parking lots and areas shall be paved, and all spaces and traffic lanes shall be marked clearly in conformity with industry standards. Off-street parking and loading shall be provided in conformance with §§ 152.220 through 152.222.

(4) *Circulation.* Traffic circulation may be via public streets or, where approved by the Board of Commissioners, private drives. Private drives may be considered where the drive(s) will handle only local traffic within the PUD. If private drives are proposed, the developer shall provide and file subdivision street disclosure statements to buyers in accordance with G.S. § 136-102.6 and shall show evidence that a property owners' association will be established to assume responsibility for maintenance of the private roads.

(5) *Streets.* All public streets shall be developed in conformance with the town's subdivision ordinance requirements. Private drives shall be designed and constructed, including paving, to town standards or equivalent and approved by the town's consulting engineer. A registered civil engineer shall certify that all public and private drives have been designed and constructed to the design and engineering standards set forth herein.

(6) *Landscaping.* Landscaping shall be in conformance with requirements set forth in §§ 152.235 through 152.247 and 152.260 through 152.267, and the landscaping plan for the proposed PUD shall be incorporated in the site plan submitted in accordance with the requirements of this section and the town's subdivision ordinance.

(7) *Common recreational areas.* A minimum of 5% of the total land area shall be reserved for common recreational areas and shall be improved and maintained accordingly. The land shall be designated on the development plan as common recreational area for the use and benefit of the occupants of the PUD. All lots within the development shall have direct access to all common areas as provided by means of public streets, dedicated walkways, fact of physical continuity or other approved and legal means.

(8) *Utilities.* A registered civil engineer shall design all storm water drainage, sanitary sewer, erosion control, water supply and other necessary utility plans in conformance with all applicable building and development codes and engineering principles and shall certify final construction of such to the town prior to final plat approval. All utility and street improvements shall be reviewed by the town's consulting engineer prior to approval of the preliminary plat.

(9) *Signs.* Two ground signs shall be permitted at each PUD entrance. The maximum size of the signs shall be 16 square feet per sign face. The maximum height shall be 15 feet. The signs shall be set back at least 15 feet from the street right-of-way. No other signs shall be allowed, except for directional, informational, traffic and other governmental or public service uses. Moving and flashing signs are prohibited. Line-of-site requirements will be those of the NCDOT. The plan for signage in the PUD shall be included in the preliminary site plan in conformance with preliminary site plan requirements and in conformance with any provisions of §§ 152.220 through 152.222 which may be applicable.

(F) *Site plan submission and approval.*

(1) Preliminary site plans shall be drawn by a registered engineer and/or surveyor and shall be submitted at a scale of not less than one inch equals 100 feet in conformance with the town's subdivision ordinance. The plans shall include the location and size of all structures, proposed streets, common areas, lot lines, traffic patterns, easements and rights-of-way, proposed points of ingress and egress, utility locations, landscaping, parking area, lighting, signage, solid waste system, proposed storm drain system and any other information pertinent to the proper planning, development, operation and maintenance of the proposed PUD.

(2) Final site plans shall be drawn and prepared in conformance with the town's subdivision ordinance and include the items required herein within the time specified in the statement of readiness after approval by the Board of Commissioners, unless an extension is granted.

(3) No final plat shall be approved unless and until the developer has installed all improvements required by the subdivision ordinance and this chapter.

(4) In lieu of construction of the improvements required by the subdivision ordinance and this chapter prior to approval of the final plat, the town may accept a guarantee from the developer that the required improvements will be made according to the specifications of the town at the expense of the developer. Guarantees acceptable to the town are a surety bond made by a surety company licensed to do business in the state; a certified check drawn in favor of the town; cash deposited with the town; and irrevocable letter of credit to the town.

(5) The guarantee will be for 125% of the cost of the required improvements as determined by a registered civil engineer and verified by the town's consulting engineer. Performance guarantees shall be reviewed and approved by the Planning Board and also shall be approved by the Board of Commissioners. Guarantees shall be valid for a period of not more than 18 months and may be released proportionately as 25%, 50%, 75% and 100% of the project is completed.

(G) *Property owners' association and registration.*

(1) The developer shall submit a draft of the articles of incorporation for a property owners' association. The articles of incorporation shall provide that all owners of property within the development share automatic membership rights and assessment obligations for the maintenance of commonly owned areas (including recreation areas, private streets and the like). The automatic membership rights and assessment obligations of all owners of property within the PUD shall be so covered by covenants running with the land and other contractual provisions as to ensure the proper maintenance of all commonly owned areas, and shall include provisions for liens against the individual properties and legally enforceable personal obligations on the part of the individual property owners within the development. Before granting final approval, the articles of incorporation shall be approved by the Town Attorney.

(2) Upon completion of all improvements and before the sale of any lots or completed units, the Board of Commissioners shall approve the final plat and accept any public streets contained within the PUD. After final approval, the final plat and covenants shall be recorded with the Pitt/Lenoir Counties Register of Deeds along with a statement of ownership and dedication of private streets, and a grant of right-of-entry to common areas by rescue officers, firefighting personnel, law enforcement officers and service personnel while performing their duties.

(H) *Statement of readiness.*

(1) At the preliminary approval phase, the developer shall file with the Town Clerk a statement indicating readiness to proceed with the proposed development. The agreement signed by the developer and one or more owners of the proposed PUD shall state that construction shall begin on one or more phases of the development within one year from the date of preliminary approval by the Board of Commissioners, and that it will be prosecuted to completion within the period of time specified in the approval.

(2) In the event that construction has not begun within one year of preliminary approval, or in the event of failure to comply with the plans approved or other conditions imposed upon preliminary or final approval, the conditional use permit and plat approval (in the case of a conditional use) shall become null and void.

(3) No building permit shall be issued for any building in a PUD until a final development plan and plat has been approved by the Board of Commissioners. Thereafter, no building permit shall be issued for any building not shown on the approved plan without resubmitting the plan to the Board of Commissioners for review and approval.

(Ord. passed 8-8-1995; Ord. passed 1-11-2005, § 6-13)

§ 152.168 RV PARKS.

(A) *General.*

- (1) Site plans for RV parks shall comply with the standards in Appendix A.
- (2) No campsite shall be used as a permanent place to live or conduct business for more than three months in any 12-month period.
- (3) Permanent removal of wheels or to attach the trailer to the ground shall be prohibited.
- (4) Accessory uses shall be designed and developed to blend the park's design and natural setting. Accessory uses shall include management headquarters, recreational facilities, toilets, showers, laundry facilities.
- (5) Commercial uses that directly support the park may be permitted; provided, the facilities:
 - (a) Shall not occupy more than 5% of the total gross area of the park;
 - (b) Shall serve primarily the occupants of the park; and
 - (c) Shall not be visible from any public roadway.
- (6) The site shall be well drained and graded to avoid inconsistency with surrounding drainage patterns.
- (7) Exposed ground surfaces shall be paved, covered with stone or protected with a vegetative growth that will prevent soil erosion and prevent objectionable levels of dust.

(B) *Dimensions.*

- (1) No more than 15 campsites per net acre, excluding public areas, rights-of-way, watercourses shall be permitted.
- (2) Each campsite shall be at least 1,500 square feet in area. Each space shall be designated on the ground by markers or monuments.
- (3) No more than one RV unit may be parked on any one space.
- (4) No space shall have direct vehicular access to a public road.
- (5) All spaces within the park shall be graded to prevent any water from ponding or accumulating on or around the RV space.
- (6) No recreational vehicle shall be closer than ten feet from another RV or another principle use such as a laundry room or clubhouse within the park. Any accessory structures such as attached awnings, carports or individual storage facilities shall, for the purpose of this separation requirement, be considered part of the recreational vehicle.

(7) Setback areas for recreational vehicle shall contain natural vegetation or be landscaped and shall be used for no other purposes.

(8) The minimum setback of any building, structure, from a public road right-of-way shall be the same as that required for the zoning district in which the park is located.

(9) The minimum setback from any private, interior road shall be 20 feet from the edge of pavement.

(10) The minimum exterior property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior property line setback shall be at least 20 feet.

(C) *Entranceways and access roads.*

(1) All roads within an RV park shall be private. They shall conform to the construction standards for subdivision roads of NCDOT, except the requirements for minimum rights-of-way and paving widths shall not apply.

(2) The roads of the RV park shall be improved with a minimum compacted base of 4 inches of NC DOT approved Type ABC Stone. Two-way streets shall have a 20-foot right-of-way and 18 feet of improvement. One-way roads shall have a 16-foot right-of-way and 14 feet of improvement. Plans and profiles shall be submitted for review and approval.

(3) The entranceway shall be located not closer than 150 feet from the intersection of a public road. If the RV park has more than one entrance, they shall be at least 200 feet apart. Topographic conditions or unusual site conditions may require a variance from these requirements.

(4) Entrances and exits to campgrounds/RV parks shall be designed for safe and convenient movement of traffic into and out of the park. Interior streets shall be designed to facilitate easy turning movements for vehicles with trailers attached.

(D) *Parking requirements.* Parking spaces sufficient to accommodate at least one automobile and RV unit shall be constructed within each space and they shall be covered with four inches of crushed stone or engineer approved material. The improved area may be limited to runners to minimize the development of ruts or low spots caused by vehicle tires.

(E) *Utility requirements.*

(1) No on-site water or sewer facilities shall be permitted on any campsite. Proposals for dumping stations and common toilets and restrooms, laundries and baths shall have the approval and be subject to the requirements of the Pitt/Lenoir Counties Health Department. All community water facility proposals shall be approved and subject to the requirements of the Pitt/Lenoir Counties Health Department.

(2) All water supply facilities shall have the approval of the Pitt/Lenoir Counties Health

Department and/or State Division of Health Services. All sewer facilities improvements shall have the approval of the Pitt/Lenoir Counties Health Department and the State Division of Environmental Management.

(3) All water and sewer improvements within the campground/RV park shall comply with the State Building Code for Plumbing.

(F) *Screening.* Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year-round screen shall be planted, which at maturity, shall reach a minimum height of at least eight feet. The screening shall complement the adjacent environment.

(G) *Recreational space.* A minimum of 8% of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.
(Ord. passed 1-11-2005, § 6-14)

§ 152.169 TELECOMMUNICATION TOWERS.

(A) Consistent with the Telecommunications Act of 1996, it is the intent of the town to allow communication providers the opportunity to locate towers and related facilities within certain areas, and under the conditions of this chapter in order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of the town and its ETJ Planning Area. Wireless towers may be considered undesirable with other types of uses, most notably residential; therefore, special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

(B) All towers shall be of a monopole design and construction in the R-20A, and H-C districts. Lattice design may be used in the I-1 or I-2 Districts. Any new telecommunication tower, including tower co-locations, shall base subject to the issuance of a conditional use permit, (co-locations defined: where two or more providers use the same tower). Where possible or required by the town the providers shall attempt to produce in good faith “stealth” antenna locations. This includes antennas in a structure or building disguised to look like something else (i.e., steeple, bell tower and the like).

(C) The maximum allowable height of a tower shall be 199.9 feet. Telecommunication towers that are shorter than the maximum height shall be encouraged where possible. A higher tower height may be approved by the Board of Commissioners if the applicant can prove the 199.9 foot height will not allow for the provision of adequate service levels (i.e., cannot meet reasonable service coverage area) or if the increased height is related to co-location.

(D) It is the intent of the town for providers to co-locate facilities to reduce the number of telecommunication towers in the town’s planning jurisdiction. The town may require providers to negotiate in good faith with other providers’ space at a reasonable lease cost, and to publicize the fact that space is available on a lease basis as part of the conditional use process. No tower may be located within 1,500 linear feet of an existing tower unless the applicant can prove, (written documentation)

that co-location is not a viable option.

(E) Where a telecommunication tower is located on a lot with an existing principal use, the tower shall be located in the rear yard only. In addition, an access road at least 12 feet wide shall be maintained from a public street to the tower for use by service and emergency vehicles.

(F) A tower cannot be prohibited nor can a conditional use permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. However, the applicant must provide documentation proving to the town that the proposed tower does comply with all applicable Federal Radio Frequency Emission Standards.

(G) All accessory structures on the ground which contain switching equipment or other related equipment must be designed to substantially resemble the neighborhood's basic architecture, or the architecture and style of any principal use on the property.

(H) An opaque screen of vegetation shall be required along all sides of the perimeter of the telecommunication tower site. In addition, a minimum eight foot high fence is required immediately around the tower and any equipment building(s) with the screening to be located on the outside of the fenced area. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all screen materials. The maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies.

(I) The Board of Commissioners reserves the right to deny a conditional use permit for a telecommunication tower on the basis of negative influence on property values, or on aesthetic concerns provided that there is competent and material evidence to prove the impact on adjacent property owners will be significant. The Board of Commissioners must clearly state its reasons in writing, with the relevant evidence of the impact on adjacent property values or aesthetics if the request is denied on this basis.

(J) A minimum setback requirement, on all sides of the property, shall be the length of the tower plus 20%, (i.e., a 100-foot tower would require a 120-foot setback, all setbacks will be rounded up to the nearest foot). No above ground or in ground utilities will be allowed within the required setback area, unless written permission is given by the utility owner/provider.

(K) Towers having a height of 199.9 feet or less shall not contain lights or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce the effect of glare.

(L) Towers and related facilities must be removed if abandoned (no longer actually used for telecommunication purposes) for a period greater than 90 consecutive days. An extension may be

granted at the pleasure of the Board. The town may request a surety bond from the owner to ensure the financing is available to remove the tower.

(M) Any replacement or enlargement to an existing telecommunication tower, including if the tower is blown over or considered inoperable, requires the provider to apply for a new conditional use permit. Normal maintenance and repair of the structure can be completed without the issuance of a new conditional use permit.

(N) The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional use permit or zoning permit.

(O) Outdoor storage of equipment or other related items is prohibited at the tower site.

(P) The town encourages the placement of telecommunication towers on existing water towers or electric transmission towers whenever feasible. No freestanding tower may be located within 3,000 linear feet (as measured using the shortest straight line distance between each tower) of a water tower or electric transmission tower unless the applicant can prove that locating on the water tower or electric transmission tower is not feasible.

(Q) All applications for a conditional use permit for a telecommunication tower must include the following information in addition to any other applicable information required on the application:

(1) Identification of intended provider(s);

(2) Certification by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user, if applicable;

(3) An affidavit from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable;

(4) Documentation that the telecommunication tower complies with the federal radio frequency emission standards;

(5) Documentation that towers over 199.9 feet are necessary for a minimal level of service;
and

(6) Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings and location.

