**CHAPTER 44: ZONING**

**CHAPTER** **44:** **ZONING**

Section

***Article I. In General***

44‑1 Title

44‑2 Definitions

44‑3 Zoning Administrator

44‑4 Building permit required

44‑5 Zoning permit required

44‑6 Zoning permit application and issuance

44‑7 Certificate of occupancy required

44‑8 Zoning affects all land and buildings

44‑9 Only one principal use upon any lot

44‑10 Reduction or change in lot size

44‑11 Maintenance of open space

44‑12 Location of accessory uses or buildings

44‑13 Street access

44‑14 Lots with multiple frontage

44‑15 Minimum frontage

44‑16 Uses prohibited

44‑17 Required fencing for refuse containers

44‑18 Civil remedies

44‑19 Equitable relief

44‑20 Civil citation

44‑2144‑50 Reserved

***Article II. Planning Board***

44‑51 Creation, establishment

44‑52 Powers and duties; administrative review

44‑53 Termination of extraterritorial jurisdictional powers

44‑5444‑80 Reserved

***Article III. Board of Adjustment***

44‑81 Created, established

44‑8244‑110 Reserved

***Article IV. Planning Board and Board of Adjustment Rules of Procedure***

44‑111 Definitions

44‑112 General rules

44‑113 Officers and duties

44‑114 Board of Adjustment alternate members

44‑115 Action by the Boards

44‑116 Rules of conduct for members

44‑117 Regular meetings

44‑118 Appeals and applications by the Board of Adjustment

44‑119 Petitions to the Planning Board

44‑12044‑150 Reserved

***Article V. Changes and Amendments***

44‑151 Procedures

44‑152 Action by the applicant

44‑153 Action by the Planning Board

44‑154 Action by Town Board of Commissioners

44‑155 Protest to amendment

44‑156 Withdraw of petition

44‑15744‑190 Reserved

***Article VI. Fees***

44‑191 Zoning permit fees

44‑192 Public hearing fee

44‑19344‑220 Reserved

***Article VII. Vested Rights***

44‑221 Findings

44‑222 Establishment of vested right

44‑223 Duration and termination of vested right

44‑224 Subsequent changes prohibited; exceptions

44‑225 Miscellaneous provisions

44‑22644‑260 Reserved

***Article VIII. Zoning Map and District Boundaries***

44‑261 Zoning map

44‑262 Procedure for zoning map amendment

44‑263 Zoning districts enumerated

44‑264 Location of districts on zoning map

44‑265 Zoning map changes

44‑266 Replacement of official zoning map

44‑267 Maintenance of the official zoning map

44‑268 Interpretation of zoning district boundaries

44‑26944‑300 Reserved

***Article IX. District Regulations***

44‑301 Generally

44‑302 Additional restrictions and revocation of permits

44‑303 Uses which may be permitted

44‑304 Home occupations

44‑305 Accessory uses and buildings

44‑306 Establishment of zoning districts

44‑307 RA‑20 residential/agricultural district

44‑308 R‑12 residential district

44‑309 R‑10 residential district

44‑310 R‑5 residential district

44‑311 RMH mobile home park district

44‑312 RSFD residential district

44‑313 CB central business district

44‑314 HB highway business district

44‑315 HB/O highway business overlay district

44‑316 NB neighborhood business district

44‑317 LI light industrial district

44‑318 HI heavy industrial district

44‑319 LM light manufacturing district

44‑320 Mobile, manufactured and modular homes

44‑32144‑350 Reserved

***Article X. Nonconforming Uses***

44‑351 Intent

44‑352 Repairs and maintenance

44‑353 Nonconforming structures

44‑354 Continuance and change of nonconforming use

44‑35544‑390 Reserved

***Article XI. Exceptions and Modifications***

44‑391 Wall and fences

44‑392 Height limitations

44‑393 Front yard setback

44‑394 Substandard lots of record

44‑395 Visibility at intersections

44‑396 Group projects

44‑397 Family care homes

44‑398 Cellular towers

44‑399 Flea markets

44‑400 Recreational equipment, trailers and commercial vehicles

44‑40144‑430 Reserved

***Article XII. Off‑Street Parking and Loading Space***

44‑431 Generally

44‑432 Plan and design standards

44‑433 Minimum parking requirements

44‑434 Required off‑street loading and unloading space

44‑43544‑460 Reserved

***Article XIII. Curb Cut***

44‑461 Requirements

44‑462 Curb cuts on state‑maintained streets

44‑46344‑490 Reserved

***Article XIV. Signs***

44‑491 Purpose

44‑492 General provisions

44‑493 Administration, filing procedure, permits

44‑494 Signs which do not require a permit

44‑495 Signs which require a permit

44‑496 Portable signs

44‑497 Discontinued signs

44‑49844‑510 Reserved

***Article XV. Buffering and Screening***

44-511 Generally

44‑51244‑520 Reserved

***Article XVI. Planned Unit Development***

44‑521 Statement of purpose

44‑522 Application requirements

44‑523 Application approval

44‑524 Conformity to plan and time limitation

44‑525 Residential planned unit developments

44‑526 Common open space

44‑527 Commercial and industrial planned unit developments

44‑528 Site planning

44‑52944‑550 Reserved

***Article XVII. Manufactured Home Rental Communities***

44‑551 Purpose

44‑552 Intent

44‑553 Development of plan

44‑554 Review and approval of plan

44‑555 Design standards

44‑556 Inspection

***Cross-reference:***

*Any zoning ordinance saved from repeal, see  1‑9*

*Buildings and building regulations, see Ch. 10*

*Environment, see Ch. 18*

*Streets, sidewalks and other public places, see Ch. 32*

*Subdivisions, see Ch. 34*

*Vegetation, see Ch. 40*

*Zoning Board of Adjustment to hear appeals for minimum housing standards, see  10‑190*

***Statutory reference:***

*Authority to regulate zoning, see G.S.  160A‑381 et seq.*

***ARTICLE I. IN GENERAL***

**44‑1 TITLE.**

This chapter shall be known, cited and referred to as the Zoning Ordinance of the Town of Maxton, North Carolina.

(2001 Code,  44‑1) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑2 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The term lot shall include the terms piece, parcel and plot; the term building includes all structures of every kind regardless of similarity to buildings; and the term used for includes the phrases arranged for, designed for, intended for and occupied for.

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

***ACCESSORY BUILDING*** and ***FOR USE.*** A subordinate building or use the use of which is incidental to that of the principal building or use on the same lot.

***ALLEY.*** A public thoroughfare which affords only a secondary means of access to adjoining property.

***AMUSEMENT CENTER.*** A business establishment whose main function is to provide commercial entertainment. The establishment may also house refreshment centers or snack bars and shall include but is not limited to commercial dance halls, discotheques, bowling alleys, skating rinks, supper clubs, bingo operations (as allowed by law), billiards and miniature golf, but shall not include sexually oriented businesses, such as adult bookstores, movie theaters and/or massage parlors.

***ANIMAL FEEDER/BREEDER OPERATION.*** Establishments primarily engaged in the production, breeding, feeding or fattening of cattle, hogs, chickens, turkeys or other animals on a contract or fee basis.

***APARTMENT.*** The same as ***DWELLING, MULTI-FAMILY***.

***BILLBOARD.*** The same as ***SIGN, OUTDOOR ADVERTISING***.

***BILLIARD PALACE (POOL HALL).*** A commercial establishment where for‑hire or coin‑operated billiard tables or pool tables are operated, for which a charge is made, either directly or indirectly. It is the intent of this chapter that ***BILLIARD PALACES*** and ***POOL HALLS*** shall not be permitted in any zoning district within the towns zoning jurisdiction.

***BOARDINGHOUSE.*** A building dedicated to the lodging or feeding of both transient and non-transient persons for compensation.

***BUFFER.*** An opaque fence or wall, hedge or other planted area or other approved device to screen or separate one dissimilar use from another to protect the integrity of the preceding land.

***BUILDING.*** Any structure which has a roof and which is designed for the shelter, support or enclosure of persons, animals or property of any kind.

***BUILDING HEIGHT.*** The vertical distance measured from the average proposed finish grade around a building to the highest point of a flat roof; to the deck line of a mansard roof; or the main height level between the eaves and ridge of a gable, hip or gambrel roof.

***BUILDING LINE.*** The same as ***SETBACK LINE***.

***BUILDING, PRINCIPAL.*** The building in which the principal use conducted on a lot is situated.

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

***CELLULAR TOWER.*** Any tower, apparatus, building, object or structure used to transmit or facilitate transmission of wireless communications of any nature.

***CHURCH, CLUB AND PRIVATE LODGE.*** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities, operated on a non-profit basis for the benefit of its neighbors.

***CLINIC.*** An institution connected with a hospital used for the treatment of outpatients.

***COMMERCIAL VEHICLE.*** A vehicle:

(1) With lettering or signage indicating use for commercial purposes; or

(2) In excess of one‑half ton load capacity of a type customarily used for commercial purposes.

***CONDOMINIUM.*** A dwelling unit in which the ownership of the occupancy rights to the dwelling unit is individually owned for sale to an individual and the ownership is not inclusive of any land.

***CONVALESCENT HOME (NURSING HOME).*** An institution which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A ***CONVALESCENT HOME*** is a home for chronic or nursing patients who, on admission, are not, as a rule, acutely ill and who do not usually require special facilities, such as an operating room, X‑ray facilities, laboratory facilities and obstetrical facilities. A ***CONVALESCENT HOME*** provides care for persons who have remedial ailments or other ailments for which continuing medical and skilled nursing care is indicated, who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor which distinguishes ***CONVALESCENT HOMES*** is that the residents will require the individualization of medical care.

***CONVENIENCE STORE.*** A commercial establishment that generally serves the day‑to‑day commercial needs of a residential neighborhood, which use includes retailing packaged food, sundries, gasoline and prepared foods in a delicatessen style service. The total gross building area shall not exceed 3,500 square feet, as measured at the outside edge of the building wall foundation.

***CONVERSION.*** The changing of the original purpose of a building to a different use.

***COVENANT.*** A private legal restriction on the use of land, contained in the deed, to the property or otherwise formally recorded. There may be certain legal requirements for formal establishment of a covenant such as a written document, a mutual interest in the property, that the ***COVENANT*** be concerned with the use of the land rather than individual characteristics of ownership and the like.

***CURB CUT.*** A lowered or cutaway curb for purposes of ingress or egress to property abutting a public street.

***CUT AND SEW OPERATION.*** An establishment that receives cloth and assembles that cloth into garments or other textile goods for wholesale or retail sale. A ***CUT AND SEW OPERATION*** shall not employ more than ten persons per shift, including the owner.

***DAY CARE.*** Any child care arrangement under which a child less than 13 years of age receives care away from his or her own home by persons other than his or her parents, grandparents, guardians or full‑time custodians.

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

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

***DENSITY.*** The average number of families, persons or housing units per unit of land.

***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 and hearing and sight impairments, but not including mentally ill persons who are dangerous to others, as defined in G.S.  122C-3(1).

***DRIVE‑IN.*** An establishment (such as a theater or restaurant) so laid out that patrons can be accommodated while remaining in their automobiles.

***DRIVE‑THROUGH.*** An establishment (such as a restaurant, bank, auto parts, utility) so laid out that patrons can be accommodated while remaining in their automobiles and the merchant may remain within the confines of his or her establishment.

***DWELLING.*** A building or portion of a building designated or used for housekeeping purposes. The term shall not be deemed to include a mobile home or house trailer, motel, hotel, tourist home or other structures designed for transient residence.

***DWELLING, ATTACHED.*** One which is joined to another dwelling at one or more sides by a party wall or walls.

***DWELLING, DETACHED.*** One which is entirely surrounded by open space on the same lot.

***DWELLING, MULTI-FAMILY.*** A building containing two or more dwelling units.

***DWELLING, SINGLE‑FAMILY.*** A detached residence designed for or occupied by one family only.

***DWELLING, TWO‑FAMILY (DUPLEX).*** A building used as residence by two families, each housekeeping separately.

***DWELLING UNIT.*** One or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each ***DWELLING UNIT***.

***EXTRATERRITORIAL ZONING.*** Authority to a locality to exercise zoning powers for a specified distance outside its boundaries. It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent activities.

***FAMILY CARE HOME.*** A home with support supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident disabled persons.

***FARM, BONA FIDE.*** A tract of land yielding agricultural produce valued in excess of $1,000 per year.

***FITNESS CENTER.*** The operation of a facility that allows exercise, weight lifting, weight reducing counseling or the instruction of karate or dance.

***FLEA MARKET.*** An occasional or periodic sales activity held at a location within a structure, other than a permanent retail location, or in an open area where a person or persons offer(s) goods, new and used, for sale at retail to the public. This definition does not apply to private or non profit garage, lawn, yard, attic, porch, room, backyard, patio or rummage sales.

***FLEA MARKET OPERATOR.*** A person who rents space, at a location within a structure, other than a permanent retail location, or in an open area to others for the purpose of selling goods at retail or offering goods for sale at retail.

***FLOOR AREA.*** For determining off‑street parking and loading requirements, means the sum of the gross horizontal areas of the several floors of the building devoted to the use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices. However, the term, for the purpose of measurement for off‑street parking spaces, shall not include floor area devoted to primarily storage purposes (except as otherwise noted in this chapter); floor area devoted to off‑street parking or loading facilities, including aisles, ramps and maneuvering space; or basement floor space other than area devoted to retailing activities, to the production or processing of goods or to business or professional offices.

***FOSTER HOME.*** A facility for less than six otherwise normal children or adolescents who, for various reasons, cannot reside with their natural families, and are provided with room, board, ordinary care and supervision in a home setting by adults who are not legally related to the children. The facilities shall be allowed only when licensed by the appropriate state or local agency.

***FOUNDATION ENCLOSURE.*** The enclosure of the perimeter of the manufactured home or mobile home.

***FRONTAGE.*** All of the real property adjoining a street line measured along the street line.

***GAME ROOM.*** A commercial establishment where any place of business operates more than three mechanical or electronic games or pay devices for which a charge is made, either directly or indirectly. It is the intent of this chapter that ***GAME ROOMS*** shall not be permitted in zoning districts within the towns zoning jurisdiction.