(Ord. passed 1-11-2005, § 6-15)

SIGNS

§ 152.185 INTENT.

Signs are a necessary part of the environment. Some limitations, however, are placed on their use (number, size, location).
(Ord. passed 1-11-2005, § 7-1)

§ 152.186 PERMIT REQUIRED.

With the exception of those signs specifically authorized in § 152.195, no sign shall be erected without a permit from the Administrator.
(Ord. passed 1-11-2005, § 7-2)

§ 152.187 PERMIT APPLICATION.

(A) Applications for permits shall be submitted on forms obtained at the office of the Administrator. The Administrator may waive any required plans if he can determine the proposed sign complies with the sign requirements of this chapter without them.

(B) If required, each application shall be accompanied by plans, which shall:

- (1) Indicate the proposed site by identifying the property by ownership, location and use;
- (2) Show the location of the sign on the lot in relation to property lines and buildings, zoning district boundaries, right-of-way lines and existing signs; and
- (3) Show size, character, complete structural specifications and methods of anchoring and support.
(Ord. passed 1-11-2005, § 7-3)

§ 152.188 STRUCTURAL REQUIREMENTS.

Structural requirements for signs shall be those required in the State Building Code.
(Ord. passed 1-11-2005, § 7-4)

§ 152.189 SIGN AREA COMPUTATION.

Sign area shall be computed by the smallest square, triangle, rectangle, circle or any combination thereof, which will encompass the entire sign, including wall work, frame or supports incidental to its decoration. In computing the area, only one side of the structure shall be considered, provided the faces are of the same size and are parallel to one another with no more than 24 inches between each sign face.

(Ord. passed 1-11-,2005 § 7-5)

§ 152.190 MAINTENANCE.

All signs, together with all supports and braces, shall be kept in good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Administrator, structurally unsafe and endangers the safety of the public or property. The Administrator may order the removal of any sign that is not maintained in accordance with the provisions of this section. The removal shall be at the expense of the owner or lessee and shall occur within ten days after written notification has been issued. If the order is not implemented within 30 days, the Administrator may remove the sign at the expense of the owner or lessee, if authorized by the Board of Commissioners. Any temporary sign shall be removed within 30 days from the date the purpose ceases to exist.

(Ord. passed 1-11-2005, § 7-6)

§ 152.191 LOCATION.

(A) No sign shall be erected or constructed so as to interfere with visual clearance along any street or at any intersection of two or more streets or highways. No sign shall be located in a street right-of-way.

(B) No sign attached to a building shall project beyond the street curb or hang lower than eight feet from the sidewalk or 14 feet above an alley or driveway.

(Ord. passed 1-11-2005, § 7-7)

§ 152.192 PROHIBITED SIGNS.

(A) No sign shall be allowed that would, by its location, color or nature, be confused with or obstruct the view of traffic signs or signals, or would be confused with a flashing light of an emergency vehicle.

(B) No sign shall use admonitions such as "Stop", "Go", "Slow" or "Danger", which might be confused with traffic directional signals.

(C) No sign shall obstruct corner visibility or visibility at a driveway between a height of two feet and ten feet.

(D) No sign shall be posted on any telegraph, telephone or electric light poles or on any tree along any street, except for approved street name signs.

(E) No sign shall obstruct ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building as required by law.

(F) No sign shall violate any provision of any law of the state relative to outdoor advertising.

(G) No sign shall be located within a public right-of-way or within 30 feet of the centerline of any public thoroughfare.

(Ord. passed 1-11-2005, § 7-8)

§ 152.193 ILLUMINATION.

Except for time or temperature units, no flashing or intermittent illuminated sign shall be permitted. Illumination devices such as, but not limited to, flood spotlights shall be so placed and so shielded as to prevent the rays of illumination being cast upon neighboring buildings and/or vehicles approaching from either direction.

(Ord. passed 1-11-2005, § 7-9)

§ 152.194 NONCONFORMING SIGNS.

(A) Nonconforming signs shall be allowed to remain in good repair for an indefinite period.

(B) However, under the following conditions, nonconforming signs shall comply with the regulations of this chapter.

(1) Any nonconforming sign on a lot where the principal structure is vacant for a period of 180 days shall be altered to conform to the regulations of this section or removed.

(2) Any alteration of a nonconforming sign shall make that sign conform to the regulations of this section.

(3) Any nonconforming sign damaged over 75% of assessed value by any means either shall be removed or repaired in a manner to conform to the regulations of this section.

(4) Nonconforming signs, when removed for other than normal maintenance, may not be erected again, nor may the signs be replaced with another nonconforming sign.

(Ord. passed 1-11-2005, § 7-10)

§ 152.195 SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT.

(A) The signs listed below shall be allowed in all zoning districts without a permit from the Administrator.

(B) However, all signs using electrical wiring and connections shall require an electrical permit.

(1) *Occupant and house number.* Signs not exceeding one square foot in area and bearing

only property numbers, box numbers, names of occupants or other identification not having commercial connotations. The signs shall not be illuminated.

(2) *Public or private directional and information.* Signs erected and maintained by public agencies or a church, civic organization or nonprofit which direct the public to specific sites or provide general information about a structure. Included in this category are historic markers, street and traffic control signs, directional and entrance and exit signs. The signs shall not exceed six square feet, except entrance and exit signs shall not exceed four square feet in total area. They may be directly or indirectly illuminated.

(3) *Professional and home occupation.* One professional or home occupation sign per dwelling not to exceed two square feet in area, which must be mounted flat against a wall or door or hung from a mailbox or lamp post. The signs may be directly or indirectly illuminated except in a residential district, where they shall only be indirectly illuminated.

(4) *Church or nonprofit organization bulletin board.* These signs shall not exceed 16 square feet in area. The signs may be directly or indirectly illuminated.

(5) *Temporary lease, rent or sale.* One temporary real estate sign not exceeding four square feet in area may be placed on property that is for sale, lease, rent or barter in a residential district and 16 square feet in a commercial, institutional or manufacturing district. When the property fronts on more than one street, one sign shall be allowed on each street frontage. The signs shall not be illuminated.

(6) *Construction.* During the construction, repair or alteration of a structure, temporary signs, which denote builder, or other participants in the project, or its occupant to be, may be placed within the required yard setbacks as ground, wall or roof signs. The total area of the signs shall not exceed 35 square feet. The signs shall not be illuminated.

(7) *Campaign.* All political signs shall not be located within street/road right-of-way and be removed within 72 hours of an election.

(8) *Flags and insignia.* Any flag or insignia of any government, except when displayed in connection with commercial promotion.
(Ord. passed 1-11-2005, § 7-11)

§ 152.196 SIGNS REQUIRING IN RESIDENTIAL DEVELOPMENT WITH A ZONING PERMIT.

(A) Zoning districts where permitted: all zoning districts permitting residential units (all residential, CBD and B-1 Highway Commercial District), schools and churches.

(B) Number of signs: one per entrance or two smaller matching pillars per entrance.

(C) Location: the signs shall be at least 15 feet inside the public right-of-way.

(D) Maximum size: any one sign shall not exceed 16 square feet in area. If matching entrance pillars are constructed at the entrance of a subdivision, neighborhood, school or similar use, the total sign area shall not exceed 18 square feet.

(E) Lighting: the signs may be internally or externally illuminated.

(F) Height: the signs shall not exceed six feet in height.

(Ord. passed 1-11-2005, § 7-10)

§ 152.197 ON-SITE SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

(A) *Total sign area per lot.* For each lot one square foot of sign area is permitted for each two linear foot of frontage on a public right-of-way may be permitted. (For example, a business with 500 feet of frontage on a public right-of-way may have a total of 250 square feet of signage.) However, the total sign area for a single lot may not exceed 500 square feet. The standards for various types of signs shall be specified in divisions (B) through (F) below.

(B) *Wall signs (attached).*

(1) Zoning districts where permitted: all Commercial and Industrial Districts.

(2) Number of signs: none specified.

(3) Location: wall signs shall be located on the front of the building. However, they may be located on a side or rear of a building that is adjacent to an off-street parking area or a street right-of-way. The signs shall be mounted parallel to the building and project no more than 18 inches from the building. The signs shall not extend beyond the wall surface (height or width).

(4) Measuring signage: the sign area of an attached sign is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines, which fully enclose all sign words, copy or message.

(5) Sign area: the total area of all attached signs shall not exceed 25% of the total wall area. However, the total sign area of an individual sign shall not exceed 64 square feet in CBD, (NB) Neighborhood Business Districts, B-1 (Highway Commercial) and Industrial Districts. In a multi-tenant structure (i.e., shopping center), wall signs shall follow a common design and color scheme. Wall sign area in out parcels shall be calculated separately from the signage acre of the multi-tenant structure.

(6) Lighting: such signs may be internally or externally illuminated.

(7) Height: no sign shall extend beyond the roofline of the building or the sides of the building face where it is attached.

(C) *Freestanding or ground signs.*

(1) Zoning districts where permitted: CBD, B-1, O/I, NB, I-1 or I-2 Districts.

(2) Number of signs: any business or industrial use may erect one freestanding or ground sign for each 200 feet of frontage on a public street. If the lot fronts on more than one street, these standards shall apply to each street frontage. In a structure containing multi tenants (example: shopping center, office building and the like), there shall be one freestanding sign per access to a major thoroughfare to accommodate the name of the development and may also contain the name of each tenant. Multi-tenant signs may be 25% larger than single tenant ones. They shall be of a uniform design and color scheme. If there are out parcels, each out parcel may have a freestanding or monument sign.

(3) Location: any freestanding sign shall be set back at least ten feet from the right-of-way or property line.

(4) Area: the maximum size per free standing sign shall not exceed 32 square feet in the NB district and 64 square feet in all other commercial or industrial districts. A ground sign shall not exceed 12 square feet. A 150 square feet freestanding sign in the B-1/Industrial District if the property is adjacent to a four-lane highway.

(5) Lighting: the signs may be internally or externally illuminated.

(6) Height: any freestanding sign shall not exceed 12 feet in height in NB districts and 20 feet in all other commercial or industrial districts. Ground signs shall not exceed four feet in all districts where permitted. (Measure from existing ground level to the top of the sign.)

(D) *Projecting sign.*

(1) Zoning districts where permitted: all Commercial or Industrial Districts.

(2) Number of signs permitted: one projecting sign per principal building or use.

(3) Location: the signs may project horizontally a maximum of six feet, but shall be set back at least two feet from the back face of the curb or outer edge of the pavement where there is no curb. Setback distances for projecting signs which front on state roads must be approved by the State Department of Transportation. They shall be erected at a height of not less than nine feet above the grade of a sidewalk or other pedestrian passageway and 14 feet above grade of an alley, driveway or building corner.

(4) Area: projecting signs shall not exceed six square feet in the CBD, O/I and RB Districts and 16 square feet in the B-1 and I-1 and I-2 Industrial Districts.

(E) *Portable signs.*

(1) Temporary use: no more than one portable sign, with or without wheels, shall be permitted on a parcel of land to cover a period of 30 consecutive calendar days for a grand opening, special sale and the like.

(2) Number per year: a permit for a portable sign may not be issued again for the same business or occupancy for a period of 12 calendar months.

(3) Signatures: both the business owner as well as the property owner must sign the permit application. The permit applies to both the property and to the individual responsible for the sign.

(4) Other requirements: the portable sign shall meet all applicable setback requirements and shall not include flashing or colored lights and otherwise shall meet all the requirements set forth in this subchapter.

(5) Removal: after the 30-day permit expires, the portable sign shall be removed from the premises from which the permit was granted.

(F) *Window signs.*

(1) Location: only on the inside of a window within a commercial building.

(2) Coverage: the signs shall not cover more than 75% of the glass area of the pane where sign is located.

(Ord. passed 1-11-2005, § 7-13)

§ 152.198 OFF-SITE SIGNS (BILLBOARDS).

(A) Zoning district where permitted: B-1, I-1 or I-2 districts.

(B) Maximum size of a single sign:

(1) Four hundred square feet on four-lane highways; and

(2) One hundred fifty square feet on three-lanes or less highways.

(C) Spacing between signs: no billboard shall be located within 1,000 feet of another such sign, either on the same side or opposite side of the highway. The measurement shall be along the centerline of the roadway.

(D) Height: 35 feet above natural ground surface.

(E) Setbacks:

- (1) No billboard shall be located within 100-feet of any residential structure, church or school;
 - (2) Fifty feet from any on-site freestanding sign;
 - (3) Fifty feet from a public or private right-of-way or property line; or
 - (4) Fifty feet from any barn, commercial or industrial land use.
- (Ord. passed 1-11-2005, § 7-14)

PARKING AND LOADING

§ 152.220 PARKING.

(A) *Off-street parking required.* When a building is erected or a principal building is enlarged or increased in capacity by adding dwelling units, seats or floor area, or before conversion from one type of use to another, permanent off-street parking space shall be on a graded open space in all districts, including the central business district if the principal structure is setback from property lines and off-street parking is provided on the lot. Traditional downtown development, mainly along Queen Street, where the principle structure does not have setbacks, except for a sidewalk and does not provide off-street parking, the developer shall not be required to provide off-street parking.

(B) *Parking design criteria.*

(1) Each parking space shall be not less than eight and one-half feet by 18 feet, exclusive of adequate egress and ingress drives, landscaping and maneuvering space.

(2) Parking spaces shall be paved with asphalt, concrete or brick pavers and shall not be used for any other purposes.

(3) The required parking space for any number of separate uses may be combined in one lot. The required space assigned to only one use may not be assigned to another use except that one-half of the parking space required for churches, theaters or assembly halls where attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

(4) If the off-street parking space required by this chapter cannot reasonably be provided on the same lot where the principal use is located, the space may be provided on any land within 500 feet of the main entrance to the principal use; provided, the land is in the same ownership as the principal use. This land cannot be used for any other purposes as long as the on-site parking requirements are not met.

(5) The following provisions must be met where parking lots for more than five automobiles are permitted in residential districts.

(a) The lot may be used only for parking in relation to the principal use of the lot and not for any type of loading, sales, repair work, dismantling or servicing.

(b) All entrances, exits, barricades at sidewalks and drainage works shall be approved by the Administrator prior to construction.

(c) Only one entrance and one exit sign no larger than four square feet in area prescribing parking regulations may be erected at each entrance or exit. No other signs shall be permitted.

(C) *Enforcement.*

(1) Each application for a zoning permit or certificate of occupancy shall include information regarding location and dimensions of off-street parking space and the means of ingress and egress between the space and a street. This information shall be in sufficient detail to enable the Administrator to determine whether or not the requirements of this chapter are met.