***GAMES, ACCESSORY USE.*** A commercial establishment operating legally within the towns zoning jurisdiction, which may, as an accessory use, operate not more than three mechanical or electronic games or pay devices; however, this shall not be construed to allow any billiard table or pool table to operate as an accessory use.

***GARAGE, COMMERCIAL.*** Any building or premises, except those described as a private or parking garage, used for the storage or care of motor vehicles or where any vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

***GARAGE, PARKING.*** Any building or premises, other than a private or commercial garage, used exclusively for the parking or storage of motor vehicles.

***GARAGE, PRIVATE.*** A structure or portion of a structure permitted in any residential district, and affiliated with a dwelling, and provides for the storage of motor vehicles, and in which no business, occupation or service for profit is in any way conducted, and shall be classified as either:

(1) ***ATTACHED***, which is a private garage that is physically joined to the dwelling by a common wall so as to be an integrated portion of the dwelling. An ***ATTACHED GARAGE*** shall meet all setback requirements for dwellings in the residential district it is located in; or

(2) ***DETACHED***, which is a private garage that is a separate and distinct structure from the dwelling. A ***DETACHED GARAGE*** shall be no larger than 1,014 square feet (any proposed detached garage larger than this shall be required to be heard before the Planning Board as a conditional use request), and shall meet all front yard setbacks as required by this chapter. A ***DETACHED PRIVATE GARAGE*** shall not extend forward into a side yard past a line projected from and parallel to the rear wall of a dwelling. Except for the requirements listed in this definition, a ***DETACHED PRIVATE GARAGE*** may be considered an accessory use for determining setback requirements for side and rear yards, but shall not be counted as an accessory use.

***GROCERY STORE.*** A commercial establishment that generally serves packaged food, sundries and prepared foods in a delicatessen style service and have not less than 3,500 square feet, as measured at the outside edge of the building wall foundation.

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

***GROUP CARE HOME.*** A facility for six or more children, adolescents or adults who have mental disabilities, emotional problems or the lack of social maturity, and who, for various reasons, cannot reside with their natural parents. Adult care is provided as well as a program of services and protective supervision in a home setting.

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

***HOME OCCUPATION.*** An occupation for gain and support, customarily conducted on the premises by a person or family resident on the premises.

***HOTEL/MOTEL.***

(1) A building kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests, where rooms are furnished for the accommodation of the guests, maid service and linens are supplied, and having or not having one or more dining rooms, restaurants or cafés where meals are served, the sleeping accommodations and dining rooms, restaurants or cafés, if existing, being conducted in the same building.

(2) A ***HOTEL/MOTEL*** may have a restaurant either on or closely associated with the premises. Any associated restaurant must also meet the standards (except for the parking requirements) of the zoning ordinance as if it was not associated with a ***HOTEL/MOTEL***.

***INDUSTRIAL PARK.*** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. ***INDUSTRIAL PARKS*** may be promoted or sponsored by private developers, community organizations or government organizations.

***JUNKYARD.*** Use of property for indoor and/or outdoor storage keeping, abandonment, sale or resale of junk, including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking, structural steel, materials and equipment, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts.

***LITTER.*** Rubbish or refuse scattered about any district.

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

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

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

***LOT LINES.*** The lines bounding the lot.

***LOT OF RECORD.*** A lot which is a part of a subdivision or plot of which has been recorded in the office of the Registrar of Deeds of Robeson and Scotland Counties, or a lot described by metes and bounds the description of which has been so recorded.

***LOT WIDTH.*** The mean horizontal distance between side lot lines measured at the building line.

***MAJOR RECREATIONAL EQUIPMENT.*** A boat, boat trailer or any form of mobile camping equipment.

***MANUFACTURED HOME.***

(1) For purposes of this chapter, manufactured home is defined as provided in G.S.  143‑145 (7), or any successor statutory definition. In the event that G.S.  143‑145(7) is repealed with no successor statutory definition, the term ***MANUFACTURED HOME*** shall mean a structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes plumbing, heating, air conditioning and electrical systems contained therein.

(2) Notwithstanding anything to the contrary hereinabove, for purposes of this chapter, the term ***MANUFACTURED HOME*** shall also include on‑frame modular home, as defined herein, but shall not include an off‑frame modular home, as defined herein.

(3) (a) A ***MANUFACTURED HOME*** must meet the following additional requirements.

1. The ***MANUFACTURED HOME*** is a multi‑section home which has a length not exceeding four times its width measured along the longest axis and width measured at the narrowest part of the other axis.

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

3. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.

4. The exterior siding consists of material comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

5. The manufactured home is set up in accordance with the standards set by the State Department of Insurance and a continuous masonry foundation or masonry curtain wall, un‑pierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

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

7. The moving hitch, wheels and axles and transporting lights have been removed.

(b) It is the intent of these criteria to ensure that a manufactured home, when installed, shall have substantially the appearance of an on‑site, conventionally built, single-family dwelling.

***MANUFACTURED HOME RENTAL COMMUNITY.*** Any site or tract of land where land rental specified services (water and sewer) are provided. Communities are not rental restricted. Individual property ownership may occur as long as conformity with this chapter exists.

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

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

***MANUFACTURERS REPRESENTATIVE.*** An individual acting as an agent for an organization to sell or contract to sell and/or distribute consumer goods or services.

***MOBILE HOME.*** A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, locations on jacks or other temporary or permanent foundations, connections to utilities and the like. A travel trailer is not to be considered as a ***MOBILE HOME***. This definition is limited to ***SINGLE‑WIDE MOBILE HOMES***.

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

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

***MOBILE HOME STAND.*** The portion of the mobile home space intended for occupancy by the mobile home proper, consisting of a rectangular plot of ground at least 12 feet by 60 feet.

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

***NIGHT CLUB/BAR/PRIVATE CLUB.*** Any establishment engaged in the sale and/or serving of any alcoholic beverage and not meeting the definition of restaurant, package store or convenience store found in this section and not meeting the definition found in G.S. Ch. 18B. This definition also applies to any and all establishments that are engaged primarily in the business of providing live music, entertainment and/or dancing whether or not alcohol is sold or served on premises.

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

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

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

***OPERATOR/MANAGER.*** An individual who is responsible for the daily operations of a manufactured home rental community, mobile home park, planned unit development or the like.

***ORDINANCE.*** This chapter, including any amendments. Whenever the effective date of this chapter is referred to, the reference includes the effective date of any amendment to it.

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

***OFF‑FRAME MODULAR HOME.***

(1) A structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications of modular homes under the State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S.  143‑139.1, is composed of components substantially assembled in a manufacturing plant, and which is not transported to its site on an integral/permanent chassis.

(2) An ***OFF‑FRAME MANUFACTURED HOME*** must meet the following additional requirements: assembled on a permanent foundation consisting of a continuous perimeter weight bearing wall with storm ties embedded; permanent underpinning of solid masonry; permanent interior foundation support of solid masonry or its equivalent; permanent steps and/or stoops to all exterior entries; a roofing surface of materials other than sheet goods; and an exterior siding of wood, masonry, vinyl or other non‑metal construction.

(3) Any reference to mobile, manufactured and modular homes within this chapter is subject to the new definitions defined herein and cannot be interpreted in any other manner than as intended by the definitions of this chapter.

***ON‑FRAME MODULAR HOME.*** A factory‑built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S.  143‑139.1, and which is transported to its site on an integral/permanent chassis, or any other type of modular unit that does not expressly meet the definition of off‑frame modular home, as defined herein. (Note: For purposes of this chapter, an ***ON‑FRAME MODULAR HOME*** constitutes a manufactured home as well, and is regulated herein as a manufactured home. Any reference to mobile, manufactured and modular homes within this chapter is subject to the new definitions defined herein and cannot be interpreted in any other manner than as intended by the definitions of this chapter.)

***PLANNING BOARD.*** The public agency in a community usually empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.

***PLANNED UNIT DEVELOPMENT (PUD).*** A form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot‑by‑lot basis. A ***PLANNED UNIT DEVELOPMENT*** that offers sites for sale is a subdivision and must be approved as such.

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

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

***PRINCIPAL BUILDING OR USE.*** The principal purpose for which a lot or the main structure on the lot is designed, arranged or intended and for which it is or may use, occupied or unoccupied.

***RESTAURANT.*** A place of business where meals can be bought and eaten which are served openly and unpackaged on plates, platters and the like, and which are consumed normally within the confines of the building and are not consumed in the parking lot areas of the premises. A ***RESTAURANT*** may include takeout food service when the meals are packaged and transported from the premises in addition to the meals served openly and unpackaged.

***SATELLITE DISH ANTENNA AND EARTH STATION.*** A dish antenna, or earth station, is defined as an accessory use.

***SCREENING.*** See ***BUFFER.***

***SEAT, BENCH‑TYPE.*** Seating that is of a continuous design and meant for the occupation of multiple persons, and is not separated by arm rests or dividers, or is otherwise constructed in such a manner where no division exists between persons, shall be considered as having one seat per 20 inches of bench. Examples of ***BENCH‑TYPE SEATING*** include, but are not limited to, church pews and bleachers.

***SERVICE STATION.*** A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, grease and accessories and the minor repair of automobiles such as tune‑ups, brake adjustments and tire changes, excluding body work and painting.

***SETBACK LINE.*** The line on the front, rear and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built and maintained.

***SHELTER, FALLOUT.*** A structure or portion of a structure intended to provide protection to human life during periods of danger, nuclear fallout, raids, storms or other emergencies.

***SHOPPING CENTER.*** Two or more commercial establishments planned and constructed as a single unit with off‑street parking and loading facilities provided on the property and related in location, size and type of shops to the trade area which the unit serves.

***SIGN.*** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; however, the following shall not be included in the application of the regulations in this chapter:

(1) Signs not exceeding one square foot in area and having only property numbers, post office box numbers, names of occupants or other identification of premises not having commercial connotation;

(2) Flags and insignias of any government except when displayed in connection with commercial promotion;

(3) Legal notices, identification, information or directional signs erected or required by governmental bodies;

(4) Integral decorative or architectural features of buildings, except letters, tradeworks, moving parts or moving lights; and

(5) Signs directing and guiding traffic and parking on private property, but having no advertisement matter.

***SIGN AREA.*** For measurement of sign areas, the entire face of a sign and all wall work, including illuminating tubing incidental to its decoration, excluding architectural trim and structural embellishments. In the case of an open sign made up of individual letters, figures or designs shall be included as part of the sign area. In computing ***SIGN AREA***, only one side of a double‑face sign structure shall be considered.

***SIGN, COMMERCIAL ACCESSORY.*** A freestanding sign on a commercial parcel relating to the products sold on the parcel in addition to the principal use sign.

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

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

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

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

***SIGN, OUTDOOR ADVERTISING.*** Any sign, including a standard poster panel, either freestanding or attached to a structure, which directs attention to a business, commodity, service, entertainment or other activity conducted, sold or offered elsewhere than the premises on which the sign is located.

***SIGN, POLITICAL.*** A temporary sign of a candidate, party or group supporting the candidacy of an individual for office or expressing or soliciting public support of, or opposition of, or opposition to, any public or political issue.

***SIGN, PORTABLE.*** A sign generally constructed to be easily movable from location to location without a permanent attachment to the ground or to a building and which may or may not be equipped with wheels. The signs usually are designed for changeable messages.

***SIGN, PRINCIPAL USE.*** A sign which directs attention to a business, commodity, services, entertainment or other activity conducted, sold or offered on the premises upon which the sign is located.

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

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

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

***SIGN, TEMPORARY.*** A sign permitted for a period not exceeding 12 months.

***SIGN, TEMPORARY NONPROFIT.*** A sign erected by any non-profit organization in order to advertise a specific event. A non-profit organization shall mean any group, association, corporation or other affiliation intended to have no income, or intended to have income, none of which is distributed to its members, directors or officers, except as permitted by G.S.  55A‑28. A ***TEMPORARY NON-PROFIT SIGN*** may be freestanding, but shall not be a portable sign.

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

***SITE PLAN.*** A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscaping features (both natural and human-made) and, depending on requirements, the locations of proposed utility lines.

***SPECIAL EXCEPTION OR CONDITIONAL USE.*** A use that would be appropriate generally as a right without restrictions throughout a zoning district, but which if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, general welfare, morals, order, comfort, convenience, appearance or prosperity. Such a use could be permitted in a zoning district as a special exception or conditional use if specific provisions are made for it.

***STORY.*** The portion of a building included between the surface of any floor and the surface of the next floor above it; or, if there is no floor above it, the space between the floor and the ceiling next above it.

***STREET.*** A dedicated and accepted public right‑of‑way for vehicular traffic which affords the principal means of access to abutting properties.

***STRUCTURE.*** Anything constructed or erected with a fixed location on or in the ground or attached to something having a more or less fixed location on or in the ground. Among other things, ***STRUCTURES*** include buildings, mobile homes, walls, fences, signs, billboards, poster panels, swimming pools and fallout shelters.

***TAXI STAND.*** A depot or terminal on private property operated for the purpose of receiving telephone and walk-up business for a taxicab. For the purposes of this chapter, a ***TAXI STAND*** may be an accessory use in commercial districts listing taxi stands as a permitted use.

***TOURIST HOMES.*** The same as ***GUEST HOMES***.

***TRAILER.*** A structure that is intended to be transported over the streets and highways and is attached to or hauled by a motor vehicle.

***TRAILER, RESIDENTIAL.*** The same as ***MOBILE HOME***.

***TRAILER, TRAVEL.*** A structure that is:

(1) Intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and

(2) Designed for temporary use as sleeping quarters, but does not meet the definitions of a mobile home.

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

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

***VARIANCE.*** A relaxation of the terms of this chapter. The ***VARIANCE*** shall not be contrary to the public interest. A ***VARIANCE*** may be made where owing to conditions peculiar to the property not the result of the actions of the applicant a literal enforcement of the regulations would result in unnecessary and undue hardships.