(2) The certificate of occupancy of the use of any structure or land where off-street parking space is required shall be withheld until the provisions of this chapter are fully met. If, at any time, the compliance ceases, any certificate of occupancy which has been issued for the use of the property shall immediately become void.

(D) *Schedule of parking spaces.* The required number of off-street parking spaces for each land use are specified below:

| <i>Land</i> | <i>Required Parking Space</i> |
|--|---|
| Auto service stations | Two spaces for each pump, plus one space for each 200 square feet gross floor area (GFA) |
| Barber/beauty shops | One space for each 200 square feet GFA |
| Banks and other financial institutions | One space for each 200 square feet (GFA); plus stacking for 4 vehicles at each drive thru window |
| Churches | One space for each 5 seats in the principal sanctuary |
| Convenience stores with gas sales | One space for each 200 square feet GFA, plus 4 stacking spaces at pump island |
| Day care centers | One space for each employee and 4 spaces for off-street drop off and pickup |
| Fire stations | One space for each employee on the largest shift, plus adequate parking for emergency vehicles |
| Funeral homes | One space for each 4 seats in the main chapel, plus adequate parking for vehicles needed in operation and staff |
| Hotels/motels | One space for each room, plus 1 space for each 2 employees |
| Home occupations | Two spaces for each commercial use within the dwelling, plus 2 spaces required for a single-family dwelling |
| Libraries | One space for each 300 square feet of GFA |
| Medical offices and clinics | One space for each 200 square feet of GFA |
| Motels and hotels | One space for each rental room, plus 1 space for each employee |
| Municipal building/post office | One space for each 200 square feet of GFA |
| Nursing/convalescent homes | One space for each employee on the largest shift, plus 1 space for each 5 beds for patients |
| Offices, business professional | One space for each 250 GFA |
| Residential dwellings, single or duplexes | Two spaces for each dwelling unit |
| Residential dwellings, multi-family | One bedroom: 1-1/2 |
| | Two bedroom: 2 |
| | Three or more bedrooms: 2-1/2 |
| Restaurants, drive-thru | One space for each for each 100 square feet of GFA, plus 5 stacking spaces at each ordering station |
| Restaurants, in-door | One space for each for each 100 square feet of GFA |
| Retail business and consumer service outlets | One space for each 200 square feet of GFA |

| <i>Land</i> | <i>Required Parking Space</i> |
|----------------------------------|--|
| Schools, public or private, K-7 | One space per 10 students based on design capacity, plus 1 space for each facility and staff member plus adequate bus space |
| Schools, public or private, 8-12 | One space per 5 students based on design capacity, plus 1 space for each facility and staff member, plus adequate bus parking space, plus 1 space per 3 seats where a school stadium is an accessory use |
| Wholesaling and industrial uses | One space for each employee at maximum employment on a single shift, plus adequate parking for company vehicles |

(Ord. passed 1-11-2005, § 8-1)

§ 152.221 PARKING FOR PERSONS WITH DISABILITIES.

Specific requirements for parking for persons with disabilities are addressed in Volume IC of the State Building Code.

(Ord. passed 1-11-2005, § 8-2)

§ 152.222 LOADING AND UNLOADING.

(A) Area to be required.

(1) At the time of the erection or expansion of any main building or part which is used for commercial or industrial use, off-street loading and unloading space shall be required as specified in this section.

(2) Off-street loading and unloading spaces shall be designed and constructed so that all maneuvering to park vehicles for loading and unloading can take place entirely within the premises. These spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on the public right-of-way.

(B) Schedule of loading spaces.

(1) For purposes of this section, an off-street loading berth shall have minimum dimensions of 12 feet by 30 feet and 14 feet overhead clearance with adequate means of ingress and egress.

(2) For any structure containing less than 20,000 square feet of gross floor area, no berths shall be required. Larger structures, however, shall provide berths as specified below:

| <i>Floor Area of Commercial or Industrial Uses</i> | <i>Required Berths</i> |
|--|--|
| 0—19,999 | 0 |
| 20,000—39,999 | 1 |
| 40,000—59,999 | 2 |
| 60,000—109,999 | 3 |
| 110,000—159,999 | 4 |
| 160,000 | Add one berth for each additional 80,000 square feet |

(C) *Enforcement.*

(1) Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street loading and unloading space and the means of ingress and egress between the space and a street. This information shall be in sufficient detail to enable the Administrator to determine whether or not the requirements of this chapter are met.

(2) The certificate of occupancy for the use of a structure or land where off-street loading and unloading space is required shall be withheld until the provisions of this chapter are fully met. If at any time the compliance ceases, any certificate of occupancy which has been issued for the use of the property shall immediately become void and of no effect.

(Ord. passed 1-11-2005, § 8-3)

BUFFERS AND SCREENS

§ 152.235 PURPOSE AND INTENT.

(A) The landscaping requirements of this subchapter are used to lessen the inherent incompatibilities between certain land uses allowed within the zoning districts.

(B) The standards presented within this section are designed to provide visual and functional separation between uses in order to:

- (1) Reduce potential nuisances, such as glare, dirt, noise, unsightly views and other adverse impacts;
- (2) Safeguard property values and preserve the character and integrity of the community; and

(3) Protect the health, safety and welfare of the public.
(Ord. passed 1-11-2005, § 9-1)

§ 152.236 DEFINITIONS.

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

BUFFER YARDS. The horizontal distance between land uses. Generally, as the distance between uses increase, the level of incompatibility decreases. For example, increasing the space between a noisy racetrack and residential dwellings helps mitigate or reduce the negative impacts.

CALIPER. A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

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 critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

DBH. Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of four and one-half feet above the ground.

DECIDUOUS. Those plants that annually lose their leaves.

DRIP LINE. A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

EVERGREEN. Those plants that retain foliage throughout the year.

GROUP DEVELOPMENTS. Two or more principal uses on a single track of land. Tracks are generally larger than single use ones where the developer has more creativity in site design. For example, a shopping center or an apartment complex are examples of ***GROUP DEVELOPMENTS***.

PRIMARY EVERGREEN PLANT. A plant growing to over 15 feet in height at maturity that retains foliage year round that is planted to provide a dense vegetative screen for purposes of visual mitigation between land uses.

LANDSCAPING. The process or product of site development including grading, installation of plant materials and seeding of turf or ground cover.

PARKING LOT PLANTINGS. Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

PLANTING AREA. The area prepared for the purpose of accommodating the planting of trees, shrubs and ground covers.

ROW. In context with landscaping, it is the regular spacing of plant materials within a buffer yard. A **ROW** may be laid out horizontally or vertically within a buffer yard.

SUPPLEMENTAL EVERGREEN PLANT. A plant growing five feet to 15 feet in height at maturity that is planted for ornamental or screening purposes.

STREET TREE. A tree planted along the street behind the right-of-way.

STREET YARD. A planting area in any nonresidential district parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

TREE, ORNAMENTAL. A small to medium tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark or fall foliage.

TREE, SHADE. A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.
(Ord. passed 1-11-2005, § 9-2)

§ 152.237 LANDSCAPING AND DESIGN STANDARDS FOR STREET YARDS IN COMMERCIAL AND INDUSTRIAL USES.

(A) Street yards shall be a minimum of eight feet wide.

(B) Street yards shall contain one shade tree per 35 linear feet or one ornamental tree per 25 linear feet, except in the case of a conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees.

(C) Shrubbery may be planted in clusters where trees are not practical.

(D) Parking, merchandise display and off-street loading are prohibited in the street yard.

(E) Any tree or shrub planted within the sight triangle, as defined in § 152.007.

(F) No more than 20% of the street yard may be used for walkways or signs.
(Ord. passed 1-11-2005, § 9-3)

§ 152.238 STANDARDS FOR LANDSCAPING WITHIN PARKING LOTS.

(A) All new or expanded (to add 12 or more spaces) parking lots with 12 or more spaces shall comply with this section.

(B) If an existing parking lot (paved or unpaved) is expanded or improved to add 12 or more spaces, it shall comply with the parking lot requirements of the landscape ordinance within the expanded or improved portion.

(C) If a parking lot is expanded or developed, then street yard and parking lot requirements shall be applicable.

(D) In parking lots with 12 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 12 spaces or fraction thereof.

(E) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators or between rows of parking spaces in a manner so that no parking space is located more than 60 feet from a parking lot tree.

(F) Trees required within the street yard cannot be credited toward the parking lot requirements.

(G) Planting areas within parking lots shall provide a minimum of 81 square feet with a minimum inside dimension of nine feet and a minimum prepared depth of 18 inches.
(Ord. passed 1-11-2005, § 9-4)

§ 152.239 LANDSCAPING (SCREENS/BUFFERS) BETWEEN LAND USES.

Existing development shall not be required to comply with landscaping (buffer and screening) regulations. However, all new development as well as expansion of existing uses shall be subject to the provisions of this section.
(Ord. passed 1-11-2005, § 9-5)

§ 152.240 DIFFERENCE BETWEEN BUFFERS AND SCREENS.

Buffers typically represent horizontal distances between uses while screens are vertical barriers providing visual separation.
(Ord. passed 1-11-2005, § 9-6)

§ 152.241 DETERMINATION OF BUFFERS AND SCREENS.

(A) Buffer and screening requirements are based on proposed and adjacent land uses, not proposed and adjacent zoning districts. To simplify the process of assigning buffer and screening standards to particular land uses, the proposed and adjacent land uses have been grouped in the following manner.

(1) Single-Family Residential (SFR): This group includes one-family and two-family residential developments.

(2) Multi-Family Residential (MF) and Manufactured Home Parks (MHPs): This group includes apartment, townhouses, condominiums and manufactured home parks.

(3) Downtown District (DB): This group includes all commercial uses, which are currently allowed in the Central Business District (CBD) and the O/I District.

(4) Highway Business (HB): This group includes all commercial uses which are currently allowed in the B-1 highway business.

(5) Neighborhood Business (NB): This group includes all commercial uses allowed in the NB District.

(6) Industrial districts (I-1 or I-2): This group includes all industrial uses which are currently allowed in the I-1 or I-2 zoning district and other uses which require outdoor storage, have high trip generation rates or have the potential for nuisance to adjacent properties due to noise, light and glare or typical hours of operation. The following list of specific uses identified shall have the same buffers and screens as are required for industrial uses:

- (a) Auto service stations; and
- (b) Auto towing facilities with storage areas.

(B) (1) To determine the type of buffer and screen needed, identify the “use group” listed in division (A) above, for the proposed project and all adjacent properties, excluding properties located across a public right-of-way.

(2) Then, use the following table to identify the buffer and screen type required.

(3) The number refers to the buffer required and the letter to the screen.

(4) For example, if a property owner proposes to locate a highway business adjacent to an existing single-family dwelling, he or she shall be required to provide for a 3C screen/buffer as specified below in division (C) below.

| <i>Summary of Buffer and Screening Requirements</i> | |
|---|---------------------------------|
| <i>Use Proposed</i> | <i>Use of Adjacent Property</i> |

| | <i>SFR</i> | <i>MF/MHP</i> | <i>DB</i> | <i>HC</i> | <i>NB</i> | <i>I</i> |
|--------|------------|---------------|-----------|-----------|-----------|----------|
| SFR | | 3C | 2C | 3C | 3C | 3D |
| MF/MHP | 3C | | 3B | 3B | 3B | 3B |
| DB | 3C | 3C | | 1A | 1A | 1A |
| HC | 3C | 3C | 1A | | 1A | 1A |
| NB | 2A | 2A | 1A | 1A | | 1A |
| I | 3D | 3D | 3B | 2B | 3B | |

(C) The following tables list the specifications for required buffers and screens. The buffer area listed below includes any required setbacks.

| <i>Buffer Areas</i> | |
|---------------------|---------|
| 1 | 10 feet |
| 2 | 20 feet |
| 3 | 30 feet |
| 4 | 40 feet |

| <i>Screens (Minimum Plant Material per 100 Linear Feet)</i> | |
|---|--|
| A | 2 deciduous trees; 8 primary evergreen plants; 10 supplemental evergreen shrubs |
| B | 3 deciduous trees; 10 primary evergreen plants; 12 supplemental evergreen shrubs |
| C | 4 deciduous trees; 12 primary evergreen plants; 16 supplemental evergreen shrubs |
| D | 5 deciduous trees; 14 primary evergreen plants; 20 supplemental evergreen shrubs |

(Ord. passed 1-11-2005, § 9-7)

§ 152.242 ADDITIONAL REQUIREMENTS.

(A) *Fractional calculations.* Fractional planting requirement calculations shall be rounded to the next highest whole number.

(B) *Existing plant material.* Existing plant material within the required screen may be included in the computation of the required plantings with approval of the Planning Board.

(C) *Fence or wall option.* An opaque fence or wall may be used in lieu of not more than 50% of the required evergreen screen planting with the approval of the Planning Board and providing the following conditions are met, where applicable.

(1) *Fence height for industrial zoning.* The minimum required fence height shall be eight feet above ground level when the proposed project zoning type is classified as industrial.

(2) *Fence height for zoning types, except industrial.* The minimum required fence height shall be six feet above ground level when the proposed project zoning type is classified as any zoning type except those classified as industrial.

(3) *Vegetation planted on exterior sides.* Where a fence or wall is used as part of the required screening, all required vegetation shall be planted on the exterior side of the fence or wall.

(4) *Remaining vegetation distribution.* Where a fence is used in lieu of vegetation, the remaining percentage of vegetation to be used in conjunction with the fence or wall shall be evenly distributed along the length of the fence.

(Ord. passed 1-11-2005, § 9-8)

§ 152.243 BUFFER LOCATION.

(A) *Requirement.* Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions.

(B) *Portion of site proposed for development.* If only a portion of a site is proposed for development, the required buffer and/or screen may be located at the limit of the construction perimeter with approval of the Planning Board.

(C) *Topographic irregularities.* Where topographic irregularities require a different location to meet the intent of this section, the location of the buffers and screens may be varied with approval of the Planning Board.

(D) *Rights-of-way and streets.* Buffers and/or screens shall not be located on any portion of an existing, dedicated or proposed right-of-way or a private street.

(Ord. passed 1-11-2005, § 9-9)

§ 152.244 SIZE OF PLANT MATERIALS.

(A) Deciduous trees planted in buffers 30 feet in width or less may be either medium or large varieties, however, at least one-half of the required trees shall be large variety. Deciduous trees in buffers of greater than 30 feet in width shall be large variety trees.