***WHOLESALE SUPPLY.*** A commercial use in which wares or goods are stored, or are kept in reserve, and are to be sold primarily on a wholesale basis to industrial or retail store customers. Some retail sales are permitted. Fabrication of wares or goods are prohibited. Examples of a ***WHOLESALE SUPPLY*** include a plumbing supply or electrical supply establishments.

***YARD.*** A required open space unoccupied and unobstructed by any principal structure or portion of a structure from ground to sky, except as provided in this chapter.

***YARD, FRONT.*** A yard extending across the front of a lot measured from side lot line to side lot line and lying between the adjoining street right‑of‑way and the front building setback line.

***YARD, REAR.*** A yard extending across the rear of the lot measured from side lot line to side lot line, lying between the rear property line and the rear building setback line.

***YARD, SIDE.*** A yard extending along either side of a lot measured from the front yard line to the rear yard line, and lying between the side lot line and the side setback line.

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

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

***ZONING ADMINISTRATOR.*** The person, officer or official and his or her authorized representative whom the Board of Commissioners has designated as its agent for the administration of this chapter. He or she may provide for the enforcement of this chapter by means of the withholding of building permits and occupancy permits and by instituting injunction, mandamus or other appropriate action or proceedings to prevent unlawful erection, construction, alteration, conversion, maintenance or use; or to correct or abate the violations or to prevent the occupancy of the building, structure or land.

***ZONING DISTRICT.*** A section of the town within which the zoning regulations are uniform.

(2001 Code,  44‑2) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 1997‑04, passed 4‑8‑1997; Ord. 98‑10‑01, passed 10‑13‑1998; Ord. 2000‑08, passed 9‑12‑2000; Ord. 2001‑04, passed 7‑12‑2001; Ord. Z‑2004‑05‑01, passed 8‑10‑2004)

***Cross-reference:***

*Definitions generally, see  1‑2*

***Statutory reference:***

*Definition of manufactured home and mobile home, see G.S.  160A‑442*

**44‑3 ZONING ADMINISTRATOR.**

(A) The Zoning Administrator is authorized and it shall be his or her duty to enforce and administer the provisions of this chapter. If a ruling of the Zoning Administrator is questioned, his or her ruling may be appealed to the Board of Adjustment.

(B) The Zoning Administrator shall:

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

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

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

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

(5) The Zoning Administrator shall have the power to call a public hearing to address planning and/or zoning related matters, to be attended by the Planning Board or Board of Commissioners together or separately at regular or special meetings. He or she shall set the date, time and place of the meeting and notify the respective members in writing.

(2001 Code,  44‑3) (Ord. 1987‑4, passed 10‑19‑1987)

***Cross-reference:***

*Officers and employees, see  2‑91 et seq.*

**44‑4 BUILDING PERMIT REQUIRED.**

No building, sign or other structure shall be erected, moved, extended or enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the appropriate Building Inspector has issued a building permit for the work.

(2001 Code,  44‑4) (Ord. 1987‑4, passed 10‑19‑1987)

***Cross-reference:***

*Buildings and building regulations, see Ch. 10*

**44‑5 ZONING PERMIT REQUIRED.**

(A) No land or lot shall be used or occupied, except for agricultural purposes; and no building, sign or other structure shall be erected, moved, extended or enlarged or structurally altered; nor shall any excavation, or filling of any lot for the construction of any building be commenced until a zoning permit has been issued for the work in accordance with this chapter.

(B) Any change of use shall not be commenced until a zoning permit has been issued in accordance with  44‑6.

(C) Upon the transfer of property or lease agreements, no existing use, other than residential property, shall be continued until a zoning permit has been issued in accordance with  44‑6.

(2001 Code,  44‑5) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑6 ZONING PERMIT APPLICATION AND ISSUANCE.**

(A) To apply for a zoning permit, an applicant shall submit to the Zoning Administrator a zoning permit application, a copy of the property deed or lease agreement, and a sketch of the lot. The Zoning Administrator may require the sketch be drawn to scale if it is necessary for his or her determination to issue a permit. The sketch shall indicate the following:

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

(2) The location of the lot with respect to adjacent rights‑of‑way;

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

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

(5) The location and dimensions of off‑street parking and loading space and the means of ingress and egress to the space, if required; and

(6) Any other information which the Zoning Administrator may deem necessary for consideration of the application, and in enforcing the provisions of this chapter.

(B) If the proposed building and/or use conforms to the provisions of this chapter, a zoning permit shall be issued to the applicant by the Zoning Administrator, and a fee (see Art. VI) shall be paid to the town upon issuance of the zoning permit to cover administrative costs.

(C) The set of plans or sketch, a copy of the permit, a copy of the application and any other information used by the Zoning Administrator in issuing or denying a permit shall be filed in the office of the Zoning Administrator.

(D) The actual building location and construction shall conform to the plans submitted and approved at the time of the zoning permit issuance.

(E) If the zoning permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment, in accordance with  44‑118.

(F) In cases of multi-housing units, the Zoning Administrator may, provided all other provisions of this chapter are met, issue permits for one structure containing up to two housing units. Requests for a structure containing multi-family housing unit permits for three through eight units each must be forwarded for Zoning Board approval. Requests for a structure or structures containing multi-housing unit permits for nine or more units shall be forwarded to the Zoning Board for approval and to the Board of Commissioners for final approval.

(2001 Code,  44‑6) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑7 CERTIFICATE OF OCCUPANCY REQUIRED.**

No newly constructed structure, newly constructed addition or alteration to an existing structure, manufactured home, modular structure, sign, land or change in use, in which a zoning permit has been issued shall be used or occupied until the Zoning Administrator has conducted an inspection of the lot upon which the structure or use is located and, upon determination that the structure or use complies with all the provisions of this chapter, shall issue a certificate of occupancy certifying that fact.

(2001 Code,  44‑7) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑8 ZONING AFFECTS ALL LAND AND BUILDINGS.**

No land, building or structure shall be used; no building or structure shall be erected; and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with this chapter.

(2001 Code,  44‑8) (Ord. 1987‑4, passed 10‑19‑1987)

***Statutory reference:***

*Grant of zoning power, see G.S.  160A‑381*

**44‑9 ONLY ONE PRINCIPAL USE UPON ANY LOT.**

Except as otherwise provided in this chapter, there shall be no more than one principal use upon any lot.

(2001 Code,  44‑9) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑10 REDUCTION OR CHANGE IN LOT SIZE.**

No lot shall be reduced or changed in size so that the total area; minimum frontage; front, side or rear setbacks; lot area per dwelling unit; or other dimensions, areas or open spaces required by this chapter are not maintained. No lot shall be reduced in size so as to produce an additional lot which is not in conformity with this chapter unless the lot is combined with other land to produce a conforming lot or unless the lot is deeded and accepted for public use.

(2001 Code,  44‑10) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑11 MAINTENANCE OF OPEN SPACE.**

No yard shall be encroached upon or reduced in any manner, except in conformity with this chapter. No yard for one principal building shall be considered as a yard for any other principal building. Shrubbery, driveways, retaining walls, fences, curbs, ornamental objects and planted buffer strips shall not be constructed to be encroachments on yards. Eaves shall be allowed to project into a minimum required yard no more than 24 inches.

(2001 Code,  44‑11) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑12 LOCATION OF ACCESSORY USES OR BUILDINGS.**

Accessory uses or buildings shall be set back a minimum of four feet from the property line in the zoning district in which they occur.

(2001 Code,  44‑12) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑13 STREET ACCESS.**

No building shall be erected on a lot which does not adjoin a street or have access to a street; however, in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has an access to a street, used in common with other lots.

(2001 Code,  44‑13) (Ord. 1987‑4, passed 10‑19‑1987)

***Cross-reference:***

*Streets, sidewalks and other public places, see Ch. 32*

**44‑14 LOTS WITH MULTIPLE FRONTAGE.**

(A) In the case of a corner lot having frontage on two or more streets, all buildings shall be set back from each street a distance equal to the minimum for the front yard requirement for the district.

(B) If a building is constructed on a lot having frontage on two streets, but not at an intersection, a setback from each street shall be provided equal to the front yard requirements for the district in which the lot is located.

(2001 Code,  44‑14) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑15 MINIMUM FRONTAGE.**

Where a minimum frontage is specified in this chapter, it shall be measured at the front yard setback line.

(2001 Code,  44‑15) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑16 USES PROHIBITED.**

If either a use or class of uses is not specifically indicated as being permitted in a district, either as a matter of right, as a special exception or conditional use, or on the approval of the Town Board, after recommendation from the Planning Board, the use or class of uses shall be prohibited in the district.

(2001 Code,  44‑16) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑17 REQUIRED FENCING FOR REFUSE CONTAINERS.**

(A) All refuse containers that are not used for residential purposes or that are used for common refuse collection of more than one residential family shall be placed in an area that is surrounded by fencing or a barrier capable of hiding the view of those containers and catching any debris that may fall from those containers.

(B) The cost of providing a barrier shall be incurred by the entity needing the container. It is the duty of the entity to keep this barrier in good condition.

(C) Failure to comply with the requirements of this section shall constitute a violation of this chapter. The violation will be punishable by loss of refuse collection services and/or civil penalties as described in this chapter.

(2001 Code,  44‑17) (Ord. 1997‑02, passed 4‑8‑1997)

**44‑18 CIVIL REMEDIES.**

(A) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure or land is occupied or used in violation of state law, this chapter, or other regulation made under authority conferred by state law or this chapter, the town may apply to the District Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(B) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt; and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement.

(2001 Code,  44‑18) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑19 EQUITABLE RELIEF.**

The town may apply to the District Court, Civil Division, or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the towns application for equitable relief that there is an adequate remedy at law.

(2001 Code,  44‑19) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑20 CIVIL CITATION.**

(A) *Generally.* Any act constituting a violation of any section or provision of this chapter may subject the violator to a civil penalty of $100 to be recovered by the town in a civil action in the nature of a debt, as provided by  1‑6.

(B) *Notice of violation.* A notice of violation shall be a prerequisite to serving a civil citation. A civil citation shall not be served until 30 days have elapsed following the serving of the notice of violation. The day the notice of violation is served shall not count towards the 30 days.

(C) *Appeals to the Board of Adjustment.*

(1) It is the intention of this section that a person found to be in violation should have the opportunity to appeal a notice of violation prior to being subjected to a civil citations penalties. A notice of violation may be appealed to the Board of Adjustment as a decision of the Zoning Administrator.

(2) The notice of violation may be appealed for 30 days following delivery to the violator.

(3) An appeal of a notice of violation shall stay all action, as provided in  44‑118. The period of time between the completed application of the appeal being submitted to the Zoning Administrators office, and the hearing of the appeal shall not be included in the 30‑day period required between the issuing of the notice of violation and the issuing of the civil citation. In calculating the time elapsed during the appeal, the day the completed application was submitted and the day of the hearing of the appeal shall be included in the sum of the days the stay was in effect and shall not be counted toward the 30‑day period required before the issuance of the civil citation.

(4) A civil citation may not be appealed to the Board of Adjustment.

(D) *Procedure.*

(1) Upon the discovery of a violation, the Zoning Administrator may serve upon the violator a notice of violation. The notice of violation shall be served upon the violator by personal service or certified mail, return receipt requested.

(2) The notice of violation shall state the following:

(a) The nature of the violation, including citation of the specific part of this chapter the violation is in conflict with;

(b) The location of the violation;

(c) The name of the violator;

(d) Corrective action to be taken to abate or otherwise make lawful the violation;

(e) Failure to take the prescribed corrective action within 30 days after receipt of the notice of violation shall result in a civil citation being issued subjecting the violator to a civil penalty of $500 per day, with each day that the violation is in effect constituting a separate and distinct offense;

(f) The violator is responsible for notifying the Zoning Administrator that the violation has ceased or that corrective action has been taken to abate the violation; and

(g) That the violator may appeal the notice of violation to the Board of Adjustment within 30 days of the receipt of the notice of violation, as provided in  44‑118.

(3) Upon the expiration of the 30‑day period following the receipt of the notice of violation, the Zoning Administrator shall serve upon the violator a civil citation. The civil citation shall be served upon the violator by personal sendee, or certified mail, return receipt requested.

(4) The civil citation shall state the following:

(a) The nature of the violation, including citation of the specific part of this chapter the violation is in conflict with;

(b) The location of the violation;

(c) The name of the violator;

(d) Corrective action to be taken to abate or otherwise make lawful the violation;

(e) The penalty for the specific violation;

(f) The violator is responsible for notifying the Zoning Administrator that the violation has ceased or that corrective action has been taken to abate or otherwise make lawful the violation;

(g) Payment of the penalty or penalties are to be made to the office of the Zoning Administrator within 48 hours;

(h) Failure to cease the violation or to take corrective action to abate or otherwise make lawful the violation will result in the Zoning Administrators seeking further legal action; and

(i) Failure to pay the penalty or penalties accrued shall result in the Zoning Administrators filing a civil complaint for collection of the penalty or penalties and/or other remedies available for willful failure to pay the penalty as provided in  1‑6.

(E) *Payment of penalty.*

(1) The penalty must be paid or the failure to pay must be cleared with the Zoning Administrator.

(2) As used in this section, the word ***CLEARED*** shall mean either:

(a) Payment;

(b) Arrangement for payment to be made; or

(c) A prima facie showing to the Zoning Administrator that the civil citation was received as a result of mistake, inadvertence or excusable neglect.

(F) *Failure to pay.*

(1) Where a violator has taken the corrective action to abate or otherwise make lawful the violation within 20 days of the civil citations being served, but has not paid or cleared the resulting penalty or penalties within 15 days of the last day that the civil citation was in effect, the Zoning Administrator shall seek recovery of the penalty or penalties by way of civil action against the violator.

(2) Where a violator has not taken the corrective action to abate or otherwise make lawful the violation and has not paid or cleared the resulting penalty, at the time that the civil citation has been in effect for 20 days, the Zoning Administrator shall seek recovery of the penalty or penalties by way of civil action against the violator.

(2001 Code,  44‑20) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑2144‑50 RESERVED.**

***ARTICLE II. PLANNING BOARD***

***Cross-reference:***

*Boards, commissions and committees, see  2‑141 et seq.*

***Statutory reference:***

*Planning Board, see G.S.  160A‑387 et seq.*

**44‑51 CREATION, ESTABLISHMENT.**

(A) There is created and established a Planning Board which shall consist of ten members. Seven members shall be residents of the town, and three members shall reside in the extraterritorial zoning jurisdiction beyond the towns corporate limit. Of the three members residing outside the corporate limits, two shall reside in Robeson County and one shall reside in Scotland County. The members residing within the corporate limits of the town shall be appointed by the Town Board of Commissioners, and the members residing outside of the corporate limits shall be appointed by the respective governing body in which they reside, upon recommendation of the Board of Commissioners. The term of office for members of the Planning Board shall be four years. In appointing members to fill vacancies caused by the expiration of terms of existing members, the Town Board of Commissioners may appoint or recommend the appointment of certain members for less than four years to the end that the terms of all members shall not expire at the same time.

(B) Representatives from the extraterritorial zoning jurisdiction shall have equal rights and privileges as the representatives from within the corporate limits of the town and shall have the same duties and responsibilities, regardless of whether the matters at issue arise within the corporate limits or within the extraterritorial zoning jurisdiction.

(2001 Code,  44‑51) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑52 POWERS AND DUTIES; ADMINISTRATIVE REVIEW.**

As an advisory board to the Board of Commissioners, the Planning Board will review all requests for rezoning property, for any changes or amendments to the text of this chapter, and all applications for special exception or conditional use permits. The Planning Board shall also be authorized to review all planning‑oriented cases, including, but not limited to, studies, plans and ordinances whether they relate solely to the town or to the extraterritorial zoning area. The Planning Board shall make recommendations on each case under review and submit the recommendations, along with its reasons, to the Town Board of Commissioners. The recommendations may be for approval, conditional approval or disapproval. The Planning Board shall also have the authority to initiate any planning studies or other activities.

(2001 Code,  44‑52) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑53 TERMINATION OF EXTRATERRITORIAL JURISDICTIONAL POWERS.**

If, at any time, the town no longer has planning and/or jurisdictional powers in the extraterritorial area lying outside the corporate limits for any reason, those Planning Board members residing in the affected area will be replaced by residents residing within the corporate limits of the town by the Town Board of Commissioners for the remainder of their existing terms.

(2001 Code,  44‑53) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑544‑80 RESERVED.**

***ARTICLE III. BOARD OF ADJUSTMENT***

***Cross-reference:***

*Boards, commissions and committees, see  2‑141 et seq.*

***Statutory reference:***

*Board of adjustment, see G.S.  160A‑388*

**44‑81 CREATED, ESTABLISHED.**

(A) There is created and established a Board of Adjustment which consists of six members. Four members shall be residents of the town, one member shall be a resident of Robeson County who resides within the extraterritorial zoning jurisdiction of the town that extends into Robeson County beyond the towns corporate limits, and one member shall be a resident of Scotland County who resides within the extraterritorial zoning jurisdiction of the town that extends into Scotland County beyond the towns corporate limits. The members residing within the corporate limits of the town shall be appointed by the Town Board of Commissioners, and the members residing within the extraterritorial zoning jurisdictions shall be appointed by their respective countys governing body in which they reside, pursuant to G.S.  160A‑362 or any successor provisions or amendments thereto. The term of office for members of the Board shall be three years. In appointing members to fill vacancies caused by the expiration of terms of existing members, the Town Board of Commissioners may appoint or recommend the appointment of certain members for less than three years to the end that the terms of all members shall not expire at the same time.

(B) There shall be two alternate members to serve on the Board in the absence, for any cause, of any regular members. Both members shall be residents of the town and shall be appointed by the Board of Commissioners. The term of office of the alternative members shall be three years, and they have and may exercise all the powers and duties of a regular member while attending any regular or special meeting of the Board.

(C) The representatives from the extraterritorial zoning jurisdiction shall have equal rights and privileges with the representatives from within the corporate limits of the town and shall have the same duties and responsibilities, regardless of whether the matters at issue arise within the corporate limits or within the extraterritorial zoning jurisdiction.

(2001 Code,  44‑81) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 98‑01‑01, passed 2‑16‑1998)

**44‑8244‑110 RESERVED.**

***ARTICLE IV. PLANNING BOARD AND BOARD OF ADJUSTMENT RULES OF PROCEDURE***

***Cross-reference:***

*Boards, commissions and committees, see  2‑141 et seq.*

***Statutory reference:***

*Planning agency, see G.S.  160A‑387 et seq.*

**44‑111 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***BOARD*** and ***BOARDS.*** The Planning Board and/or Board of Adjustment.

(2001 Code,  44‑111) (Ord. 1987‑4, passed 10‑19‑1987)

***Cross-reference:***

*Definitions generally, see  1‑2*

**44‑112 GENERAL RULES.**

The Planning Board and the Zoning Board of Adjustment shall be governed by the terms of G.S.  160A‑360 et seq. and by this chapter. All members of both Boards shall thoroughly familiarize themselves with these laws.

(2001 Code,  44‑112) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑113 OFFICERS AND DUTIES.**

(A) *Chairperson.*

(1) A Chairperson for each Board shall be elected by the full membership (including alternate and extraterritorial members) of the Board from among its regular members. The Chairpersons term of office shall be one year and until a successor is elected, beginning on November 1, and the Chairperson shall be eligible for reelection. The Chairperson shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chairperson shall appoint any committees found necessary to investigate any matters before the Board.

(2) The Chairperson shall have the following powers:

(a) To rule motions in or out of order, including the right to rule out of order any motions patently offered for obstructive or dilatory purposes;

(b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;

(c) To call a brief recess at any time: and

(d) To adjourn in an emergency.

(B) *Chairperson pro tempore.* A Chairperson pro tempore for each Board shall be elected from among its regular members in the same manner and for the same term as the Chairperson. The Chairperson pro tempore shall serve as acting Chairperson in the Chairpersons absence; and at those times, the Chairperson pro tempore shall have the same powers and duties as the Chairperson.

(C) *Secretary.* A Secretary shall be appointed by the Chairperson of each Board, either from within its membership or from outside, to hold office during the term of the Chairperson and/or until a successor Secretary has been appointed. The Secretary shall be eligible for reappointment. The Secretary, subject to the direction of the Chairperson and the Board, shall keep all records, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Board of its decision on the cases, and shall generally supervise the clerical work of the Board. The Secretary shall keep the minutes of every Board meeting in a permanent volume. The minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted on by the Board, and all votes of members of the Board on any resolution or on the final determination of any question, indicating the names of members who are absent or fail to vote. If the Secretary is chosen from outside the Boards membership, he or she shall not be eligible to vote on any matter.

(2001 Code,  44‑113) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑114 BOARD OF ADJUSTMENT ALTERNATE MEMBERS.**

(A) *Voting in regular members stead.* Alternate members of the Board of Adjustment shall be called on to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Regular members, on receiving notice of a special meeting that they cannot attend, or on learning that they will be unable to participate in a particular case, shall give prompt notice to the Board of Adjustment Secretary that they are unable to attend or to participate. On receiving the notice, the Secretary shall, by the most expeditious means, notify an alternate member to attend. Assignments shall be rotated among the alternate members. At any meeting that they are called on to attend, alternate members shall have the same powers and duties as regular members.

(B) *Voting in election of officers.* Except at the election of officers, at no time shall more than five members participate officially in any meeting or hearing conducted by the Board of Adjustment.

(2001 Code,  44‑114) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑115 ACTION BY THE BOARDS.**

(A) Each Board shall proceed by motion. Anyone, including the Chairperson, may make a motion as follows.

(1) One motion at a time. A member may make only one motion at a time.

(2) Motion requires a second. All motions require a second before the motion is voted on.

(3) Substantive motion. A substantive motion is out of order while another substantive motion is pending. A substantive motion shall be any motion other than the procedural motions listed in this article.

(4) Adoption by majority vote. A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules, the laws of the state or the regulations of this chapter.

(5) Debate. The Chairperson shall state the motion and then open the floor to debate on it. The Chairperson shall preside over the debate according to the following general principles.

(a) The introducer (the member who makes the motion) is entitled to speak first.

(b) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

(c) To the extent possible, the debate shall alternate between opponents and proponents of the measure.

(6) Procedural motions. In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended and requires a majority vote for adoption. In order of priority (if applicable), the procedural motions are as follows:

(a) To adjourn. The motion may be made only when action on a pending matter concludes; it may not interrupt deliberation of a pending matter;

(b) To take a recess;

(c) Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived;

(d) To suspend the rules. For adoption, the motion requires a vote equal to the number required for a quorum;

(e) To divide a complex motion and consider it by paragraph;

(f) To defer consideration. A substantive motion consideration that has been deferred expires 60 days thereafter unless a motion to revive consideration is adopted;

(g) Call of the previous question. The motion is not in order until there has been at least 20 minutes of debate, and every member has had an opportunity to speak once;

(h) To postpone to a certain time or day;

(i) To refer to a committee. Within 60 days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Board, regardless of whether the committee has reported the matter back to the Board;

(j) To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the motions intent. The motion may be amended and an amendment may be amended, but no further amendments may be made;

(k) To revive consideration. A motion to revive consideration is in order any time within 60 days after a vote to defer consideration. A substantive motion consideration of which has been deferred expires 60 days thereafter unless a motion to revive consideration is adopted;

(l) To reconsider. A motion to reconsider must be made by a member who voted with the prevailing side. It must be made at the same meeting the vote was taken. It cannot interrupt deliberation on a pending matter, but is in order at any time before actual adjournment;

(m) To rescind or repeal. A motion to rescind or repeal is in order only for these measures adopted by the Board that may legally be repealed or rescinded;

(n) To ratify;

(o) To prevent reconsideration for 12 months. A motion to prevent reconsideration for 12 months is in order immediately following the defeat of a substantive motion and at no other time. For adoption, the motion requires a vote equal to the number required for a quorum. It is valid for 12 months or until a new Board member is appointed, whichever occurs first;

(p) Renewal of motion. A motion that is defeated may be renewed at any subsequent meeting unless a motion to prevent reconsideration has been adopted, or  44‑152 prevails; and

(q) Withdrawal of motion. A motion may be withdrawn by the introducer at any time before a vote.

(B) Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the Chairperson, who shall take a vote of the remaining members present. No member shall be excused from voting, except on matters involving his or her own financial interest or personal interest. In all other cases, a failure to vote by a member who is physically present or has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

(C) The Board may hold executive sessions as provided by law. The Board shall commence an executive session by a majority vote to do so and end it in the same manner.

(D) To the extent not provided for in these rules and to the extent that the reference does not conflict with the spirit of these rules, the Board shall refer to *Roberts Rules of Order*, Newly Revised, for unresolved procedural questions.

(2001 Code,  44‑115) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑116 RULES OF CONDUCT FOR MEMBERS.**

(A) Members of the Board may be removed for cause, including violation of the rules stated in this section.

(B) Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board. Any regular member having more than two sequential unexcused absences from meetings shall be removed from the membership of the Board. Any alternate member of the Board of Adjustment being called and unable to attend for any reason other than an excused absence, shall be unexcused. Any alternate member of the Board of Adjustment having more than two unexcused sequential absences from meetings they have been called to attend shall be removed from the membership of the Board. An excused absence shall be for illness, or an absence required by the Board members occupation, only. For the purposes of this subsection, a continued meeting shall be a separate and distinct meeting from the meeting from which it is continued.

(C) No Board member shall take part in the hearing, consideration or determination of any case in which he or she is personally or financially interested. Any Board member who has determined that he or she has a personal or financial interest in a case shall, at the opening of the public hearing, make a request to the Chairperson of the Board to be excused, at which time the Chairperson shall call for a motion from the remaining Board members to excuse the member.

(D) No Board member shall vote on any matter that decides an application, petition or appeal unless he or she has attended the public hearing on that application, petition or appeal.

(E) No Board member shall discuss any case with any parties thereto before the public hearing on that case; however, members may receive and/or seek information pertaining to the case from any other member of the Board, its Secretary or Clerk before the hearing.

(F) Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Board.

(2001 Code,  44‑116) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑117 REGULAR MEETINGS.**

(A) *Regular meetings.* Regular meetings of the Board shall be held on the last Thursday of each month at 7:30 p.m. in the Board room of the town office; however, meetings may be held at any other convenient place in the town if the Chairperson so directs before the meeting.

(B) *Special meetings.* The Chairperson or Secretary may call special meetings of the Board at any time. At least 48 hours written notice of the time and place of special meetings shall be given, by either the Chairperson or the Secretary, to each member of the Board and the media.

(C) *Cancellation of meetings.* If there are no appeals, applications for variances, or other business for the Board, the Chairperson or Secretary may dispense with a regular meeting by giving written or oral notice to all members not less than 24 hours before the time set for the meeting.

(D) *Quorum.*

(1) *Planning Board.* A quorum shall consist of five members of the Planning Board.

(2) *Board of Adjustment.* A quorum shall consist of three members of the Board of Adjustment, but the Board shall not pass on any question relating to an appeal from a decision, order, requirement or determination of the Zoning Administrator or an application for a variance or special use permit when fewer than five members are present.

(E) *Voting.* All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in  44‑116. The required vote to decide appeals and applications heard by the Board of Adjustment shall be as provided in  44‑118 and shall not be reduced by any disqualification. In all other matters, the vote of a majority of the members present and voting shall decide issues before the Board.

(F) *Conduct of meetings.* All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

(1) Call meeting to order;

(2) Hearing of cases;

(3) Consideration and determination of cases heard;

(4) Approval of minutes of previous meeting:

(5) Old business;

(6) New business; and

(7) Reports.

(2001 Code,  44‑117) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑118 APPEALS AND APPLICATIONS BY THE BOARD OF ADJUSTMENT.**

(A) *Types of appeals.* The Board of Adjustment shall hear and decide all appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. It shall also hear and decide all matters referred to it or on which this chapter requires it to pass. In deciding appeals, the Board may hear both those based on an allegedly improper or erroneous interpretation of this chapter and those based on alleged hardship from strict interpretation of this chapter.