(B) All deciduous trees used for screening must be a minimum of six feet in height at installation and shall be at least two inches in diameter measured one inch above ground level.

(C) All primary evergreen trees shall be a minimum of six feet in height at time of planting unless combined with an approved earthen berm and shall be not less than ten feet in height at maturity.

(D) All supplemental evergreen shrubs shall be a minimum of 18 inches in height at installation and shall attain a minimum height of 36 inches three years after installation.
(Ord. passed 1-11-2005, § 9-10)

§ 152.245 SPACING OF PLANT MATERIALS.

(A) Large shade trees shall be installed with tree trunks spaced a minimum distance of 30 feet apart and a maximum distance of 60 feet apart.

(B) (1) All primary evergreen plants shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit.

(2) Primary evergreen plants shall be installed with tree trunks spaced a minimum of seven feet apart and a maximum of 15 feet from other primary evergreen plants and from any required deciduous tree.

(C) All supplemental evergreen shrubs shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit.
(Ord. passed 1-11-2005, § 9-11)

§ 152.246 MULTIPLE USE OF BUFFERS.

(A) Buffers may be used to satisfy minimum setback requirements.

(B) Buffers may be used for the following additional purposes:

(1) Passive recreation; provided, no plant material is eliminated, total width of the buffers is maintained and all other requirements of this chapter are met; and

(2) Installation of underground utilities; provided, the location and use of the utility lines do not interfere with the required screen plantings.

(C) Prohibited uses in a buffer shall include: playfields, stables, swimming pools, tennis courts or other similar active recreation uses and storage or parking facilities.
(Ord. passed 1-11-2005, § 9-12)

§ 152.247 VARIANCE TO BUFFER AND SCREEN REQUIREMENTS.

(A) Variances to the buffer and screen requirements of this chapter may be made by the Board of Adjustment as specified in § 152.316.

(B) Variance petitions must exhibit practical difficulties and unnecessary hardships based upon at least one of the following conditions:

(1) *Narrow*. Unusually narrow sections of land are available for planting within the back and or side yards because of existing permanent structures, existing paving or natural features such as rock outcroppings;

(2) *Steep slopes*. Existing slopes in excess of two to one (2:1) exist in locations where a buffer is required;

(3) *Public safety*. Specialized land uses such as public utilities, airports and the like exist where strict adherence to the screening standards would significantly interfere with the function of that use and would create a public safety problem;

(4) *Public agency*. Lot size reduction due to public action; and

(5) *Platting or deeding*. Difficulties have arisen from a plat or deed, which was recorded prior to the adoption of this chapter.
(Ord. passed 1-11-2005, § 9-13)

SPECIAL SCREENING SITUATIONS

§ 152.260 SCREENING CERTAIN LAND USES.

(A) *Uses requiring screening*.

(1) Service areas and facilities, including garbage and waste disposal containers, recycling bins and loading areas;

(2) Storage areas; and

(3) On-and above-grade electrical and mechanical equipment, such as transformers, heat pumps and air conditioners.

(B) *Screening*. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, proper siting of disruptive elements, building placements or other design techniques.

(C) *Types.* Acceptable types of screening include:

(1) Plantings: width not less than 15 feet;

(2) Rows of shrubs: at least one row of evergreen shrubs, spaced not more than five feet apart which will grow to form a continuous hedge at least five feet in height within one year of planting;

(3) Ground cover: lawn, low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;

(4) Berm plus planting: width not less than ten feet. A berm should not slope more than 40% (1.25) on the side away from the area screened from view. The slope for the other side (screened area) may vary;

(5) Hedge: a dense evergreen hedge;

(6) Wall plus planting: width not to be less than five feet.

(a) A masonry wall or fence not less than five feet in height;

(b) An evergreen hedge, vines, trees or shrubs; and

(c) Lawn, low-growing evergreen shrubs and evergreen ground cover planted on the balance of the area.

(7) Other methods: other procedures which produce an adequate buffer considering the nature of the impacts to be mitigated, as approved by the Town Manager.

(D) *Planting and maintenance.*

(1) No sight obstructing planting exceeding 30 inches in height shall be located within the roadway and driveway setback areas.

(2) Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned from the minimum height of eight feet to a minimum height of 15 feet over streets and vehicular traffic areas.

(3) Landscape plant materials shall be selected which do not generally interfere with utilities above and below ground at maturity.

(4) Deciduous trees should be fully branched, have a minimum caliper of one and one-quarter inches and a minimum height of eight feet at the time of planting.

(5) Evergreen trees shall be a minimum of six feet in height, fully branched.

(6) Shrubs should be supplied in one-gallon containers or eight-inch burlap balls with a minimum spread of 12 to 15 inches.

(7) All developments are required to provide appropriate methods of irrigation and general care and maintenance of landscape plant materials.
(Ord. passed 1-11-2005, § 9-14)

§ 152.261 OPTIONAL; TREE PRESERVATION AND CARE DURING CONSTRUCTION.

(A) Existing trees shall be preserved whenever feasible. Credits for tree preservation are offered when a tree preservation plan is submitted to the Town Manager prior to grading the site. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint or other materials detrimental to plant health in close proximity of the tree(s).

(B) When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition and type of tree; and location of site improvements and utility connections.

(C) Credit for existing trees within parking lots and buffer yards will be given at a plant-to-plant ratio.

(D) Should any tree designated for preservation in the tree preservation plan die at any time after approval of the plan or issuance of a certificate of occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. The replacement tree shall be a minimum of two inches in caliper for a shade tree and a minimum of six feet in height for an ornamental tree (six feet from the top of root ball to top of tree) at the time of planting.
(Ord. passed 1-11-2005, § 9-15)

§ 152.262 LANDSCAPE PLAN SUBMITTAL REQUIREMENTS.

(A) In order for a plan to be reviewed, a site plan containing the following information must be submitted to the Town Manager.

(B) Site plan shall be drawn to scale and include a north arrow and necessary interpretive legends;

(C) Property lines and zoning designation of adjacent properties;

(D) Location of proposed buildings, parking areas with spaces delineated, paving and sidewalks;

(E) Existing plant materials and areas to be left in natural state;

(F) Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required;

(G) Locations, size and names for all proposed plants;

(H) Location and description of other landscape improvements, such as earth berms, walls, fences, sculptures, fountains and paved area;

(I) Planting and installation details as necessary to ensure conformance with all required standard; and

(J) Location of overhead and underground utilities.

(Ord. passed 1-11-2005, § 9-16)

§ 152.263 LANDSCAPE STANDARDS AND SPECIFICATIONS.

(A) The developer shall furnish and install all plant materials listed on the plan schedule.

(B) Plant materials shall conform to the requirements described in the latest edition of *American Standard for Nursery Stock*, which is published by the American Association of Nurserymen.

(C) Plant materials must be from the recommended plant list or known to be hardy in USDA Plant Hardiness Zone 7.

(D) Shade trees must be a minimum of two inches in caliper. Ornamental trees must be a minimum of six feet in height at the time of planting. (Six feet from top of root ball to top of tree.)

(E) No tree may be planted in the sight triangle.

(F) Do not use staking materials unless it is absolutely necessary. If staking is necessary, then the developer/property owner must remove the staking materials after one growing season.

(G) Property owners ensure the survival and health of required tree in perpetuity.

(H) A temporary certificate of occupancy (CO) may be issued when extremes in weather or soil conditions are not favorable for landscaping.

(I) The developer shall ensure that all plant pits, vine pits, hedge trenches and shrub beds are excavated as follows.

(1) Pits shall be generally circular in outline, with vertical sides.

(2) The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade. Soil within the planting areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the planting area and the adjacent soil strata. Plants shall rest on well-compacted surface. The tree pit shall be a minimum of nine inches larger on every side than the ball of the tree.

(3) If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.

(J) Each tree or shrub, shall be pruned in an appropriate manner, in accordance with accepted standard practice.

(K) All trenches and shrub beds shall be cultivated to the lines shown on the drawings. The areas around isolated plants shall be cultivated to the full diameter of the pit.

(L) Existing trees shall be preserved whenever possible.

(M) All planting areas shall be mulched with a two-to-three inch layer of bark or other similar material to cover the planting area.
(Ord. passed 1-11-2005, § 9-17)

§ 152.264 ALTERNATIVE METHODS OF COMPLIANCE.

(A) *Use of alternate plan, material or methods.* Alternate landscaping plans, plant materials or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. The situations may result from streams, natural rock formations, topography or other physical conditions; or front lot configuration, utility easements, unified development design or unusual site conditions.

(B) *Approval of alternate plan.*

(1) The Planning Board may approve an alternate plan, which proposes different plant materials or methods provided that quality, effectiveness, durability and performance are equivalent to that required by this chapter.

(2) This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots and the level of screening, height, spread and canopy of the planting at maturity.

(C) *Appeal.* Decision of the Planning Board regarding alternate methods of compliance may be appealed to the Board of Commissioners.
(Ord. passed 1-11-2005, § 9-18)

§ 152.265 PLANT SUBSTITUTION.

(A) Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions.

(B) Minor revisions to planting may be approved by the Town Manager or his/her designee if the following are true:

- (1) There is no reduction in the quantity of plant material;
- (2) There is no significant change in size or location of plant materials; and

(3) The new plants are of the same general category (i.e., shade tree, ornamental tree or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

(Ord. passed 1-11-2005, § 9-19)

§ 152.266 FENCING.

(A) They may be installed on the boundaries of any residential, commercial or industrial lot, provided that the height of the fencing and plantings shall be limited to a maximum height of six feet in a front yard. Fencing and plantings on all other boundaries of the property shall be limited to a maximum height of eight feet. Fences shall be on property lines. If both adjoining property owners want fences, they shall share a single fence along their common property line. Only appropriate materials for the land uses shall be used.

(B) Barb wires or other materials that will cut or penetrate the skin shall not be allowed in any circumstances in any areas, except the Administrator may approve other materials in a commercial or industrial area.

(C) No fence shall be constructed until a certificate of zoning compliance has been obtained from the town.

(Ord. passed 1-11-2005, § 9-20)

§ 152.267 RECOMMENDED TREE LIST.

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|---|--------------------|--|---|
| ORNAMENTAL TREES | | | |
| Acer buergeranum Trident Maple | medium-slow | sun, drought resistant | exfoliating bark, power line compatible |
| Acer griseum Paperbark Maple | slow | sun, adaptable to varied soil conditions | exfoliating cinnamon bark, 20'-30' ht., russet to red fall color, power line compatible |
| Acer palmatum Japanese Maple | medium | sun | many varieties and cultivars offer ornamental diversity, power line compatible |
| Cercis Canadensis Eastern Redbud | medium | sun to light shade | spring bloom, seed pods unsightly in late summer, double cultivar "Flame" with no seedpods, power line compatible |
| Cercis reniformis 'Oklahoma' Oklahoma Redbud | medium | sun to light shade | dark flowers, magnificent glossy leaves, power line compatible |
| Cornus florida Flowering Dogwood | slow | part shade, acid soil, intolerant of pollution & drought | spring flower, needs good drainage, susceptible to disease, power line compatible |
| Cornus kousa | slow | part shade, not susceptible to anthracnose | creamy white flower bracts in June, horizontal branching, power line compatible |
| Koelreuteria bipinnata | medium | sun, drought and pollution tolerant | yellow summer flower, then pink fruit, power line compatible |
| Koelreuteria pahiculata Goldenrain Tree | medium | sun drought and pollution tolerant | yellow panicle flowers in June, fruit attractive into Sept., power line compatible |
| Lagerstroemia indica Crepe Myrtle white - 'Natchez' lavender - 'Muskogee' coral - 'Tuscarora' | rapid | sun, pest and disease resistant | US National Arboretum selections, summer flower, exfoliating bark, power line compatible |
| Magnolia kobus 'Wada's Memory' | medium | partial shade | regular form, attractive foilage |
| Magnolia soulangiana Saucer Magnolia | medium | sun to light shade | deciduous, lavender to white spring flower |
| Magnolia X Galaxy Galaxy Magnolia | moderate | sun to part shade | deciduous, spring flower, upright form, nice texture |

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|--|--------------------|---|--|
| Magnolia stellata Star magnolia | slow | sun to part shade | deciduous with spring flower, power line compatible |
| Magnolia virginia Sweetbav magnolia | moderate | shade, tolerates wet | semi-evergreen, spring flower |
| Malus hybrid Flowering Crabapple | moderate | sun, disease resistant variety | spring flowering, crabapples are available in vast color range, many are susceptible to pests and diseases, power line compatible, "Callaway" is one of many disease resistant varieties, many varieties are power line compatible |
| Pinus thunbergii Black Pine | medium | sun | evergreen pine with twisted foliage, drought tolerant, 30-40' height |
| Pistache chinensis Chinese Pistache | medium | sun, drought resistant | orange fall color, uniform shape, medium size |
| Prunus serrulata 'Kwanzan' Kwanzan Cherry | medium | sun to part shade | uniform shape, double pink spring flower, 30' ht, 20' spr. |
| Prunus x yedoensis Yos'hino Cherry | medium | sun to part shade | rounded and spreading form, avoid weeping varieties for street trees |
| Prunus x Okame Okame Cherry | medium | sun to part shade | small upright, early deep pink flower, power line compatible, 15-25' ht |
| Prunus carolinia Carolina Cherry Laurel | fast | sun to part shade | broadleaf evergreen shrub that prunes well to small tree with attractive color, texture and form, power line compatible |
| Prunus cerasifera 'Autropurpurea' Pissarii Plum | fast | sun, pests include aphids, borers, scales | upright branching, red new foliage hardening to purple, pink flowers, power line compatible, other cultivars are available |
| Prunus mutne Japanese Flowering Apricot | fast | sun, hardy, drought resistant | small size, attractive winter flowering, power line compatible |
| Prunus campanulata x incisa 'Okame' Okame Cherry | | sun | 25' ht, 20' spr., spring flowers, bronze to orange red fall color, power line compatible |
| Prunus x 'Hally Jolivette' | fast | sun | dense rounded small tree, long spring flowerer, power line compatible |

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|---|--------------------|--|---|
| Stewardia psuedocamellia Japanese Stewardia | slow | sun with midday shade, few pests | summer flower, attractive winter bark, Stewartia koreana is similar, power line compatible |
| Styrax japonica Japanese Snowbell | moderate | sun to light shade | Late spring bell shape flowers, power line compatible |
| SHADE TREES | | | |
| Acer platanoides “Crimson Sentry” Norway Maple | rapid | sun, tolerate of extreme soils, pollution | ‘Crimson Sentry’ is narrow columnar form w/ dark purple foliage in spring and summer, many cultivars available |
| Acer rubrum Red Maple | rapid | sun, tolerant of heavy clay soils, intolerant of pollution | early spring red flower, fall red orange color, many cultivars available with specific forms and fall color |
| Acer saccharinum Silver Maple | rapid | sun, vigorous roots | greenish-yellow fall color, select cultivar for uniformity |
| Acer saccharum Sugar Maple | slow | sun, needs space for roots | brilliant fall color, select cultivar for specific form and color |
| Betula nigra River Birch | rapid | sun to part shade | hardy native plant, exfoliating bark, ‘Heritage’ is recommended cultivar |
| Carpinus betulus ‘Fastigata’ European Hornbeam | medium | sun to light shade | no serious pests |
| Carpinus’ Carolina Ironwobod, American Hornbeam | slow | partial shade | yellow to red fall color |
| Cedrus deodara Deodara Cedar | moderate | sun, needs good drainage | blue green evergreen foliage, conical form, |
| Cryptomeria japonica “Yoshinol Yoshino Japanese Cedar | rapid | sun to part shade | dense upright evergreen conifer, makes good screen |
| Fraxinus americana White Ash | moderate | sun to part shade, sensitive to drought | select a cultivar for uniformity, needs a large area, can grow 50 to 100’ |
| Fraxinus Pennsylvania Green Ash | rapid | full sun, tolerates adverse conditions | select a cultivar for uniformity and hardiness, not as large as the white ash |

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|---|--------------------|---|--|
| Ginkgo bilboa Ginkgo | slow to medium | full sun, pollution tolerant | open form, large, plant only male trees, 'Lakeview' & 'Princeton Sentry' are recommended cultivars |
| Gleditsia triacnathos inermis Thornless Honey Locust | rapid | full sun, tolerant species, recommend varieties -Skyline & Imperial | open spreading crown, 'Moraine' was first thornless introduction |
| Magnolia grandiflora 'Spectrum' Columnnar Southern Magnolia | medium | partial shade, but tolerates full sun, disease resistant | broadleaf evergreen, recommend columnnar cultivars, litter from leaf drop |
| Pterocarya stenoptera Chinese Wingnut | rapid | sun, tolerates drought | disease free, excellent summer foliage, needs space |
| Pyrus Calleryana 'Bradford' Bradford Pear | rapid | sun to part shade, disease resistant | spring flower, uniform shape, fall color, may split with age, 'Capital' & 'Chanticleer' cultivars are pyramidal for narrower sites and not likely to split |
| Quercus alba White Oak | slow to moderate | sun | attractive bark, native |
| Quercus coccinea Scarlet Oak | moderate | adaptable | red fall color |
| Quercus phellos Willow Oak | rapid | Sun | large |
| Quercus laurifolia 'Darlington' | medium | sun to part shade, pest resistant | semi-evergreen |
| Quercus palustris Pin Oak | rapid | sun, pest resistant, pollution and wet soil tolerant | pyramidal form, orange-red fall color |
| Quercus prinus Chestnut Oak | moderate | sun | |
| Sophora japonica 'Regent' Japanese Pagoda Tree | rapid | sun to part shade, tolerant of drought and pollution | showy summer flowers on established trees (6-8 years for Regent) |
| Taxodium distichum Bald Cypress | medium | sun to part shade, tolerant of pollution and wet feet | conical form, feathery foliage, late fall color |
| Ulmus parvifolia cultivar Lacebark Elm | moderate | sun to part shade | select cultivar for the form and fall color desired |
| Zelkova serrata 'Village Green' Japanese Zelkova | medium-rapid | sun, drought tolerant | vase shape, open, handsome bark |
| PRIMARY EVERGREENS | | | |

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|---|--------------------|---------------------------------------|--|
| Camellia japonica or sasanqua Camellia | slow | large | evergreen with fall, winter or spring flowers |
| Chamaecyparis obtusa 'hinokii', Crippsii' | moderate | large | evergreen conifer, other varieties may not be large, check individual variety for size and color |
| Cryptomeria japonica Toshino' Yoshino Cryptomeria | moderate | large | evergreen conifer, upright conical shape 'Ben Franklin' is similar cultivar |
| Cryptomeria japonica 'Black Dragon', 'monstrosa, etc. | moderate | medium to large | evergreen conifer, check cultivar for size and color |
| Eleagnus pungens 'Fruitlandii' | rapid | large | evergreen, sun to shade |
| Hex cornuta "Burfordii" Burford Holly | rapid | large | sun to part shade, evergreen, shiny foliage |
| Ilex latifolia 'Mary Nell' Lusterleaf Holly | medium | sun to shade | large pyramidal evergreen tree, texture similar to Southern Magnolia |
| Ilex opaca *Greenleaf American Holly | medium | sun to shade, hardy | evergreen, many cultivars available |
| Ilex x attenuata Foster # 2 Fosters Holly | medium | sun to partial shade | evergreen, compact pyramidal growth |
| Ilex x Nellie R. Stevens Nellie R. Stevens Holly | rapid | sun to aapartial shade | Dense evergreen with red berries, good screen |
| Juniperus tortulosa 'Hollywood' Hollywood Juniper | medium | sun | evergreen conifer, power line compatible |
| Juniperus Virginia Red Cedar | rapid | large | sun to shade |
| Leucothoe populifolia | rapid | large | shade, deer tolerant |
| Leyland Cypress | rapid | sun to part shade, spray for bagworms | dense upright evergreen conifer, makes good screen |
| Ligustrum lucidum 'Davidson Hardy' Ligustrum | rapid | large | sun to part shade, deer tolerant Davidson Hardy Ligustrum is recommended |
| Myrica cerifera Wax Myrtle | rapid | large | hardy native, evergreen, deer tolerant |
| Osmanthus x fortune Fortune's Osmanthus | rapid | large | hardy evergreen |

| <i>Botanical Name/Common Name</i> | <i>Growth Rate</i> | <i>Culture</i> | <i>Notes</i> |
|---|--------------------|----------------|------------------------------------|
| Osmanthus fragrans Fragrant Tea Olive | rapid | large | hardy evergreen |
| Prunus caroliniana Carolina Cherry Laurel | moderate | large | evergreen native |
| Thuja occidentalis 'Emerald' Emerald Arborvitae | moderate | large | upright conifer, fresh green color |
| Viburnum opulus roseum Snowball Viburnum | moderate | large | showy white flower, deciduous |

| SUPPLEMENTAL EVERGREEN SHRUBS | | | |
|---|----------|---------------------|---|
| Abelia X grandiflora | rapid | medium | semi-evergreen, arching, small white summer flower, sun |
| Aucuba japonica | rapid | medium | evergreen, shade, variegated cultivars available |
| Azalea japonicum | moderate | part shade to shade | many sizes and colors, spring flower |
| Berberis thunbergii Barberry | rapid | medium | semi-evergreen, chartreuse and burgundy cultivars, very hardy |
| Euonymus japonica Japanese Euonymus | moderate | medium | variegated cultivars available, sun to part shade |
| Hex cornuta 'Burfordii nana' Drawf Burfbrd Holly | rapid | medium | sun to part shade, evergreen |
| Ilex cornuta 'Carissa' Carissa Holly | moderate | medium | sun to part shade, evergreen |
| Ilex crenata 'Compacta' Japanese Holly including other cultivars | rapid | medium | sun to part shade, evergreen |
| Ilex glabra Inkberry Holly | moderate | medium | part shade to shade |
| Illicium parviflorum Anise | moderate | large | sun to shade, deer tolerant, hardy native |
| Nandina domestica Nandina | moderate | medium | evergreen, red fall color |
| Prunus laurocerasus 'Zabeliana', 'Otto Luyken' or 'Schipkaensts' Zabel and Schip Laurel | moderate | medium | evergreen |

(Ord. passed 1-11-2005)

NONCONFORMING USES AND BUILDINGS

§ 152.280 GENERAL.

Any parcel of land, use of land, building or structure existing at the time of the adoption of this chapter, or any amendment, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following categories of nonconforming uses.

(Ord. passed 1-11-2005, § 10-1)

§ 152.281 NONCONFORMING VACANT LOTS.

(A) Nonconforming vacant lots are ones that have been platted and recorded in the Office of the Register of Deeds of Pitt County, which at the time of adoption of this chapter fail to comply with the minimum area and/or width requirements of the districts where they are located.

(B) Any nonconforming lot may be used for any of the uses permitted in the district where it is located; provided that:

(1) Where the lot area is below the minimum specified in this chapter or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance the dimensions as shall conform as closely as possible to the required dimensions; and

(2) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this chapter and the lots individually have less area or width than the minimum requirements of the district where the lots are located, the lots shall be considered as a single lot or several lots which meet the minimum requirements of this chapter for the district where the lots are located.

(Ord. passed 1-11-2005, § 10-2)

§ 152.282 NONCONFORMING OCCUPIED LOTS.

Nonconforming occupied lots are ones occupied by buildings or structures at the time of the adoption of this chapter that fail to comply with the minimum requirements for area, width, yard and setbacks for the district where they are located. These lots may continue to be used without complying with the specific requirements for use or dimensional requirements.

(Ord. passed 1-11-2005, § 10-3)

§ 152.283 NONCONFORMING OPEN USES OF LAND.

(A) Nonconforming open uses of land are lots used for storage yards, used car sales, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where the use of the land is not permitted to be established hereafter, under this chapter, in the district in which it is located.

(B) A legally established nonconforming open use of land may be continued, except as follows:

(1) When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use;

(2) Nonconforming open use of land shall be changed only to a conforming use;

(3) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming; and

(4) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district where the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(Ord. passed 1-11-2005, § 10-4)

§ 152.284 NONCONFORMING USES OF STRUCTURES.

(A) Nonconforming uses of structures are ones used at the time of enactment of this chapter for purposes or uses not permitted in the district in which they are located.

(B) The uses may be continued as follows:

(1) An existing nonconforming use may be changed to another nonconforming use of the same or higher classification, provided that the other conditions in this subchapter are met. For the purpose of this chapter, the rank order of uses from higher to lower shall be:

(a) Residential;

(b) Public;

(c) Commercial; and

(d) Industrial (for example, a nonconforming barber shop may be changed to another barber shop or a nonconforming residential dwelling, but not a manufacturing facility);

(2) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use;

(3) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered, except:

(a) Structural alterations as required by law or ordinance to secure the safety of the structure;

(b) Maintenance and repair necessary to keep a structure in sound condition; or

(c) Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use.

(4) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not hereafter be used, except in conformance with the regulations of the district where it is located.

(Ord. passed 1-11-2005, § 10-5)

§ 152.285 RECONSTRUCTION OF DAMAGED BUILDINGS OR STRUCTURES.

Any nonconforming use, except manufactured dwelling units (see § 152.286) which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided:

(A) The damage to the building does not exceed 75% of its assessed value;

(B) Repairs are initiated within 12 months and completed within two years of the damage;

(C) The total amount of space devoted to a nonconforming use may not be increased; and

(D) Reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.

(Ord. passed 1-11-2005, § 10-6)

§ 152.286 CONTINUATION OF EXISTING MANUFACTURED HOME PARKS.

(A) (1) Nonconforming manufactured home parks in existence and in compliance with all applicable local, state and federal laws and regulations as of the date of adoption of this chapter, shall be allowed to continue in operation as a nonconforming use. Proof of compliance with applicable laws and regulations during the intervening period shall be the responsibility of the manufactured home park owner.

(2) The nonconformance refers to the number of pads existing when the park becomes nonconforming. Individual manufactured homes within the park may be replaced provided the provisions of division (B) below are met.

(B) (1) Any nonconforming manufactured home may be replaced with another manufactured home; provided, the new unit is a Class A or B manufactured home and replaced within 180 days after the removal of the original unit.

(2) The replaced structure shall be of the same size or larger, provided the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback requirements.

(Ord. passed 1-11-2005, § 10-7)

PERMITS

§ 152.300 PERMITS REQUIRED.

No person shall undertake any development activity or use of land that is subject to this chapter without a permit.

(Ord. passed 1-11-2005, § 11-1) Penalty, see § 152.999

§ 152.301 GENERAL REQUIREMENTS.

(A) All applications for permits shall be submitted by the owner of the property or his or her authorized agent. The Administrator may require reasonable proof of ownership from any person submitting an application.

(B) An application for any permit shall be submitted in the form, number of copies and format as prescribed in this chapter.

(C) The Administrator may waive submission of required elements of information when, in his or her opinion, the information is otherwise available or is not necessary. He or she may return any application that is not complete.

(D) All applications for permits shall be submitted, reviewed and processed in accordance with the requirements specified in this chapter.

(E) A copy of required permits, along with any plans submitted, shall be returned to the applicant after the review process marked approved or disapproved. A similarly marked copy shall be retained in the Town Hall.

(F) Any permit issued shall expire unless the work as approved on the application begins within one year from the date of issue. Written notice shall be given by the Administrator.

(Ord. passed 1-11-2005, § 11-2)

§ 152.302 ZONING PERMIT AND CERTIFICATE OF OCCUPANCY.

(A) No building, sign or other structure shall be erected, moved, extended, enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be started until a zoning permit has been issued by the Administrator. When the Administrator is satisfied that work has been completed in accordance with all provisions of this chapter, a certificate of occupancy shall be issued.

(B) No temporary utilities shall be connected until a building permit is issued. No permanent utilities shall be connected until a certificate of occupancy is issued.

(C) An application for a zoning permit and a certificate of occupancy shall be filed simultaneously with the Administrator on a form provided by him or her.

(D) Each application may be accompanied by a plan in duplicate. One copy shall be returned to the owner upon approval. The Administrator may waive the required submission of this plan if he determines that the information is not necessary to issue a zoning permit or certificate of occupancy. When required the plan shall comply with Appendix A.

(E) If the use is listed in the table of permitted uses and complies with all the development standards in this chapter, the Administrator shall issue a zoning permit. However, if the Administrator determines the use:

(1) Is not a permitted use in a particular district, the applicant may appeal his or her interpretation to the Board of Adjustment or seek a zoning amendment from the Board of Commissioners;

(2) Cannot comply with all dimensional requirements the applicant may appeal to the Board of Adjustment for a variance; or

(3) Is indicated in the table of uses by districts as a conditional use it shall be submitted for action to the Board of Adjustment or the Board of Commissioners, depending on the permit issuing body specified in § 152.129.

(Ord. passed 1-11-2005, § 11-3)

§ 152.303 CONDITIONAL USE PERMIT.