(B) *Procedure for filing appeals.* No appeal shall be heard by the Board of Adjustment unless notice is filed within 30 days after the interested party or parties receive notice of the order, requirement, decision or determination by the Zoning Administrator. No appeal shall be heard by the Board of Adjustment unless the petition is filed at least 21 days prior to the next regularly scheduled Board of Adjustment meeting. The applicant must file his or her application for a hearing of an appeal with the Zoning Administrator, who shall act as the Clerk for the Board of Adjustment in receiving this notice. All applications shall be made on the form furnished for that purpose and all required information shall be complete before an appeal may be considered as having been filed.

(C) *Appeal stays proceedings.* An appeal to the Board of Adjustment stays all proceedings as provided in G.S.  160A‑388 and  44‑118 of this code.

(D) *Hearings.*

(1) *Time.* After notice of appeal is received, the Board of Adjustment Chairperson or Secretary shall schedule the time for a hearing, which shall be at a regular or special meeting within 36 days from the filing of the notice of appeal.

(2) *Notice.* The Board of Adjustment shall give public notice of the hearing in a newspaper generally circulated in the town by advertisement published at least five days before the date of the hearing. The Board of Adjustment shall mail notices of the hearing to the parties to the action appealed from, and to other persons as the Zoning Administrator shall direct, at least five days before the hearing. The notice shall state the location of the building or lot, the general nature of the question involved in the appeal and the time and place of the hearing.

(3) *Conduct of the hearing.* Any party may appear in person, by agent or by attorney at the hearing. The order of business for each hearing shall be as follows.

(a) The Chairperson, or a person as he or she shall direct, shall give a preliminary statement of the case.

(b) The applicant shall present the evidence and arguments in support of the application.

(c) Persons opposed to granting the application shall present the evidence and arguments against the application.

(d) Both sides shall be permitted to present rebuttals to opposing evidence and arguments.

(e) The Chairperson shall summarize the evidence that has been presented, giving the parties opportunity to make objections or corrections. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of evidence as would be admissible in a court of law. The Board may view the premises before the hearing, but the facts indicated by the inspection shall be disclosed at the public hearing and made a part of the record. All witnesses before the Board of Adjustment shall be placed under oath and the opposing party may cross examine them.

(4) *Rehearings.* An application for a rehearing may be made in the same manner as an application for an original hearing. Evidence in support of the application shall initially be limited to what is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence or conditions in the case. The Board shall deny the application for rehearing if, from the record, it finds that there has been no substantial change in facts, evidence or conditions. If the Board finds that a change has occurred, it shall thereupon treat the request in the same manner as any other application.

(E) *Decisions.*

(1) *Time.* Decisions by the Board shall be made not later than 30 days from the time of the hearing.

(2) *Form.* The Board of Adjustment final decision shall be shown in the record of the case as entered in the Boards minutes and signed by the Secretary and the Chairperson on approval of the minutes by the Board. The record shall show the reasons for the determinations, with a summary of the evidence introduced and the findings of fact made by the Board. When a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from. The record shall state in detail what, if any, conditions and safeguards the Board imposes in connection with granting a variance, determination or exception. A separate record of the decision in each case shall be prepared, filed in the Zoning Administrators office, and furnished to the parties as specified in subsection (E)(5) of this section.

(3) *Expiration of permits.* Unless otherwise specified, any order or decision of the Board granting a variance or exception shall expire if the applicant does not obtain a building permit or certificate of occupancy for the use within six months from the date of the decision.

(4) *Voting at hearings.* The concurring vote of four‑fifths of the Board members shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, to decide in favor of the applicant on any matter on which the Board is required by ordinance to pass, or to grant a variance from the provisions of this chapter.

(5) *Notice and public record of decisions.* The Secretary shall give written notice of the decision in the case to the appellant and/or the applicant and to every aggrieved party who has filed a written request for the notice with the Secretary of the Board when the hearing is held. The notice may be delivered either by personal service or by registered mail, or certified mail, return receipt requested. A copy of the decision shall also be filed in the Zoning Administrators office, as specified by this chapter. The decision shall be a public record, available for inspection at all reasonable times.

(2001 Code,  44‑118) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑119 PETITIONS TO THE PLANNING BOARD.**

(A) *Types of petitions.* The Planning Board shall hear and make recommendations to the Board of Commissioners on any petition to change or amend this chapter, any request for a conditional use permit and any petition to amend the zoning district boundaries.

(B) *Procedure for filing petitions.* No petition shall be heard by the Planning Board unless the petition is filed at least 21 days prior to the next regularly scheduled Planning Board meeting. The applicant must file the petition for a hearing with the Zoning Administrator, who shall act as the Clerk for the Planning Board in receiving this notice. All petitions shall be made on the form furnished for that purpose and all required information shall be complete before a petition may be considered as having been filed.

(C) *Hearings.*

(1) *Time.* After the petition is received, the Planning Board Chairperson or Secretary shall schedule the time for a hearing under this section.

(2) *Voting at hearings.* The concurring vote of a simple majority of the Planning Board members present shall be necessary to recommend approval of any petition before the Planning Board. In the case of a tie vote, the motion would fail.

(3) *Notice and public record of recommendations.* Upon approval or denial of a petition by the Board of Commissioners, the Secretary shall give written notice of the decision in the case to the petitioner and to every aggrieved party who has filed a written request for the notice with the Secretary of the Board when the hearing is held. The notice may be delivered either by personal service or by first class mail. A copy of the decision shall also be filed in the Zoning Administrators office, as specified by this chapter. The decision shall be a public record, available for inspection at all reasonable times.

(2001 Code,  44‑119) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑12044‑150 RESERVED.**

***ARTICLE V. CHANGES AND AMENDMENTS***

***Statutory reference:***

*Protest petitions, see G.S.  160A‑386*

**44‑151 PROCEDURES.**

The Town Board of Commissioners may, on its own motion, upon recommendation of the Planning Board, or upon petition by any interested person, amend, supplement, change, modify or repeal the regulations or district boundaries established by this chapter. A petition by an interested person shall be submitted to the Town Board of Commissioners through and reviewed by the Planning Board, which shall consider its merit and make a recommendation to the Town Board of Commissioners. In no case shall final action by the Town Board of Commissioners be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries established by this chapter until a public hearing has been held by the Town Board of Commissioners or, in its behalf, by the Planning Board, at which parties in interest and citizens shall have an opportunity to be heard.

(2001 Code,  44‑151) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑152 ACTION BY THE APPLICANT.**

(A) *Initiation of amendments.*

(1) Proposed changes on amendments to the zoning map may be initiated by the Board of Commissioners, the Planning Board, town administration, the Board of Adjustment or by the owner or his or her agent of property within the area proposed to be changed.

(2) Proposed amendments to the text of this chapter may be initiated by any interested party.

(B) *Application.* An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner of the property involved. The application shall be filed not later than three weeks prior to the meeting at which the application is to be considered.

(C) *Fee.* A fee, the amount of which shall be determined by town policy, shall be paid to the town for each application for an amendment to cover costs of advertising and other administrative expenses involved.

(D) *Public hearing notices.* When a change in the zoning classification of a piece of property is requested, the applicant shall provide to the Zoning Administrator a list of names and addresses, as obtained from the county tax listings and tax abstracts, of all adjacent property owners and all owners of property within the area under consideration for rezoning. This does not refer to the rewrite of this chapter which is subject to SB0781 which was ratified in the 1987 session of the State General Assembly. The list shall be submitted at least eight work days prior to the public hearing. The Zoning Administrator shall then mail notices of the public hearing to each person on the list. If the request is denied by the Planning Board and the applicant wishes to appeal to the Town Board of Commissioners, notice will also be sent to the adjacent property owners and all owners of property within the area under consideration for rezoning. The Town Board of Commissioners shall then review the request in a public hearing.

(E) *Reapplication for amendment.* Application for the same amendment in this chapter shall be permitted once within any 12‑month period. The Town Board of Commissioners, by 80% affirmative vote of its total membership, may waive this restriction if it finds any emergency exists.

(2001 Code,  44‑152) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑153 ACTION BY THE PLANNING BOARD.**

(A) Every proposed amendment, supplement, change, modification or repeal of this chapter shall be referred to the Planning Board for its recommendation and report. The Planning Board shall hold a public hearing, at which the Town Board of Commissioners may sit concurrently with the Planning Board if the Commissioners so wish.

(B) Notice of the public hearing shall be published in a newspaper of general circulation in the town at least once each week for two successive weeks prior to the hearing according to state regulations. Notice may also be made by posting the property concerned or by mailing notices to the owners of surrounding property. The Board of Commissioners shall receive from the Planning Board written notice of the hearing and its subject matter.

(C) A petition to amend the district boundaries or regulations established by this chapter shall be considered by the Planning Board at its next regular monthly meeting or any called special meeting provided it has been filed, complete in form and content, at least two weeks prior to the meeting. Otherwise, consideration shall be deferred until the following monthly meeting.

(D) If a public hearing is to be called, it shall be called for the next regularly scheduled meeting or any called special meeting, allowing time for proper advertisement, by the Planning Board or the Zoning Administrator.

(E) The Planning Board shall render its decision on any properly filed petition within 60 days after the introduction of the petition and shall transmit its recommendation and report, including the reasons for its determinations, to the Board of Commissioners.

(2001 Code,  44‑153) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑154 ACTION BY TOWN BOARD OF COMMISSIONERS.**

Before taking lawful action as it may deem advisable, the Town Board of Commissioners shall consider the Planning Boards recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within 30 days after the public hearing, the proposed amendment shall be deemed to have been approved by the Planning Board. The Town Board of Commissioners may then call its own public hearing if it so desires before making a decision, or it may immediately render its decision. The applicant, the Planning Board and the Zoning Administrator shall be given written copies of the Commissioners decision and the reason for the decision.

(2001 Code,  44‑154) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑155 PROTEST TO AMENDMENT.**

(A) In case of a protest against any amendment to the regulations or district boundaries established by this chapter, signed by the owners of 20% or more either of the area of the lots included in the proposed change, or of those immediately adjacent thereto, either in the rear or on either side, extending 100 feet, or of those directly opposite extending 100 feet from the street frontage of the opposite lots; the amendment shall not become effective, except by favorable vote of three‑fourths of all the members of the Town Board of Commissioners. These provisions shall not, however, apply to any amendment which initially zones property added to the territorial coverage of this chapter as a result of annexation or otherwise.

(B) No protest against any change in or amendment to the regulations or district boundaries established by this chapter shall be valid or effective under the provisions of subsection (A) of this section unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment and unless it shall have been received by the Town Clerk in sufficient time to allow at least two normal workdays, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

(2001 Code,  44‑155) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑156 WITHDRAWAL OF PETITION.**

(A) Any petition submitted in accordance with the provisions of  44‑152 for the purpose of amending the regulations or district boundaries established by this chapter may be withdrawn at any time provided withdrawal is written and hand delivered to the Town Clerk by the applicant or an agent of the applicant.

(B) The appellant may withdraw his or her request after the Planning Board has made a decision of recommendation against the request. Withdrawal at this time will negate the need for advertisement of a public hearing involving the Board of Commissioners. Withdrawal must occur as stated in subsection (A) of this section. Reapplication may occur pursuant to  44‑152.

(2001 Code,  44‑156) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑15744‑190 RESERVED.**

***ARTICLE VI. FEES***

***Statutory reference:***

*Zoning regulations, see G.S.  160A‑360 et seq.*

**44‑191 ZONING PERMIT FEES.**

(A) A fee as set from time to time and provided in the annual budget ordinance shall be paid for any zoning permit issued for any existing use.

(B) A fee as set from time to time and provided in the annual budget ordinance shall be paid for any zoning permit issued for any new construction or alteration costing not more than $50,000

(C) A fee as set from time to time and provided in the annual budget ordinance for any cost of construction over $50,000 shall be paid for a zoning permit for any new construction or alteration costing not more than $250,000.

(D) A fee as set from time to time and provided in the annual budget ordinance for any cost of construction over $250,000 shall be paid for a zoning permit for any new construction or alteration costing more than $250,000.

(2001 Code,  44‑191) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑192 PUBLIC HEARING FEE.**

Any action before the Planning Board or Board of Adjustment that requires a public hearing shall be required to pay a fee as set from time to time and provided in the annual budget ordinance.

(2001 Code,  44‑192) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑19344‑220 RESERVED.**

***ARTICLE VII. VESTED RIGHTS***

***Statutory reference:***

*Similar provisions, see G.S.  160A‑385.1*

**44‑221 FINDINGS.**

(A) The Board of Commissioners finds and declares that it is necessary and desirable, as a matter of public policy, to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness in the land use planning process, secure the reasonable expectations of landowners and foster cooperation between the public and private sectors in the area of land use planning. Furthermore, the Board of Commissioners recognizes that town approval of land use development typically follows significant landowner investment in site evaluation, planning, development costs, consultant fees and related expenses.

(B) The ability of a landowner to obtain a vested right after town approval of a site‑specific development plan or a phased development plan will preserve the prerogatives and authority of local elected officials with respect to land use matters. There will be ample opportunities for public participation, and the public interest will be served. These provisions will strike an appropriate balance between private expectations and the public interest, while scrupulously protecting the public health, safety and welfare.

(2001 Code,  44‑221)

**44‑222 ESTABLISHMENT OF VESTED RIGHT.**

A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site‑specific development plan or a phased development plan, following notice and public hearing by the town with jurisdiction over the property. The vested right shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site‑specific development plan or the phased development plan, including any amendments. The town may approve a site‑specific development plan or a phased development plan upon the terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. The conditional approval shall result in a vested right, although failure to abide by the terms and conditions will result in a forfeiture of vested rights. The town shall not require a landowner to waive his or her vested rights as a condition of developmental approval. A site‑specific development plan or a phase development plan shall be deemed approved upon the effective date of the towns action or related ordinance.

(2001 Code,  44‑222)

**44‑223 DURATION AND TERMINATION OF VESTED RIGHT.**

(A) A right which has been vested as provided for in this article shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site‑specific development plan unless expressly provided by the town.

(B) Notwithstanding the provisions of subsection (A) of this section, the town may provide that rights shall be vested for a period exceeding two years, but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles and market conditions. These determinations shall be in the sound discretion of the town.

(C) Notwithstanding the provisions of subsections (A) and (B), the town may provide by ordinance that approval by the town of a phased development plan shall vest the zoning classification or classifications so approved for a period not to exceed five years. The document that triggers the vesting shall be so identified at the time of its approval. The town still may require the landowner to submit a site‑specific development plan for approval by the town with respect to each phase in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications. Nothing in this section shall be construed to require the town to adopt an ordinance providing for vesting of rights upon approval of a phased development plan.

(D) Following approval or conditional approval of a site‑specific development plan or a phased development plan, nothing in this section shall exempt a plan from subsequent reviews and approvals by the town to ensure compliance with the terms and conditions of the original approval; provided that, the reviews and approvals are not inconsistent with the original approval. Nothing in this section shall prohibit the town from revoking the original approval for failure to comply with applicable terms and conditions of the approval or this chapter.

(E) Upon issuance of a building permit, the provisions of G.S.  160A‑418 and 160A‑422 shall apply; except that, a permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.

(F) A right which has been vested as provided in this article shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(2001 Code,  44‑223)

**44‑224 SUBSEQUENT CHANGES PROHIBITED; EXCEPTIONS.**

(A) A vested right, once established as provided for in this article, precludes any zoning action by the town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in an approved site‑specific development plan or an approved phased development plan, except:

(1) With the written consent of the affected landowner;

(2) Upon findings, by ordinance after notice and a public hearing, that natural or human-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site‑specific development plan or the phased development plan;

(3) To the extent that the affected landowner receives compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultants fees incurred after approval by the town, together with interest at the legal rate until paid; but compensation shall not include any diminution in the value of the property which is caused by the action;

(4) Upon findings, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town of the site‑specific development plan or the phased development plan; or

(5) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site‑specific development plan or the phased development plan, in which case the town may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(B) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the town including, but not limited to, Building, Fire, Plumbing, Electrical and Mechanical Codes. Otherwise, applicable new regulations shall become effective with respect to property which is subject to a site‑specific development plan or a phased development plan upon the expiration or termination of the vesting rights period provided for in this article.

(C) Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of the town to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses.

(2001 Code,  44‑224)

**44‑225 MISCELLANEOUS PROVISIONS.**

(A) A vested right obtained under this article is not a personal right, but shall attach to and run with the applicable property. After approval of a site‑specific development plan or a phased development plan, all successors to the original landowner shall be entitled to exercise the rights.

(B) Nothing in this article shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this article, nothing in this article shall be construed to alter the existing common law.

(C) If the town fails to adopt an ordinance setting forth what constitutes a site‑specific development plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the superior court division of the general court of justice.

(2001 Code,  44‑225)

**44‑22644‑260 RESERVED.**

***ARTICLE VIII. ZONING MAP AND DISTRICT BOUNDARIES***

***Statutory reference:***

*Method of procedure for zoning map changes, see G.S.  160A‑384*

**44‑261 ZONING MAP.**

The map referred to in this chapter, which is identified by the title The Zoning Map of the Town of Maxton, North Carolina, shall be known as the zoning map. The boundaries of each zoning district are shown on the map and shall bear the adoption date of this chapter, 10‑19‑1987, and the date of any subsequent map amendments.

(2001 Code,  44‑261) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑262 PROCEDURE FOR ZONING MAP AMENDMENT.**

(A) Whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for the owners on the county tax abstracts. This notice must be deposited in the mail at least ten days, but not more than 25 days prior to the date of the public hearing. The person mailing the notices shall certify to the Board of Commissioners that fact, and the certificate shall be deemed conclusive in the absence of fraud.

(B) The first class mail notice required under subsection (A) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the town elects to use the expanded published notice provided for in this subsection. In this instance, the town may elect to either make the mailed notice provided for in subsection (A) of this section or may as an alternative elect to publish once a week for four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of G.S.  160A‑364. The advertisement shall not be less than one‑half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The person mailing the notices shall certify to the Board of Commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, the town shall post one or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

(2001 Code,  44‑262)

**44‑263 ZONING DISTRICTS ENUMERATED.**

For the purposes of this chapter, the town and the one‑mile area as set forth on the zoning map are divided into the following districts:

|  |
| --- |
| RA‑20 Residential/agricultural district |
| R‑12 Residential district |
| R‑10 Residential district |
| R‑5 Residential district |
| RMH Mobile home park district |
| RSFD Residential district |
| CB Central business district |
| HB Highway business district |
| HB/O Highway business overlay district |
| NB Neighborhood business district |
| LI Light industrial district |
| HI Heavy industrial district |
| LM Light manufacturing district |

(2001 Code,  44‑263) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 2001‑04, passed 7‑12‑2001)

**44‑264 LOCATION OF DISTRICTS ON ZONING MAP.**

The towns districts whose locations and boundaries are shown on its official zoning map are declared to be a part of this chapter and are recorded as such. The map shall be identified by the signature of the Mayor, attested by the Town Clerk and bearing the official seal of the town. It shall be kept in the Town Clerks office.

(2001 Code,  44‑264) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑265 ZONING MAP CHANGES.**

(A) If, in accordance with the provisions of this chapter, changes are made in the zoning district boundaries or other matter shown on the map, the changes shall be made together with an entry on the map. All changes shall be recorded in the Board of Commissioners minute book and include:

(1) The designated change;

(2) The date of change;

(3) Any stipulations ordered by the Board;

(4) The person, company or agency requesting the change;

(5) The owner of the property, if any, being changed; and

(6) The appropriate county tax map number, block and parcel number.

(B) (1) Any change will be designated and recorded on the zoning map, stating the date of change and the adopted change.

(2) No amendment to this chapter which involves matter portrayed on the map shall become effective until after the change and entry has been made on the zoning map. The Town Board shall give official notice of the zoning change to the Zoning Administrator within seven calendar days after passage of the changes regardless of all copies of the map which may exist.

(3) The official zoning map, which shall be located in the municipal building, shall be the final authority as to the current zoning status of land, water area and building in the town.

(2001 Code,  44‑265) (Ord. 1987‑4, passed 10‑19‑1987)

***Statutory references:***

*Changes in zoning, see G.S.  160A‑385*

*Vested rights, see G.S.  160A‑385.1*

**44‑266 REPLACEMENT OF OFFICIAL ZONING MAP.**

If the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the Town Board may by ordinance adopt a new official zoning map, which shall be the same in every detail as the map it supersedes.

(2001 Code,  44‑266) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑267 MAINTENANCE OF THE OFFICIAL ZONING MAP.**

The Zoning Administrator shall be responsible for the maintenance and revision of the official zoning map. Upon notification by the Town Board that a zoning change has been made, the Zoning Administrator shall make the necessary changes on the map within seven calendar days of notification.

(2001 Code,  44‑267) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑268 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.**

Where district boundaries prove to be uncertain as to their location on the official zoning map, the following rules shall apply.

(A) Unless otherwise specifically indicated where district boundaries are indicated on the zoning map as approximately parallel to or following the centerline of a street, highway, railroad, right‑of‑way, utility easement, stream bed or river bed, or the lines extended, then the lines shall be construed to be the district boundaries.

(B) Boundaries indicated as approximately following plotted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following the town limits shall be construed as following the town limits.

(D) If a district boundary divides a lot, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot; but the extension shall not include any part of the lot which lies more than 50 feet beyond the district boundary and the remaining parcel shall not be less than the minimum required for the district in which it is located.

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

(F) If any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of the boundaries.

(2001 Code,  44‑268) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑26944‑300 RESERVED.**

***ARTICLE IX. DISTRICT REGULATIONS***

***Statutory reference:***

*Changes to uses for zoning, see G.S.  160A‑385*

**44‑301 GENERALLY.**

Permission may be granted for the establishment of uses listed as special exceptions or conditional uses if the Planning Board finds from the evidence produced after a study of the complete records that the:

(A) Proposed use does not affect adversely the general plans for the physical development of the town as embodied in this chapter or in any plan or portion of a plan adopted by the Planning Board;

(B) Proposed use will not be contrary to the purpose stated in this chapter;

(C) Proposed use will not affect adversely the health and safety of residents and workers in the town;

(D) Proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;

(E) Proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use;

(F) Proposed use will not be affected adversely by the existing use;

(G) Proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, vehicular movement, noise or fume generation or type of physical activity;

(H) Standards set forth for each particular use for which a permit may be granted have been met;

(I) Proposed use shall be subject to the minimum area, setback and other locational requirements of the zoning district in which it will be located; and

(J) Proposed use shall be subject to the off‑street parking and service requirements of this chapter.

(2001 Code,  44‑301) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑302 ADDITIONAL RESTRICTIONS AND REVOCATION OF PERMITS.**

(A) The Planning Board may impose or require additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community and to protect the value and use of property in the general neighborhood.

(B) Wherever the Planning Board shall find in the case of any permit granted pursuant to the provisions of this chapter that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall revoke the permit after giving due notice to all parties concerned and granting full opportunities for a public hearing.

(2001 Code,  44‑302) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑303 USES WHICH MAY BE PERMITTED.**

The Planning Board may grant permission for the establishment of the following uses, subject to any specific conditions either set forth below, or which the Board may deem necessary to satisfy the conditions set forth in  44‑301.

(A) Golf courses. A golf course may be permitted in any residential district subject to the requirements of the district; and, provided that:

(1) All greens and fairways shall be set back at least 100 feet from any property line; and

(2) All trees and structures shall meet minimum setback requirements for single‑family residences within the district.

(B) Hospitals. A hospital may be permitted in any residential district subject to the requirements of the district and provided that the lot size shall be no less than two acres.

(C) Kindergarten or nursery. Kindergartens or nurseries may be permitted in any residential district subject to the requirements of the district; provided that:

(1) Off‑street parking requirements in this chapter are met;

(2) At least 100 square feet of outdoor play area is supplied for each child accommodated; and

(3) The entire play area is enclosed by a fence having a minimum height of four feet and constructed in a manner that maximum safety to the children is ensured.

(2001 Code,  44‑303) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑304 HOME OCCUPATIONS.**

(A) A home occupation permitted in any residential district shall be governed by the following requirements:

(1) Only one person other than those residing in the home shall be engaged in the occupation;

(2) The home shall continue to be used principally as a dwelling;

(3) The occupation shall not be visible from the street;

(4) The occupation shall not involve the retail sales of products, providing that in an R‑20 district, farm products raised and prepared on the premises may be sold;

(5) No accessory building shall be used for a home occupation;

(6) No outside signs or advertisements shall be displayed on the premises (in an RA‑20 district, a principal use sign may be allowed to advertise farm products raised and prepared on the premises provided only one sign is used and provided it does not exceed 20 square feet);

(7) The occupation shall not constitute a nuisance or any undue disturbance in the neighborhood; and

(8) The home occupation shall consist of the services listed below:

(a) Accounting service;

(b) Addressing service;

(c) Art teacher;

(d) Attorney;

(e) Baby sitting;

(f) Baking establishments (small);

(g) Barbershop and beauty shop;

(h) Ceramics and crafts teachers;

(i) Drafting service;

(j) Dressmaking;

(k) Flower shop;

(1) Insurance agency;

(m) Ironing;

(n) Manufacturers representative;

(o) Music teacher;

(p) Notary public;

(q) Photographer;

(r) Real estate agent;

(s) Secretarial service;

(t) Sewing service;

(u) Tax consultant;

(v) Tutor; and

(w) Typing service.

(B) Any home occupation not specifically addressed in subsection (A)(8) of this section will be considered as a conditional use and be heard by the Zoning Board according to the procedures established within this chapter.

(2001 Code,  44‑304) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑305 ACCESSORY USES AND BUILDINGS.**

An accessory use or building permitted in any residential district shall be governed by the following requirements.

(A) There shall be no more than two accessory buildings per lot.

(B) All accessory uses and buildings shall be required to meet setback requirements.

(C) Accessory uses and buildings shall consist of the following structures:

(1) Barbeque pit;

(2) Greenhouse;

(3) Patio;

(4) Play house;

(5) Pumphouse;

(6) Satellite dish antenna;

(7) Screened recreation area (detached);

(8) Stable or kennel;

(9) Storage shed;

(10) Swimming pool;

(11) Tool shed; and

(12) Workshop.

(D) Special requirements for certain accessory uses and buildings are as follows.

(1) Swimming pools shall be protected by a five‑foot fence and latching gates to keep children and animals from having unsupervised access.

(2) Greenhouses for hobby purposes shall be constructed only after written permission is granted by all adjoining property owners. Greenhouses shall be no higher than ten feet and no longer than 20 feet or be greater than 200 square feet. Heating equipment shall not create a nuisance and shall not be visible or installed beyond the principal structure on the lot.

(2001 Code,  44‑305) (Ord. 1987‑4, passed 10‑19‑1987; Ord. Z‑2006‑08‑02, passed 9‑5‑2006)

**44‑306 ESTABLISHMENT OF ZONING DISTRICTS.**

In order that the purposes of this chapter as defined in G.S.  160A‑383 may be accomplished, there are established within the jurisdictional area 13 zoning districts.

(2001 Code,  44‑306) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 2001-07-01, passed 7-12-2001)

**44‑307 RA‑20 RESIDENTIAL/AGRICULTURAL DISTRICT.**

(A) *Purpose.* The purpose of the RA‑20 district is to establish a district in which the principal use of land is for low‑density residential and agricultural uses. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render them undesirable for farms and future development and to ensure that residential development not having access to public water supplies and dependent upon septic tank systems or outdoor privies for sewage disposal will occur at sufficiently low densities to ensure a healthful environment.