(A) The development and execution of this chapter is based upon the division of the planning area into districts where the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of

the public need for that use in that particular location.

(B) Those uses listed in § 152.129 as permitted uses, subject to a conditional use permit may be established in that district only after the issuance of an approved conditional use permit.

(C) Applications for a permit approval shall be addressed to the Board of Commissioners and presented to the Administrator. Each application shall contain or be accompanied by a site plan, if required.

(D) When the Administrator receives a completed application he or she shall seek comments from town officials or other appropriate agencies or officials to determine if it conforms to requirements of this chapter as well as other municipal requirements.

(E) Their written comments along with the application shall be submitted to the Board of Commissioners by the Administrator.

(F) Following consideration and recommendation by the Planning Board, the Board of Commissioners shall set a date for a public hearing. At the hearing the Board shall review the application and comments from the Administrator or other appropriate agencies, hear testimony and examine exhibits pertaining to the application.

(G) No conditional use permit shall be approved unless each of the following findings is made concerning the proposed conditional use:

- (1) Is listed among the conditional uses in the district for which application is made;
- (2) Is essential or desirable to the public convenience or welfare;
- (3) Will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals or welfare;
- (4) Will minimize any negative impacts on the transportation system, schools, recreational areas and the natural resources of the community;
- (5) Will be adequately served by utilities, access roads, drainage, sanitation and/or other necessary facilities; and
- (6) Will have ingress and egress designed to minimize traffic congestion in the public streets.

(H) At the conclusion of the public hearing, the Board shall approve, approve with conditions or disapprove the application.

(I) In approving a conditional use permit, the Board may impose reasonable and appropriate conditions as it may deem necessary in order that the purpose and intent of this chapter is served.

(J) When the application has been denied or withdrawn after the public notice has been published, the Administrator shall not accept the same application for at least 12 months. The Administrator may accept an application if:

(1) The circumstances affecting the property have substantially changed;

(2) The application has changed in some substantial way; and

(3) New information is available which could not with reasonable diligence have been presented at the previous public hearing.

(K) The Administrator shall notify the applicant of the Board's decision in writing and shall file a copy in the town hall. If the permit is approved with conditions, the Administrator shall issue a permit in accordance with the action of the Board. The conditional use permit shall run with the land and shall be binding on the original applicant as well as all successors, assigns and heirs.

(L) Granting a conditional use permit does not exempt applicants from complying with other requirements of this chapter. In any case where the conditions of a permit have not been or are not being met, the Administrator shall give the grantee notice of intention to revoke approval. The notice shall be given at least ten days prior to any action by the Board.

(Ord. passed 1-11-2005, § 11-4)

§ 152.304 BOARD ACTION ON CONDITIONAL USE PERMITS.

If the Board application is complete and complies with all the applicable requirements of this chapter, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in § 152.303(G). Voting shall proceed as prescribed for the normal operation of the Board of Commissioners (majority vote, not the four-fifths requirements for the Board of Adjustment).

(Ord. passed 1-11-2005, § 11-5)

APPEALS, VARIANCES AND INTERPRETATIONS

§ 152.315 APPEALS.

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

(B) An appeal must be taken within 30 days after the date of the decision or order is made.

(C) Whenever an appeal is filed, the Administrator shall transmit to the Board of Adjustment all the materials of the case.

(D) An appeal stays all actions by the Administrator enforcing the requirements of this chapter.

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

(Ord. passed 1-11-2005, § 12-1)

§ 152.316 VARIANCES.

(A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator.

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

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

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

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

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

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

(6) The variance will neither result in the extension of a nonconforming situation in violation of §§ 152.280 through 152.286, nor authorize the initiation of a nonconforming use of land.

(C) A variance may be issued for an indefinite duration or for a specified time period.
(Ord. passed 1-11-2005, § 12-2)

§ 152.317 INTERPRETATIONS.

(A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed

questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in § 152.315.

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

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

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

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

(3) Boundaries indicated as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline shall be construed as following the shorelines; and

(4) Where a district boundary divides a lot or where distances are not specifically indicated, the boundary shall be determined by measurements from the Official Town of Grifton Zoning Map. (Ord. passed 1-11-2005, § 12-3)

§ 152.318 BURDEN OF PROOF IN APPEALS AND VARIANCES.

(A) (1) When an appeal is taken to the Board of Adjustment in accordance with § 152.315, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from.

(2) The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions on those issues remains with the applicant seeking the variance. (Ord. passed 1-11-2005, § 12-4)

§ 152.319 BOARD ACTION ON APPEALS AND VARIANCES.

(A) (1) With respect to appeals, a motion to reverse, affirm or modify the order, requirement, decision or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion.

(2) If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

(3) This motion is adopted as the Board's decision if supported by more than one-fifth of the Board of Adjustment's membership (excluding vacant seats).

(B) (1) Before granting a variance, the Board of Adjustment must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the required findings stated.

(2) Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in § 152.316(B) shall include a statement of the specific reasons or findings of fact supporting the motion.

(Ord. passed 1-11-2005, § 12-5)

HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

§ 152.330 HEARING REQUIRED ON APPEALS AND APPLICATIONS.

(A) Before making a decision on an appeal or an application for a variance, the Board of Adjustment shall hold a hearing on the appeal. The Board of Commissioners shall conduct a hearing on a conditional use permit, or petition from the Administrator to revoke a conditional use permit.

(B) The hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

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

(D) The hearing board may continue the hearing until a subsequent meeting to take additional information. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

(Ord. passed 1-11-2005, § 13-1)

§ 152.331 NOTICE OF HEARING ON ANNEALS AND APPLICATIONS.

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

(B) Notice shall be given to abutting property owners by mailing a written notice not later than ten days before the hearing to those persons who have listed for taxation real property.

(C) A notice shall be published in a newspaper circulated in the area stating the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal and give a brief description of the action requested or proposed.

(Ord. passed 1-11-2005, § 13-2)

§ 152.332 EVIDENCE.

(A) The provisions of this section apply to all hearings for which a notice is required by § 152.330.

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

(C) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available.

(Ord. passed 1-11-2005, § 13-3)

§ 152.333 MODIFICATION OF APPLICATION AT HEARING.

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

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

(Ord. passed 1-11-2005, § 13-4)

§ 152.334 RECORD.

(A) A tape recording should be made of all hearings required by § 152.330 and the recordings shall be kept for at least 30 days. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

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

(Ord. passed 1-11-2005, § 13-5)

§ 152.335 WRITTEN DECISION.

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

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

(Ord. passed 1-11-2005, § 13-6)

ENFORCEMENT AND REVIEW

§ 152.350 COMPLAINTS REGARDING VIOLATORS.

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

(Ord. passed 1-11-2005, § 14-1)

§ 152.351 LIABILITY.

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

(Ord. passed 1-11-2005, § 14-2)

§ 152.352 PROCEDURES UPON DISCOVERY OF VIOLATION.

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

(B) The final written notice shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed to the Board of Adjustment in accordance with § 152.330.

(C) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in § 152.354.

(Ord. passed 1-11-2005, § 14-3)

§ 152.353 PERMIT REVOCATION.

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

(B) Before a conditional use permit may be revoked, all of the notice and hearing requirements of §§ 152.315 through 152.319 shall be met. The notice shall inform the permit recipient of the alleged grounds for the revocation.

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

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

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

(Ord. passed 1-11-2005, § 14-5)

§ 152.354 JUDICIAL REVIEW.

(A) Every decision of the Board of Commissioners or Board of Adjustment shall be subject to review by the Superior Court of Pitt/Lenoir Counties, whichever is applicable, by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the Pitt/Lenoir Counties, whichever is applicable, Clerk of Court within 30 days after the latter of the following occurrences:

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

(2) A written copy of the Board's decision has been sent to the applicant or appellant and every other aggrieved party who has filed a written request for the copy at the hearing of the case.
(Ord. passed 1-11-2005, § 14-6)

AMENDMENTS

§ 152.365 AMENDMENTS IN GENERAL.

Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this subchapter.
(Ord. passed 1-11-2005, § 15-1)

§ 152.366 INITIATION OF AMENDMENTS.

(A) A request to amend the text of this chapter including the official zoning map may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment or any property owner or citizen.

(B) The petition shall be filed with the Administrator and shall include the following information, along with the information deemed relevant by the Administrator:

(1) The name, address and phone number of the applicant;

(2) A description of the land affected by the amendment if a change in zoning district classification is proposed; and

(3) A description of the proposed map change (the proposed map change shall be shown on a county tax map) or a summary of the specific objective of any proposed change in the text of this chapter.

(C) Upon receipt of a proposed amendment, the Board of Commissioners shall establish a date for a public hearing.

(D) The Administrator shall publish a notice of the public hearing on any amendments to this chapter once a week for two successive 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 the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

(E) When there is a map amendment, the Administrator shall mail written notice of the public

hearing by first class mail to the recorded owners for tax purposes of all properties whose zoning classification are changed by the proposed amendment as well as the owners of all properties abutting those parcels of land as shown on the county tax listing. This mail notice must be deposited in the mail at least ten, but not more than 25, days prior to the date of the hearing.

(Ord. passed 1-11-2005, § 15-2)

§ 152.367 BOARD OF COMMISSIONERS ACTION ON AMENDMENTS.

(A) At the conclusion of the public hearing on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it for further study, or take any other action consistent with its usual rules of procedure.

(B) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(C) Voting on amendments to this chapter shall proceed in the same manner as other ordinances. A simple majority of the Board of Commissioners shall be required to amend this chapter.

(Ord. passed 1-11-2005, § 15-3)

§ 152.368 ULTIMATE ISSUE BEFORE BOARD OF COMMISSIONERS ON AMENDMENTS.

(A) The Board of Commissioners shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board of Commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(B) The Board of Commissioners shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

(Ord. passed 1-11-2005, § 15-4)

§ 152.369 PROTEST TO ZONING DISTRICT CHANGES.

(A) If a petition opposing a change in the zoning classification of any property is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the membership of the Board of Commissioners.

(B) To trigger the three-fourths vote requirement, the petition must:

(1) Be signed by the owners of 20% or more either of:

(a) The lots included in proposed change;

(b) The lots within 100 feet of either side or the rear of the tract to be rezoned; or

(c) The lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of the opposite lots.

(2) 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;

(3) Be received by the Town Clerk in sufficient time to allow the governing body at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition; and

(4) Be on a form provided by the Town Clerk and contain all the information requested on this form.

(Ord. passed 1-11-2005, § 15-5)

§ 162.370 DENIAL OF PETITION.

When a petition for amendment is denied by the Board of Commissioners, a period of 12 months must elapse before another petition for the same change may be submitted.

(Ord. passed 1-11-2005, § 15-6)

§ 152.999 PENALTY.

(A) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances, or conditional-use permits shall constitute a misdemeanor, which may be prosecuted in accordance with G.S. § 14-4.

(B) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or conditional use permits, shall also subject the offender to a civil penalty of \$25; If the offender fails to pay within ten days after being cited for a violation, this penalty may be recovered by the jurisdiction in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with G.S. § 14-4 and did not take an appeal to the Board of Adjustment within the prescribed time.

(C) This chapter may also be enforced by any appropriate equitable action.

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

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

(Ord. passed 1-11-2005, § 14-4)

CHAPTER 153: MINIMUM HOUSING STANDARDS

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GENERAL PROVISIONS

§ 153.001 SHORT TITLE.

The rules and regulations prescribed by this chapter shall be known and may be cited as “The Housing Code of the Town of Grifton”, and will be referred to hereinafter in this chapter as “this code”.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.002 FINDINGS; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the municipalities, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities and other conditions rendering the dwellings unsafe or unsanitary, dangerous and detrimental to the welfare of the residents of the municipality.

(B) In order to protect the health, safety and welfare of the residents of the municipality as authorized by G.S. Article 19, Chapter 160A, it is the purpose of this chapter to establish minimum standards and requirements for the initial and continued occupancy of all buildings used for human habitation as expressly authorized by G.S. §§ 160A-441 through 160A-450, 160A-424 through 160A-432 and 160A-193. This section does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this chapter.

(C) The purpose of this chapter is to arrest, remedy and prevent the decay and deterioration of places of habitation and to eliminate blighted neighborhoods by providing standards for places of habitation for the protection of the life, health, safety, welfare and property of the general public and

owners and occupants of places of habitation.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.003 SCOPE.

The provisions of this chapter are applicable to all dwellings or dwelling units within the jurisdiction of the municipality regardless of when the units were constructed, altered, repaired or improved.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.004 DEFINITIONS.

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

ALTERATION. As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term, **ALTER**, in its various moods and tenses and its participle, refers to the making of an alteration.

APARTMENT. A room or suite of rooms occupied, or which is intended or designed to be occupied as the home or residence of one individual family or household for housekeeping purposes.

APPROVED. As applied to a material, device or mode of construction, means approved by the inspector under the provisions of this chapter, or by other authority designated by law to give approval in the matter in question.

AREA.

(a) As applied to the dimension, shall mean the maximum horizontal projected area of the building.

(b) As applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.

BASEMENT. A story with 50% or more of its cubical contents below finished grade.

BUILDING. Any structure built for the support, shelter or enclosure of persons which has enclosed walls for 50% of its perimeter. The term **BUILDING** shall be construed as if followed by the words "or part thereof".

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

CLOSE. Securing the building so that unauthorized persons cannot gain entrance to the building.

DEMOLISH. The demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water.

DETERIORATED. A dwelling is unsafe or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 65% of its physical value, as determined by finding of the inspector.

DILAPIDATED. A dwelling is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 65% of its physical value, as determined by the inspector.

DWELLING. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

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

GARBAGE. The by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding material for flies, insects or animals.

GOVERNING BODY. The Board of Commissioners of the Town of Grifton.

HABITABLE ROOM. A room occupied by one or more persons for living, eating or sleeping and includes kitchen serving apartments or individual households, but does not include bathrooms, toilet compartments, laundries, serving and storage pantries, halls, corridors, basements and other spaces that are not used frequently or during extended periods.

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

INSPECTOR. The Zoning Enforcement Officer or any agent of the Officer authorized to enforce this chapter.

MANUFACTURED HOME or MOBILE HOME. A structure as defined in G.S. § 143-

145(7).

MULTIPLE DWELLING. Any dwelling containing three or more dwelling units.