(B) *Permitted uses.*

(1) Accessory building or use;

(2) Agricultural, farming, horticulture use and forestry purposes (bona fide farms are exempt from zoning regulations outside the corporate limits);

(3) Campgrounds;

(4) Dwellings, single‑family;

(5) Greenhouse and nursery operations (but no commercial sales on the premises);

(6) Home occupations;

(7) Manufactured home (one per lot as the principal building, with the wheels removed, the tongue removed or hidden from view by a protective covering, permanent electrical hookup, tiedowns, permanent masonry foundation and permanent steps for each outside doorway of the unit);

(8) Mobile home (one per lot as the principal building, with the wheels removed, the tongue removed or hidden from view by a protective covering, permanent electrical hookup, tiedowns, permanent masonry foundation and permanent steps for each outside doorway of the unit);

(9) Modular structures;

(10) Public buildings (town, county, state and federal);

(11) Public utility distribution lines and easements;

(12) Schools, public and private (preschool, elementary and secondary);

(13) Signs, outdoor advertising; and

(14) Signs, principal use.

(C) *Special exceptions or conditional.*

(1) Animal feeder/breeder operation;

(2) Bed and breakfast;

(3) Churches;

(4) Civic, fraternal organizations and club buildings whose chief activity is service and not a service carried on as a business;

(5) Commercial cemeteries;

(6) Convalescent and nursing homes;

(7) Day care facilities;

(8) Foster homes;

(9) Hospitals and sanitariums;

(10) Manufactured home rental communities;

(11) Mobile home parks;

(12) Planned unit development;

(13) Public and private recreation (such as swimming pools, tennis courts, golf courses, parks and playgrounds, fishing ponds and similar facilities);

(14) Public utility substations, lift stations, pumping stations, wells, water treatment and storage facilities, sewage treatment facilities and similar facilities of a public necessity;

(15) Retirement homes; and

(16) Thrift shops.

(D) *Special requirements for animal feeder/breeder operations.*

(1) *Area.* Minimum lot area: 50 acres.

(2) *Setbacks.* All structures, buildings, waste storage and disposal systems, or enclosed areas used for housing of poultry, hogs, cattle or other livestock or animals being bred or fattened shall be set back a minimum of 1,500 feet from all property lines, or the minimum setback established by state regulations, whichever is greater.

(3) *Operation.* Any violation of local, state or federal regulations concerning the operation of the animal feeder/breeder operation shall be considered a violation of this chapter.

(4) *Noise.* Mechanical equipment producing noise or sound in excess of 70 decibels shall be located no closer than 1,000 feet to the nearest residence.

(5) *Screening.* All structures, buildings or enclosed areas used to house animals being bred or fattened shall be screened from the view of adjoining residentiary used or zoned properties by a buffer as provided in this chapter.

(E) *Dimensional requirements.*

(1) Minimum lot area: 20,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 30 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑307) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑308 R‑12 RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of the R‑12 district is to establish a district in which the principal use of land is residences. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of residences within the district and which would be detrimental to the quiet residential nature of the area.

(B) *Permitted uses.*

(1) Accessory building or use;

(2) Dwellings, duplex;

(3) Dwellings, multi-family;

(4) Dwellings, single‑family;

(5) Home occupations;

(6) Public utility distribution lines and easements;

(7) Recreational areas;

(8) Schools, public and private (preschool, elementary and secondary); and

(9) Signs.

(C) *Special exceptions or conditional uses.*

(1) Bed and breakfast;

(2) Cemetery;

(3) Churches;

(4) Day care facilities;

(5) Foster homes;

(6) Manufactured home rental communities;

(7) Manufactured homes (excluding single‑wide homes);

(8) Modular structures;

(9) Planned unit development;

(10) Public buildings (town, county, state and federal); and

(11) Public utility substations, lift stations, pumping stations, wells, water treatment and storage facilities, sewage treatment facilities and similar facilities of a public necessity.

(D) *Dimensional requirements.*

(1) Minimum lot area: 12,000 square feet, plus 3,000 square feet for each dwelling unit over two. In no case may more than ten dwelling units be constructed per gross acre.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 25 feet.

(6) Maximum lot coverage: 40%.

(7) Max. mum building height: 35 feet.

(2001 Code,  44‑308) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑309 R‑10 RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of the R‑10 district is to establish a district, to encourage the development of more intense residential uses, principally smaller lots and single‑family and multi-family residences in relatively high‑density neighborhoods. The regulations are intended to discourage any use which, because of its character, would interfere with the residential nature of this district.

(B) *Permitted uses.*

(1) Accessory building or use;

(2) Dwellings, multi-family;

(3) Dwellings, single‑family;

(4) Foster homes;

(5) Home occupation;

(6) Public utility distribution lines and easements; and

(7) Sign, temporary.

(C) *Special exceptions or conditional uses.*

(1) Bed and breakfast;

(2) Cemetery;

(3) Churches;

(4) Clinics;

(5) Day care facilities;

(6) Hospitals;

(7) Manufactured home rental communities;

(8) Manufactured homes (excluding single‑wide mobile homes);

(9) Modular structures;

(10) Nursing homes;

(11) Planned unit development;

(12) Public and private non-commercial recreation (such as swimming pools, tennis courts and similar facilities);

(13) Public buildings (town, county, state and federal);

(14) Public utility substations, lift stations, pumping stations, wells and similar facilities of a public necessity;

(15) Schools, public and private (preschools, elementary and secondary); and

(16) Tourist homes.

(D) *Dimensional requirements.*

(1) Minimum lot area: 10,000 square feet plus 2,000 square feet for each dwelling unit over two. In no case may more than ten dwelling units be constructed per gross acre.

(2) Minimum lot width: 75 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: ten feet.

(5) Minimum rear yard setback: 15 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑309) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑310 R‑5 RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of the R‑5 district is to establish a high‑density residential district permitting mobile homes on individual lots.

(B) *Permitted uses.*

(1) Accessory building or uses;

(2) Dwellings, duplexes;

(3) Dwelling, manufactured homes (one per lot as the principal building, with the wheels removed, the tongue removed or hidden from view by a protective covering, permanent electrical hookup, tiedowns, permanent masonry foundation and permanent steps for each outside doorway of the unit);

(4) Dwelling, mobile homes (one per lot as the principal building, with the wheels removed, the tongue removed or hidden from view by a protective covering, permanent electrical hookup, tiedowns, permanent masonry foundation and permanent steps for each outside doorway of the unit);

(5) Dwelling, multi-family;

(6) Dwelling, single‑family;

(7) Foster homes;

(8) Home occupation;

(9) Modular structure; and

(10) Public utility distribution lines and easements.

(C) *Special exceptions and conditional uses.*

(1) Bed and breakfast;

(2) Boardinghouse;

(3) Churches;

(4) Day care facilities;

(5) Manufactured home rental communities;

(6) Planned unit development;

(7) Public and private non-commercial recreation (such as swimming pools, tennis courts or similar facilities);

(8) Public buildings (town, county, state and federal);

(9) Public utility substations, lift stations, pumping stations, wells and similar facilities of a public necessity;

(10) Schools, public and private (preschools, elementary and secondary); and

(11) Tourist homes.

(D) *Dimensional requirements.*

(1) Minimum lot area: 5,000 square feet, plus 1,500 square feet for each dwelling unit over two. In no case may more than ten dwelling units be constructed per gross acre.

(2) Minimum lot width: 50 feet.

(3) Minimum front yard setback: 25 feet.

(4) Minimum side yard setback: ten feet.

(5) Minimum rear yard setback: 15 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑310) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑311 RMH MOBILE HOME PARK DISTRICT.**

(A) *Purpose.* The purpose of the RMH district is to establish a district to permit the development of mobile home parks within the towns zoning jurisdiction. The regulations included in this section shall apply in all mobile home parks.

(B) *Permitted uses.*

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

(2) Dwellings, mobile homes (one per lot as the principal building with the wheels and tongue removed, permanent electrical hookups, tiedowns, permanent masonry foundation and permanent steps for each outside doorway of the mobile home);

(3) Dwellings, single‑family;

(4) Mobile home service buildings and area providing laundry, sanitation and managerial facilities;

(5) Public parks and playgrounds; and

(6) Public utility distribution lines and easements.

(C) *Special exceptions or conditional uses.*

(1) Mobile home parks;

(2) Planned unit development;

(3) Public utility substations, lift stations, pumping stations, wells, water treatment and storage facilities and similar facilities of a public necessity; and

(4) Churches.

(D) *Dimensional requirements.*

(1) Minimum lot area: 5,000 square feet.

(2) Minimum lot width: 35 feet.

(3) Minimum front yard setback: 25 feet.

(4) Minimum side yard setback: ten feet.

(5) Minimum rear yard setback: 20 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(E) *Plan approval.*

(1) A preliminary sketch drawn to scale of not less than 200 feet to the inch, nor more than 50 feet to the inch, shall be submitted to the Planning Board with any application to rezone any area to a mobile home district. The sketch shall include among other things:

(a) Location of drives and walks;

(b) Mobile home plots;

(c) Location and size of service buildings and areas;

(d) Location and size of recreation areas; and

(e) Screening and landscaping.

(2) Any mobile home, service building or recreation area placed in any mobile home district shall be placed in accordance with the approved development plan.

(F) *Operating requirements.* Each mobile home court shall operate in accordance with the rules and regulations governing the sanitation and operation of mobile homes in Scotland and Robeson Counties and the town.

(G) *Utility requirements.* Each mobile home shall be connected to a municipal or private sewage disposal system approved by the appropriate health authority of Scotland or Robeson County or the town. The water system when not approved by the municipality shall be approved by the appropriate health authority of Scotland or Robeson County or the town.

(2001 Code,  44‑311) (Ord. 1987‑4, passed 10‑19‑1987; Ord. Z‑2004‑06‑01, passed 8‑10‑2004)

***Statutory reference:***

*Zoning regulations for manufactured homes, see G.S.  160A‑383.1*

**44‑312 RSFD RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of the RSFD district is to establish a district in which the principal use of land is single‑family residence only. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of single‑family residence dwellings only within the district, and which would be detrimental to the quiet residential nature of the area.

(B) *Permitted uses.*

(1) Accessory building or use;

(2) Dwelling, single‑family; and

(3) Home occupation.

(C) *Special exceptions or conditional uses.*

(1) Churches;

(2) Modular structures; and

(3) Public utility substations, lift stations, pumping stations, wells, water treatment and storage facilities, sewer treatment facilities and similar facilities of a public necessity.

(D) *Dimensional requirements.*

(1) Minimum lot area: 12,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 25 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑317) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑313 CB CENTRAL BUSINESS DISTRICT.**

(A) *Purpose.* The regulations for the CB district are designed to permit a concentrated development of retailing establishments in the central portion of the town and mixed-use (Commercial/Residential) developments and buildings.

(B) *Permitted uses.*

(1) Accessory uses clearly incidental to any permitted use and which will not create a nuisance or hazard. Dwelling units shall be considered accessory uses when located in the principal building provided the residential units be incidental to and located above or behind commercial uses. Multiple tenancies shall be allowed in the Central Business District provided the owner of the building is the signatory for the municipal utility account unless separate meters are provided and all uses conform to the zoning requirements as stipulated herein;

(2) Accountant bookkeeping services;

(3) Advertising agency office;

(4) Amusement center;

(5) Art studio;

(6) Bakery;

(7) Banks;

(8) Barbershop and beauty shop;

(9) Bus station;

(10) Chamber of Commerce;

(11) Coin‑operated machines (excluding billiard/pool tables);

(12) Convenience store (provided any new construction meets the requirements of this chapter);

(13) Courthouse;

(14) Finance office;

(15) Fire station;

(16) Fitness centers;

(17) Florist;

(18) Funeral home;

(19) Hardware stores;

(20) Hotels;

(21) Laundromats;

(22) Laundry and dry cleaning pickup stations;

(23) Libraries;

(24) Loan office;

(25) Newsstand;

(26) Offices‑business, professional and governmental;

(27) Package store;

(28) Parking lots;

(29) Photo studio;

(30) Police station and jail;

(31) Post office;

(32) Printing establishments;

(33) Repair shops;

(34) Restaurants;

(35) Signs, accessory only, as allowed in the downtown sign policy;

(36) Signs, identification, as allowed in the downtown sign policy;

(37) Signs, principal use, as allowed in the downtown sign policy;

(38) Stores retailing antiques, auto accessories, appliances, clothing, drugs, dry goods, flowers, food, beverages, furniture, gifts, hardware, hobby and craft supplies, jewelry, leather goods, notions, office equipment and supplies, paint and wallpaper, pets, seeds and feeds (excluding grocery stores);

(39) Taxi stands;

(40) Theater (indoor only);

(41) Ticket agency;

(42) Train stations;

(43) Travel agencies; and

(44) Video rentals.

(C) *Special exceptions or conditional uses.*

(1) Automobile off‑street parking facilities, but no commercial storage;

(2) Automobile service stations (gas stations, but not including unattended pumps);

(3) Drive‑through facilities;

(4) Pawnbroker pursuant to G.S.  91A‑1 et seq.; and

(5) Churches.

(D) *Dimensional requirements.* Maximum building height shall be 35 feet.

(2001 Code,  44‑312) (Ord. 1987‑4, passed 10‑19‑1987; Ord. Z‑2004‑06‑01, passed 8‑10‑2004; Ord. 2005‑08‑1, passed 8‑9‑2005; Ord. 2008-05-01, passed 5-13-2008; Ord. 2008-05-02, passed 5-13-2008)

**44‑314 HB HIGHWAY BUSINESS DISTRICT.**

(A) *Purpose.* The purpose of the HB district is to establish a district generally located on the major radial highways leading into and around the development area and to provide for retailing goods and services to passing motorists and the local residents. They should provide an attractive appearance, ample parking and be designed to minimize traffic congestion.