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

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

OWNER. Any person who alone, or jointly or severally with others:

(a) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PIER. A masonry support extending from the ground and footing to and supporting the building or portion thereof. **PIER** sizes and spacing shall conform to the specifications of the State Building Code.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

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

PUBLIC OFFICER. The Zoning Enforcement Officer of the town, any agent of the Officer, or any agent of the town authorized to enforce the provisions of this chapter and to exercise the duties and powers prescribed herein.

PUBLIC SPACE. The space within any dwelling which is open to use by the general public.

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

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

RUBBISH. Combustible and noncombustible waste materials except garbage; and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, the residue from the burning of wood, coal, coke and other combustible material.

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

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

TENANT. Any person who alone or jointly or severally with others occupies a residential building under a lease or holds a legal tenancy in a building.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness, or with one or more of the responsibilities of owners and occupants established by this chapter.

(B) Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit” or premises” are used in this chapter, they shall be construed as though they were following by the words “or any part thereof”.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.005 BUILDINGS UNFIT FOR HUMAN HABITATION DECLARED NUISANCE.

All buildings or portions of buildings which are used or intended for use as dwellings and are, under the provisions of this chapter, unfit for human habitation, are hereby declared to be a public nuisance, and shall be repaired or rehabilitated to the standards of this chapter or demolished in accordance with the procedures set forth herein.

(Ord. OR-97-05, passed 10-14-1997)

ADMINISTRATION AND ENFORCEMENT

§ 153.020 ZONING ENFORCEMENT OFFICER; POWERS.

(A) The Zoning Enforcement Officer, or his or her designate, is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. In addition, it shall be the duty of the Zoning Enforcement Officer:

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

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

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

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

(B) The Zoning Enforcement Officer, or his or her designate, is authorized to exercise the powers as may be reasonably necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

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

(3) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in a manner as to cause the least possible inconvenience to the person in possession;

(4) To appoint and fix the duties of the officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his or her junctions and powers under this chapter to other officers and other agents.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.021 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.

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

(Ord. OR-97-05, passed 10-14-1997)

§ 153.022 ADMINISTRATIVE LIABILITY.

Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the town charged with the enforcement of the Housing Code shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this chapter unless he or she acted with actual malice.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.023 OWNERS AND OCCUPANTS; RESPONSIBILITIES, ENFORCEMENT OF RESPONSIBILITIES.

(A) (1) The relative responsibilities of the owners of dwelling units and of the occupants of the dwelling units shall be as follows:

(a) *Public spaces.* Every owner of a building shall be responsible for maintaining in a reasonably clean and sanitary condition, the shared or public spaces of the building and premises thereof.

(b) *Cleanliness.* Every occupant shall be responsible for maintaining in a reasonably clean and sanitary condition that part of the dwelling unit and premises which he or she occupies and controls.

(c) *Infestation.* Every occupant shall be responsible for the extermination of any insects, rodents or other pests infesting the dwelling unit; provided, however, that, the owner shall be responsible for such extermination if, as a consequence of violations of the standards of fitness, the dwelling unit is not reasonably impervious to pests.

(d) *Rubbish and garbage.* Every occupant shall be responsible for disposing of his or her rubbish and garbage in a clean and sanitary manner by placing it in adequate facilities for the disposal.

(e) *Plumbing.* Every owner shall be responsible for providing adequate operable

plumbing facilities, including an adequate water heater, and for maintaining the facilities in efficient operating condition; every occupant shall be responsible for exercising reasonable care in the use of the facilities and for maintaining the facilities in a clean and sanitary condition.

(f) *Heating.* Every owner shall be responsible for providing adequate operable facilities and appliances supplying heat throughout the dwelling unit in compliance with the standards of fitness; every occupant shall be responsible for exercising reasonable care in the use of the facilities and appliances.

(g) *Care of premises.* No occupant shall willfully destroy, deface or otherwise impair any of the facilities or equipment of the owner on the premises which they occupy and control or any part of the building itself. Wilful destruction of the premises by the occupant shall be deemed legal grounds for eviction.

(2) Every owner shall remain ultimately responsible for violation of responsibilities imposed upon him or her by this chapter or any other ordinance although a similar responsibility may also be imposed upon the occupant and although the occupant may have agreed to bear the responsibility imposed by ordinance upon the owner.

(B) Upon discovering in any building a condition resulting from noncompliance with the provisions in § 153.023, the Public Officer is hereby authorized to order, to take or otherwise to cause to be taken, the remedial action as is necessary to correct the condition.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.024 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Public Officer by a public authority or by at least five residents of the town at least 18 years of age, charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Public Officer, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the dwelling or dwelling unit, a complaint stating the charges and containing a notice that a hearing will be held before the Public Officer at a place therein fixed, not less than ten, nor more than 30, days after the serving of the complaint. The owner or any party in interest shall have the right to correct the violation or to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the Public Officer.

(B) *Procedure after hearing.* After the notice and hearing provided for in division (A) above, the Public Officer shall state in writing his or her determination whether the dwelling or dwelling unit is unsafe or unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(1) If the Public Officer determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit while the repairs, alterations and improvements are being made. Upon application by the owner within the specified period of time, the Public Officer may grant extensions of up to one year if the dwelling is occupied by its owner, or up to 180 days if the dwelling is not occupied by its owner, for good cause shown.

(2) If the Public Officer determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the dwelling, and to remove or demolish the same within a specified period of time, not to exceed 90 days, unless the owner elects to proceed under the provisions set forth below, or unless an application for an extension of up to 90 days is applied for by the owner and granted by the Public Officer for good cause shown.

(3) Within ten days from the date of the order determining that the building is dilapidated, the owner may notify the Public Officer in writing of his or her intent to make the repairs or alterations to the dwelling so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair the dwelling, within the time provided herein, the Public Officer shall issue a supplemental order directing the owner to commence and complete the repairs or alterations necessary to comply with the minimum standards of fitness. The Public Officer shall allow a reasonable period of time for the owner to make the repairs or alterations, but in no event shall the period of time allowed for the repairs or alterations be less than 30 days, nor more than 90 days, unless an extension of up to 90 days is granted by the Public Officer for good cause shown. Upon application by the owner within the specified period of time, the Public Officer may grant extensions of up to one year if the dwelling is occupied by its owner, or up to 180 days if the dwelling is not occupied by its owner, for good cause shown.

(4) If the owner fails to give notice of either an intent to repair as herein provided or notice of appeal of the decision of the Public Officer to the Zoning Board of Adjustment within the time specified for an appeal, the Public Officer shall proceed in accordance with the provisions of divisions (C)(1) or (C)(2) below.

(5) The Public Officer shall cause the complaint and notice issued under division (A) above and the findings of fact and order issued under this division (B) to be filed in the notice of lis pendens in the office of the Clerk of Pitt County Superior Court. From and after the filing of either document in the notice of lis pendens, the complaint and notice or findings of fact and order shall be binding upon successors and assigns of the owner named in the notice.

(6) Whenever a determination is made pursuant to division (B)(2) above that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for the notices. A minimum period of 45 days from the mailing of the notice shall be given before removal or demolition by action of the Public Officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease or purchase the property for the purpose of providing affordable housing. The Public Officer or Town Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for the notices may raise the issue of failure to mail the notices, and the sole remedy shall be an order requiring the Public Officer to wait 45 days before causing removal or demolition.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Public Officer to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Public Officer to vacate and close, and remove or demolish the same within the time specified therein, the Public Officer shall submit to the Board of Commissioners, at its next regular meeting, a resolution directing the Town Attorney to petition the superior court for an order directing the owner to comply with the order of the Public Officer as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Public Officer within the time specified therein, if injunctive relief has not been sought or has not been granted as proved in division (C)(1) of this section, the Public Officer shall submit to the Board of Commissioners an ordinance ordering the Public Officer to cause the dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the Public Officer, and pending the removal or demolition, to placard the dwelling as provided by G.S. § 160A-443(4) and § 153.027.

(3) *Removal.* If any occupant fails to comply with an order to vacate a dwelling, the Public Officer may file a civil action in the name of the town to remove the occupant. The action shall be filed and conducted in accordance with the provisions of G.S. § 160A-443(7).

(D) *Appeals from order of public officer.* An appeal from any decision of the Public Officer may be taken by any person aggrieved thereby. An appeal from the Public Officer shall be taken within ten days from the service of the order on the parties in interest. An aggrieved party may give notice of appeal by mailing or hand-delivering a written statement to the Public Officer which states some grounds for appeal. Upon receipt of the notice of appeal, the Public Officer shall immediately send copies of the notice to all other known interested parties. Any other interested parties may give notice of a cross appeal within ten days of receipt of notice of appeal, and any cross appeal may be made in the same manner as appeals. The Public Officer shall transmit to the Board of Adjustment and parties all documents constituting the record upon which the Public Officer's decision was made along with the notices of appeal and cross appeal. When an appeal is from a decision of the Public Officer refusing to allow the person aggrieved thereby to do any act, the Public Officer's decision shall remain in force until modified or reversed. When an appeal is from a decision of the Public Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the Board unless the Public Officer certifies to the Board, after the notice of appeal is made, that, by reason of the fact stated in the certificate (a copy of which shall be furnished to the appellant and other parties in interest), a suspension of his requirement would cause imminent peril to life or property. When the Public Officer issues a certificate, the requirement shall not be suspended except by a restraining order which may be granted for due cause shown upon not less than one day's written notice to the Public Officer by the Board or by a court of record upon petition made pursuant to G.S. § 160A-446(c) and division (E) below. The Board shall fix a reasonable time for the hearing of all appeals and cross appeals, shall give due notices to all parties of interest and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney and present evidence. The Board may reverse, affirm, wholly or partly, or modify the decision or order appealed from and may make the decision and order as in its opinion ought to be made in the matter. All Board meetings shall have a quorum present of at least four members, and the vote of at least four members shall be required for a decision on an appeal or cross appeal. The Board shall have the power in passing upon appeals and cross appeals where there are practical difficulties or hardships to adopt the application of this chapter to the necessities of the individual case to the end that the general purposes of the law and justice shall be done. Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the service of the decision of the Board on all interested parties.

(E) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Public Officer or decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Public Officer pending a final disposition of the cause, as provided by G.S. § 160A-446(f).
(Ord. OR-97-05, passed 10-14-1997)

§ 153.025 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Public Officer shall be served upon persons either personally or by registered or certified mail. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Public Officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Public

Officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.026 IN REM ACTION BY PUBLIC OFFICER; PLACARDING.

(A) After the failure of an owner of a dwelling or dwelling unit to comply with an order of the Public Officer issued pursuant to the provisions of this chapter and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 153.024(C), the Public Officer shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

(B) Each ordinance shall be recorded in the office of the register of deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index as provided by G.S. § 160A-443(5).

(Ord. OR-97-05, passed 10-14-1997)

§ 153.027 COSTS A LIEN ON PREMISES.

(A) As provided by G.S. § 160A-443(6), the amount of cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Public Officer pursuant to §§ 153.026 or 153.031 shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority and be enforced and the costs collected as provided by G.S. Article 10 of Chapter 160A.

(B) If a dwelling or other structure is removed or demolished by the Public Officer, he or she shall sell the materials of the dwelling or other structure and any personal property, fixtures or appurtenances found in or attached to the dwelling or other structure and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Public Officer, shall be secured in a manner directed by the court and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.028 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the

power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise. Enforcement by any remedy provided herein shall not prevent enforcement by any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.029 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the Public Officer pursuant to § 153.024(D) shall be heard and determined by the Zoning Board of Adjustment. As appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the discharge of its duties. The Board shall perform the duties prescribed by § 153.024(D) and shall keep an accurate journal of its proceedings.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.030 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.031 ABANDONED STRUCTURES.

(A) Any abandoned structure that is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities, shall be repaired, closed or demolished. It shall be unlawful for the owner of an abandoned structure to allow the same to become or to remain a health or safety hazard, as defined in this section.

(B) The Public Officer shall have the authority to attempt to accomplish the repair, closing or demolition of unsafe abandoned structures through the procedures set out in § 153.024, except that if the estimated cost to repair the structure is 65% or more of its value, the structure shall be considered dilapidated, and the Public Officer shall order that it be demolished and removed. Upon the failure of the owner of any unsafe abandoned structure to comply with an order of the Public Officer to repair, close or demolish the structure, the Public Officer shall present the matter to the Board of Commissioners. If the Board of Commissioners finds that the abandoned structure is unsafe pursuant to division (A) above, it may adopt an ordinance ordering the Public Officer to cause the abandoned structure to be repaired, closed or demolished. Each ordinance shall be recorded as provided in § 153.026, and the cost of any repair, closing or demolition caused to be made by the Public Officer shall be a lien on the premises as provided in § 153.027.

(C) For purposes of divisions (A) and (B) above, ***ABANDONED STRUCTURE*** shall mean any structure that has not been occupied or used, by its owner or by some person acting under the authority of its owner, for a continuous period of one year or longer.

(D) If the Board of Commissioners shall have adopted an ordinance, or the Public Officer shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in § 153.024(B)(1), and if the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of one year pursuant to the ordinance or order, then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the state, then in those circumstances, the Board of Commissioners may, after the expiration of the one-year period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 65% of the then current value of the dwelling, the chapter shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

(2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 65% of the then current value of the dwelling, the chapter shall require the owner to demolish and remove the dwelling within 90 days.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.032 UNSAFE DWELLINGS.

(A) When it appears to the Public Officer, upon inspection, that a dwelling or dwelling unit is especially dangerous to life, the Public Officer may exercise the powers granted by G.S. §§ 160A-426 through 160A-429 or any superseding statute or statutes.

(B) An order issued by the Public Officer under the authority of this section shall be certified by the Town Clerk and filed in the record of lis pendens.

(C) Upon the failure by the owner of the affected dwelling or dwelling unit to comply with an order issued under the authority of this section, further enforcement of the order shall be pursuant to the procedures provided in §§ 153.024(C) through (E), 153.026 and 153.027.
(Ord. OR-97-05, passed 10-14-1997)

MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS

§ 153.050 COMPLIANCE WITH ARTICLE PREREQUISITE TO OCCUPANCY.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness and all of the requirements of this subchapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling units which do not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter. All work shall be done in a workmanlike manner.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.051 SPACE AND USE.

(A) At least one room in the dwelling shall contain not less than 150 square feet.

(B) A kitchen-dining room combination, if any, shall not be less than 100 square feet.

(C) A first bedroom, if any, shall not be less than 100 square feet.

(D) A second bedroom, if any, shall be not less than 70 square feet.

(E) There shall be at least 70 square feet in each habitable room.

(F) There shall be at least 150 square feet of floor space in habitable rooms for the first occupant in each dwelling unit; at least 100 square feet for each of the next three occupants; and at least 50 square feet for each additional occupant over the number of four. (Children one year of age and under shall not be counted.)

(G) There shall be at least 80 square feet of bedroom floor space for the first occupant; at least 20 square feet for the second occupant; and at least 30 square feet for each occupant over the number of two. (Children one year of age and under shall not be counted.)

(H) Those habitable rooms which must be included to meet the foregoing minimum space requirements shall be at least seven feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven feet. That portion of any room where the ceiling height is less than five feet shall not be considered as part of the required floor area.

(I) No basement shall be used as a habitable room or housing unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness and condensation;

(2) The total window area in each room is equal to at least the window area sizes prescribed herein for habitable rooms; (See § 153.052, light and ventilation requirements.)

(3) The required window area is located entirely above the grade of the ground adjoining such window area unless provided with adequate window wells; and

(4) The total of openable window area in each room is equal to at least the area prescribed herein for habitable rooms (see § 153.053, light and ventilation requirements), except where there is supplied some other device affording adequate ventilation and approved by the Public Officer.

(J) Toilet and bathing facilities shall be enclosed.

(K) There shall be no holes or excessive cracks in walls, ceilings, outside doors or outside windows.

(L) Access shall be provided to all rooms within a dwelling unit without passing through a public space.

(M) Doors shall be provided at all doorways leading to bedrooms, toilet rooms and bathrooms and all rooms adjoining a public space.

(N) All doors providing access to any living unit shall have operable locks and the owner shall provide a change of locks or keys for new tenants.

(O) All doors opening to the outside shall be reasonably weather-tight.

(P) There shall be installed in every dwelling unit an operable smoke detector or alarm.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.052 LIGHT AND VENTILATION.

(A) The window-glazed area in each habitable room shall not be less than 8% of the floor area or eight square feet, whichever is greater.

(B) The openable window area in each habitable room shall be equal to at least one-half of the minimum allowance window area and facing directly to the outside for ventilation unless the room is served by an approved ventilating system.

(C) All windows and doors opening to the outside shall be adequately screened unless the room is served by an approved ventilating system. Screens shall fit openings snugly and the screen mesh shall not be torn or otherwise defective.

(D) Screens shall not be permanently fixed to the window frame or sash.

(E) In bathrooms containing more than one water closet, the window area shall be at least three square feet of glazed area. Where adequate windows cannot be provided, metal ducts with at least 72 square inches in open area and extending from the ceiling through the roof, or mechanical ventilation to the outside, shall be provided.

(F) Every public hall and inside stairway in every multifamily dwelling shall be adequately lighted at all times with an illumination of at least three footcandles per square foot in the darkest portion of the normally traveled stairs and passageways.

(G) All windows opening to the outside shall be reasonably weather-tight and shall have operable locks.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.053 EXIT REQUIREMENTS.

(A) There shall be two main exits, each at least 30 inches wide and six feet, eight inches high easily accessible to the occupants of each building. All exit doors must be easily operable and remotely located. (See the State Building Code for exemptions.)

(B) Platforms, steps and/or handrails provided to serve exits shall be maintained in safe condition.

(C) There shall be a safe, continuous and unobstructed exit from the interior of the building to the exterior at street or grade level.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.054 PLUMBING FACILITIES.

(A) All plumbing to be installed shall be installed in accordance with the State Plumbing Code.

(B) All plumbing shall be connected to the town sanitary sewer system where available or to another approved system.

(C) All fixtures shall be operable.

(D) There shall be no broken water closet bowls.

(E) Water closets shall not be loose or leaking.

(F) No leaks shall be in shower stall floor and/or wall.

(G) There shall be adequate facilities for furnishing hot water to each tub or shower, lavatory and kitchen sink.

(H) There shall be installed a potable water supply inside the building for each dwelling unit.

(I) There shall be installed a water closet, tub or shower, lavatory and sink for each dwelling unit. The kitchen sink shall be at least 12 inches by 16 inches by six inches.

(J) There shall be separate toilet facilities for each dwelling unit.

(K) Toilet and bathing facilities shall be protected from the weather.

(L) All water piping shall be protected from freezing by proper installation in protected space.

(M) Soil and water pipes shall be supported with no broken or leaking pipes.

(N) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so as to permit the floor to be readily kept in a clean and sanitary condition.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.055 HEATING FACILITIES.

(A) Every building and every dwelling unit shall be weatherproof and capable of being adequately heated and the heating equipment in every dwelling or dwelling unit shall be maintained in good order and repair.

(B) Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either division (B)(1) or (B)(2) below.

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected to a minimum temperature of 68°F measured at a point three feet above the floor with an outside temperature of 20°F.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, or is inadequate, each dwelling and dwelling unit shall be provided with sufficient chimneys, flues or gas vents, with heating appliances connected, so as to heat all habitable rooms to a minimum temperature of 68°F measured at a point three feet above the floor with an outside temperature of 20°F.

(C) All electric, gas and oil heating equipment installed on the premises shall be listed by Underwriters' Laboratories or American Gas Association and installed in accordance with the provisions of the State Heating, Ventilation and Air Conditioning Code.

(D) There shall be no loose bricks in chimneys.

(E) There shall be no holes in flues except as required for proper operation.

(F) There shall be no hanging masonry chimneys.

(G) Thimbles shall be grouted in tightly.

(H) Thimbles shall not be broken or cracked.

(I) Thimbles shall be high enough for stovepipe to rise one-quarter inch per foot minimum.

(J) The hearth shall be at least 16 inches deep and eight inches beyond each side of the fireplace opening.

(K) No combustible materials shall be within seven inches of the top and seven inches of either side of the fireplace opening.

(L) Fireplaces shall be closed with masonry when the chimney is used as a flue for a stove.

(M) A stove shall be within six feet of a thimble serving it.

(N) No combustible material shall be within 12 inches of a stovepipe.

(O) No stovepipe shall protrude through combustible walls.

(P) In multiple dwellings and rooming houses with central heat, the furnace room shall be enclosed with material having at least a one-hour fire protection rating.

(Q) Fireplaces may be used for supplementary heating only and not for basic heat.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.056 ELECTRICAL FACILITIES.

(A) No receptacles, ceiling fixtures or other fixtures shall be hanging loose.

(B) All switches and receptacles shall be safely operable.

(C) Every habitable room shall contain not less than two wall-type electrical convenience receptacles.

(D) There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one supplied ceiling or wall type electrical light fixture; provided, further, that, the ceiling light fixture may be omitted in living room and bedrooms; provided, three convenience receptacles are installed, one of which is controlled from a wall switch.

(E) There shall be no unsafe wiring.

(F) There shall be no drop or extension cords in excess of six feet in length.

(G) No circuits shall be overloaded.

(H) Fuses shall be sized correctly and not bridged out.

(I) All wiring to be installed shall be in accordance with the National Electrical Code.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.057 STRUCTURAL STANDARDS.

(A) *Foundation.* Foundations shall conform to the following.

(1) Beneath the building, there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.

(2) There shall be sound footings, adequate bearing.

(3) There shall be sound piers with no loose mortar or masonry.

(4) There shall be no piers in which the plumb line from the top center falls outside the middle one-third of the pier base.

(5) There shall be no isolated solid masonry piers exceeding in height ten times the least dimension of the pier.

(6) There shall be no wood stiff-knee piers.

(7) There shall be masonry under pinning on all dwelling units with ventilation as required by the State Building Code,

(B) *Floors.* Floors shall conform to the following.

(1) There shall be no decayed, termite-damaged, fire-damaged, broken overloaded or sagging sills.

(2) Sills shall be properly supported and reasonably level.

(3) Joists shall not be overloaded, sagging or broken and shall be structurally sound and not likely to cause structural weakness in the future.

(4) Maximum spans for floor joist and sills, providing they show signs of being weak or overloaded, shall comply with the requirements of the State Building Code.

(5) Flooring shall be weather-tight without holes or excessive cracks which permit air to penetrate rooms.

(6) Flooring shall be reasonably smooth and not decayed, fire-damaged or worn through.

(7) There shall be no loose flooring.

(8) Floors shall be reasonably level.

(9) The flooring in each room shall consist of the same or similar material; and where covering or finishing is provided, the covering or finishing shall be reasonably smooth and not worn through.

(C) *Walls, exterior.* Exterior walls shall conform to the following.

(1) There shall be no wall in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the State Building Code.

(3) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(4) There shall be no broken or cracked structural members.

(5) All siding shall be weather-tight, with no holes or excessive cracks or decayed boards which permit air to penetrate rooms.

(6) There shall be no loose siding.

(7) There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing and repair.

(D) *Walls, interior.* Interior walls shall conform to the following.

(1) Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms and, if painted or papered, shall be free of chips or excessive peeling.

(2) There shall be no walls in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(3) There shall be no loose plaster, loose boards or other loose wall materials.

(4) There shall be no cardboard, newspaper or highly combustible or improper wall finish; and all wall materials shall be of the same or similar quality and material.

(5) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the State Building Code.

(6) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(7) There shall be no broken or cracked studs or other structural members.

(E) *Ceilings.* Ceilings shall conform to the following.

(1) There shall be no joists which are decayed, broken, sagging or improperly supported at the ends.

(2) Maximum spacing for ceiling joists; provided, they show signs of sagging and being weak, shall comply with the requirements of the State Building Code.

(3) Maximum spans for ceiling joists; provided, they show signs of being weak or overloaded, shall comply with the requirements of the State Building Code.

(4) There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.

(5) There shall be no loose plaster, boards, gypsum wall board or other ceiling finish.

(6) There shall be no cardboard, newspaper, highly combustible or improper ceiling finish; and all ceiling materials shall be of the same or similar quality and material.

(7) Ceiling joists shall be structurally sound and not likely to cause structural weakness in the future.

(F) *Roofs.* Roofs shall conform to the following.

(1) There shall be no rafters which are decayed, broken or improperly supported at the ends.

(2) There shall be no rafters that have been seriously damaged by fire.

(3) Rafters shall be properly braced and tied four feet on center maximum.

(4) The attic shall be ventilated as required by the State Building Code.

(5) Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.

(6) There shall be no loose roof covering, no holes and no leaks causing damage to the structure or rooms.

(7) There shall be a minimum of class C roof covering.

(8) There shall be proper flashing at walls or chimneys.

(G) *Porches.* Porches shall conform to the following.

(1) The floor, ceiling and roof shall be equal to requirements set forth above, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weather-tight; the ceiling height may be seven feet; and the attic need not be vented.

(2) Every porch, terrace or entrance platform 48 inches or more above adjacent finished grade shall be equipped with railings or guards not less than 30 inches high, unless other effective barriers provide adequate safety.

(3) If post and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.

(H) *Stairs and steps.* Stairs and steps shall conform to the following.

(1) Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.

(2) Stairwells and flights of stairs more than four risers high shall have rails not less than two feet six inches measured vertically from the nose of the treads to the top of the rail.

(3) Every rail shall be firmly fastened and maintained in good condition.

(4) No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.

(5) Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.

(6) Every stair riser shall be reasonably uniform in height, and treads shall be sound and securely fastened in position and strong enough to bear a concentrated load of at least 300 pounds without danger of breaking through.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.058 PROPERTY MAINTENANCE.

(A) *Building structure.* The building structure shall be maintained as follows.

(1) Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent

deterioration.

(2) Floors, walls, ceilings and fixtures shall be maintained in a clean and sanitary condition.

(B) *Open areas.* Open areas shall be maintained as follows.

(1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds.

(2) Fences and other accessory buildings shall be maintained in safe and substantial condition or demolished.

(3) Yards and courts shall be kept clean and free of physical hazards, rubbish, trash, garbage, junked vehicles, vehicle parts and other similar materials.

(4) There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health.

(C) *Infestation.* Grounds buildings and structures shall be maintained free of infestation by rodents, insects and other pests.

(D) *Garbage and rubbish.* There shall be adequate sanitary facilities and methods used for the storage, handling and disposal of garbage and rubbish.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.059 INSULATION.

(A) Every dwelling, including multiple dwellings, of three stories or less in height, shall have installed in the ceiling or, in the case of a dwelling of more than one story, in the ceiling of the top story, insulation to a minimum resistance value of R-9.

(B) Except as specified in this section, the insulation shall be installed in accordance with the requirements of the State Building Code.
(Ord. OR-97-05, passed 10-14-1997)

MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES

§ 153.070 GENERALLY.

All of the provisions of this chapter and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses, and to every person who operates a rooming house, or

who occupies or lets to another for occupancy any rooming unit in a rooming house, except as provided in the following sections of this subchapter.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.071 WATER CLOSET, HAND LAVATORY AND BATH FACILITIES.

At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooming units within a rooming house wherever the facilities are shared. All facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. The required facilities shall not be located in a cellar.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.072 MINIMUM FLOOR AREA FOR SLEEPING PURPOSES.

Every room in a rooming house occupied by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each additional occupant 12 years of age and over and at least 35 square feet of floor area for each additional occupant under 12 years of age.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.073 SANITARY CONDITIONS.

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

(Ord. OR-97-05, passed 10-14-1997)

§ 153.074 SANITARY FACILITIES.

Every water closet, flush urinal, lavatory basin and bathtub or shower required by § 153.071 shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(Ord. OR-97-05, passed 10-14-1997)

§ 153.075 SMOKE AND FIRE DETECTORS.

Smoke and fire detectors shall be installed in accordance with the State Building Code.
(Ord. OR-97-05, passed 10-14-1997)

§ 153.999 PENALTY.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Public Officer duly made and served as herein provided, within the time specified in the order, and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 153.024(B), to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) Any owner of a dwelling except an owner who occupies the dwelling as his or her principal place of residence, who fails to comply with an order of the Public Officer to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to a civil penalty in the amount of \$100 for the first day of noncompliance and \$10 for each day thereafter until the dwelling is brought into compliance with the order. This penalty may be recovered by the town in a civil action in the nature of debt if the owner does not pay the same within 30 days after the initial day of noncompliance.

(C) The Public Officer, in his or her discretion, may agree in writing only to release, in whole or in part, an owner from liability for the civil penalty imposed pursuant to division (B) above if the owner voluntarily agrees as consideration for the release to convey to the town, or to some other person or organization, the property from which the civil penalty arose upon terms and conditions as the owner and the Public Officer might agree.

(D) Occupation of a building posted as required in § 153.026(A) and G.S. § 160A-443(4) shall constitute a class 1 misdemeanor.
(Ord. OR-97-05, passed 10-14-1997)