(B) *Permitted uses.*

(1) ABC stores;

(2) Accessory uses, customary;

(3) Agricultural uses;

(4) All permitted uses in the neighborhood business district;

(5) Ambulance services;

(6) Amusement centers;

(7) Animal hospital;

(8) Auto parking lots, sales lots and auto washing establishments;

(9) Banks;

(10) Barbershop and beauty shop;

(11) Bowling alleys;

(12) Building supplies and sales establishments;

(13) Convenience store;

(14) Dairy bars;

(15) Dry cleaning establishments;

(16) Farm equipment sales;

(17) Fitness centers;

(18) Funeral home;

(19) Gift shops;

(20) Golf driving ranges and miniature golf courses;

(21) Grocery stores;

(22) Health clubs;

(23) Home furnishing stores;

(24) Ice pickup stations;

(25) Mobile home sales;

(26) Motels;

(27) Offices, business, professional and governmental;

(28) Package store;

(29) Paint and body shop;

(30) Parks and picnic areas;

(31) Printing establishments;

(32) Radio station;

(33) Repair shops;

(34) Restaurants, including drive‑in type facilities;

(35) Retail outlet;

(36) Service stations;

(37) Signs, accessory;

(38) Signs, identification;

(39) Signs, principal use;

(40) Skating rinks;

(41) Theaters, drive‑in;

(42) Tire service stores;

(43) Truck terminals;

(44) Warehouses;

(45) Wholesale supply; and

(46) Video rentals.

(C) *Special exceptions or conditional uses.*

(1) Churches;

(2) Cut and sew operation;

(3) Drive‑through;

(4) Planned unit development;

(5) Private clubs;

(6) Public utility lift stations, pumping stations, wells, water treatment and storage facilities and similar facilities of a public necessity;

(7) Shopping center;

(8) Sign, off‑premises; and

(9) Sign, outdoor advertising.

(D) *Dimensional requirements.*

(1) Minimum lot area: 10,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 40 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 20 feet.

(6) Maximum lot coverage: 50%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑313) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑315 HB/O HIGHWAY BUSINESS OVERLAY DISTRICT.**

(A) *Purpose.* The purpose of HB/O district is to define the area in which a nightclub, private club or bar may be located within the town zoning areas. This overlay district shall be located only over existing HB zones and shall not prevent any existing uses found within the HB zone. However, no private club, nightclub or bar may be located in any other zone, except a HB/O zone.

(B) *Permitted uses.* Any use currently found within a HB zone.

(C) *Special exceptions or conditional uses.*

(1) Any special exceptions or conditional uses found in the HB zone; and

(2) Night clubs, private clubs, bars.

(D) *Bars, night clubs, private clubs.*

(1) Purpose and intent for the control of bars and nightclubs through zoning.

(a) The Town Board of Commissioners finds and determines that the potential proliferation of bars and nightclubs within the town presents problems that are encountered by residents of the town including, but not limited to, littering, loitering, public intoxication, disturbances, discouragement of more desirable and needed commercial uses and other similar problems connected primarily with the regular congregation of persons around the establishments engaged in the sale of alcoholic beverages for consumption on or off the premises.

(b) The Town Board of Commissioners also finds and determines that the existence of the problems creates a serious impact on the peace, health, safety and welfare of residents of nearby areas including fear for the safety of their children and visitors to the area, as well as contributing to the deterioration of their neighborhoods, and concomitant devaluation of their property and destruction of their community values and quality of life.

(c) These ordinances are intended and designed to deal with and ameliorate these problems and conditions by restricting the location of the uses in relation to one another, and their proximity to facilities primarily devoted to use by children and families and the general public, and through the denial of a conditional use permit or through the imposition of conditions on a case‑by‑case basis, thereby limiting the number of the uses in the town and concentrating the uses in areas of minimal impact and undesirable community impact of the uses by the imposition of reasonable conditions upon the operation of all uses both existing and in the future.

(2) A valid conditional use permit is required prior to the establishment of a nightclub, private club or bar. All of the following standards must be met before a conditional use permit may be issued.

(a) Exterior lighting of the parking area shall be kept at an intensity of at least one foot‑candle of light on the parking surface during the hours of darkness. A license or lease of the parking lot showing the owner of the restaurant, hotel/motel, night club, bar, private club and/or eating establishment has the legal right to occupy and control the parking lot during times of operation of the restaurant, hotel/motel, night club, bar, private club and/or eating establishment shall be submitted to the Town Manager or designee prior to the issuance of any zoning and/or conditional use permit.

(b) All nightclubs, private clubs and or bars shall have a public telephone listing.

(c) Special security measures such as security guards, robbery and burglar alarm systems may be required for the issuance of a conditional use permit.

(d) The noise levels generated by the operation of the establishment shall not exceed a level that will disrupt adjacent or surrounding businesses or neighborhoods.

(e) All nightclubs, private clubs and/or bars shall be located on a collector street or arterial road.

(f) Owner/operator shall at all times hold a valid ABC permit.

(g) All buildings containing amplified entertainment shall be insulated, have fixed windows, and an adequate air conditioning system all as required by the adopted building code of the town. In addition, double stacked doors in series with an airlock between the doors shall be provided at the main entrance of all buildings containing amplified entertainment. The size of the airlock in area shall meet the requirements of the Town Building Code or Americans with Disabilities Act being 42 U.S.C.  12101 et seq., whichever is larger.

(h) Live/amplified entertainment shall be permitted only inside a fully enclosed structure meeting the standards of this section.

(i) Nightclubs, private clubs and/or bars as the principal use of a building shall not be located within 500 feet of any residential zoning district, any single‑family residence, any church or place of worship, any public park or any hotel/motel. The measurement shall be made from the point of the commercial lot line nearest any residential zoning district, any single‑family residence, any church or place of worship, any public park or any hotel/motel.

(E) *Grounds for revocation of zoning or conditional use permits issued under this section.* The following grounds shall be in addition to any others listed elsewhere in this chapter:

(1) A determination that an application contained false or misleading information;

(2) Violation by the permit holder of any provision of this chapter or violation of any state statute which results in the revocation of the permit holders state alcoholic beverage license by the State Alcoholic Beverage Commission or any successor regulatory authority;

(3) Repeated violations of any town ordinance at the location within the preceding 12‑month period;

(4) Failure to renew a state liquor license, or, written declaration of abandonment by the tenant and owner of the premises if under lease, or by the owner if not under lease;

(5) Violation by the permit holder of any condition imposed upon the issuance of the zoning or conditional use permit;

(6) Violation of any of the minimum standards of the zoning code;

(7) Alteration of the premises in any manner without obtaining a valid zoning authorization prior to alteration; and

(8) Relocating the authorized business in any manner from the existing precise location.

(2001 Code,  44‑319) (Ord. 2001‑04, passed 7‑12‑2001)

**44‑316 NB NEIGHBORHOOD BUSINESS DISTRICT.**

(A) *Purpose.* The purpose of the NB district is to establish a district in which the principal use of land is for commercial and service uses to service the surrounding residential districts.

(B) *Permitted uses.*

(1) Agricultural uses;

(2) Banks;

(3) Barbershops and beauty shops;

(4) Convenience store;

(5) Drugstores;

(6) Florists;

(7) Laundries, laundromats and dry cleaning establishments;

(8) Offices, business, professional and governmental;

(9) Repair shops for jewelry, shoes, radios, televisions and other small household appliances;

(10) Restaurants;

(11) Retailing establishments engaged in selling drugs, food, beverages, notions and hardware;

(12) Service stations;

(13) Signs, accessory;

(14) Signs, identification;

(15) Signs, principal use; and

(16) Video rentals.

(C) *Special exceptions or conditional uses.*

(1) Churches;

(2) Day care facilities;

(3) Fruit and vegetable stand; and

(4) Public utility lift stations, pumping stations, wells and similar facilities of a public necessity.

(D) *Dimensional requirements.*

(1) Minimum lot area: 12,000 square feet.

(2) Minimum lot width: 80 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 25 feet.

(6) Maximum lot coverage: 40%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑314) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑317 LI LIGHT INDUSTRIAL DISTRICT.**

(A) *Purpose.* The purpose of the LI district is to establish a district in which the principal use of land is for industries which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential or business districts. The regulations are designed to prohibit the use of land for heavy industry which should be properly segregated and to prohibit any other use which would substantially interfere with the development of industrial establishments in the district.

(B) *Permitted uses.*

(1) Agricultural uses;

(2) Air ambulance service;

(3) Air charter service;

(4) Air express service;

(5) Air freight service;

(6) Aircraft charter and rental service;

(7) Aircraft repair, service and maintenance;

(8) Airline company;

(9) Airport transportation service;

(10) Airports;

(11) Amusement center;

(12) Automobile rental service;

(13) Bakery;

(14) Barbershop and beauty shop;

(15) Bottling plants;

(16) Building materials sales and storage yards;

(17) Cabinet and woodworking establishments;

(18) Clothing manufacturing;

(19) Cold storage and freezing plants;

(20) Contractors offices and equipment storage;

(21) Cotton gin;

(22) Dairy products processing;

(23) Dry cleaning plants;

(24) Electronic equipment manufacture;

(25) Farm machinery sales and services;

(26) Feed and grain sales;

(27) Food processing plants;

(28) Greenhouses and nurseries;

(29) Grounds and facilities for outdoor games and sporting events;

(30) Health clubs;

(31) Home decorating centers;

(32) Ice plants;

(33) Industrial education and research facilities;

(34) Laboratories for research and testing;

(35) Machine shops;

(36) Milling and storage;

(37) Paint and body shop;

(38) Petroleum bulk storage;

(39) Printing establishments;

(40) Railroad freight and passenger station;

(41) Recreation parlors;

(42) Service stations;

(43) Signs;

(44) Tire recapping;

(45) Tobacco redrying;

(46) Truck stop;

(47) Truck terminal;

(48) Wholesale supply; and

(49) Wholesaling and warehousing.

(C) *Special exceptions or conditional uses.*

(1) Cemetery;

(2) Clinics for counseling and/or medical purposes;

(3) Planned industrial parks;

(4) Recycling/refurbishing, accessory use;

(5) Sewage treatment plants, municipal;

(6) Soap manufacture;

(7) Stadiums, auditoriums and arenas (open or enclosed);

(8) Woodworking and wood products; and

(9) Churches.

(D) *Dimensional requirements.*

(1) Minimum lot width: 100 feet.

(2) Minimum front yard setback: 40 feet.

(3) If property is located next to a similarly zoned property, the minimum side setback on the similar side must be 40 feet. If the property is next to a residential zone or dissimilar zone, the minimum side setback must be 50 feet.

(4) If property is located next to a similarly zoned property, the minimum rear setback must be 40 feet. If the property is next to a residential zone or dissimilar zone, the minimum rear setback must be 50 feet.

(5) Maximum lot coverage: 50%.

(6) Maximum building height: 50 feet.

(2001 Code,  44‑315) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 1997‑01, passed 2‑11‑1997; Ord. 1997‑10, passed 9‑9‑1997; Ord. Z‑2004‑06‑01, passed 8‑10‑2004)

**44‑318 HI HEAVY INDUSTRIAL DISTRICT.**

(A) *Purpose.* The purpose of the HI district is to establish a district in which the principal use of land is for heavy industries that by their nature may create some nuisance and which are not properly zoned with nor compatible with uses in other zoning districts.

(B) *Permitted uses.*

(1) All permitted uses in the light industrial district;

(2) Fertilizer manufacture;

(3) Machine tool manufacture;

(4) Metal fabrication;

(5) Mixing plants for concrete or other types of paving materials and the manufacture of concrete products;

(6) Paper pulps, cardboard and building board manufacture;

(7) Railroad freight yards;

(8) Sanitary landfills;

(9) Stone and gravel works; and

(10) Textile manufacture.

(C) *Special exceptions or conditional uses.*

(1) Any use allowed as a conditional use in the LI district unless already specifically permitted in the HI district as stated in subsection (B) of this section;

(2) Areas for dumping or disposal of garbage, refuse or trash;

(3) Junkyards;

(4) Signs, off‑premises advertising, including billboards; and

(5) Churches.

(D) *Special requirements.* Junkyards and graveyards shall have buffer areas that shield junk areas from the public as well as adhering to all other requirements of this chapter.

(E) *Dimensional requirements.*

(1) Minimum lot width: 100 feet.

(2) Minimum front yard setback: 40 feet.

(3) Minimum side yard setback: 50 feet.

(4) Minimum rear yard setback: 50 feet.

(5) Maximum lot coverage: 40%.

(6) Maximum building height: 35 feet.

(2001 Code,  44‑316) (Ord. 1987‑4, passed 10‑19‑1987; Ord. Z‑2004‑06‑01, passed 8‑10‑2004)

**44‑319 LM LIGHT MANUFACTURING DISTRICT.**

(A) *Purpose.* The purpose of the LM district is to establish an area where retail and light manufacturing activities are integrated in small cottage industry type businesses in order to take advantage of the existing infrastructure within the district. Uses allowed within the light manufacturing district should primarily be with little or no impact or effect upon the surrounding properties from noise, traffic, smoke, odor, dirt, dust or other nuisance.

(B) *Permitted uses.*

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

(2) Ambulance service;

(3) Art studio;

(4) Auto parking lot, sales lot and auto washing establishment;

(5) Building supplies and sales establishment;

(6) Cabinet and woodworking shop;

(7) Contractors office and equipment storage;

(8) Farm equipment sales;

(9) Fire station;

(10) Parking lot;

(11) Photo studio;

(12) Printing establishment;

(13) Radio station;

(14) Repair shops (excluding auto and truck repair);

(15) Retail sales;

(16) Signs, accessory;

(17) Signs, identification;

(18) Signs, principal use;

(19) Tire service store;

(20) Warehouse; and

(21) Wholesale supply.

(C) *Special exceptions or conditional uses.*

(1) Auto and truck repair shop;

(2) Bottling plant;

(3) Laboratories for research and testing;

(4) Machine shop;

(5) Paint and body shop;

(6) Public utility lift stations, pumping stations, wells, water treatment and storage facilities and similar facilities of a public necessity;

(7) Tire recapping; and

(8) Churches.

(D) *Dimensional requirements.*

(1) Minimum lot area: 10,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 20 feet.

(5) Minimum rear yard setback: 20 feet.

(6) Maximum lot coverage: 50%.

(7) Maximum building height: 35 feet.

(2001 Code,  44‑318) (Ord. 1987‑4, passed 10‑19‑1987; Ord. Z‑2004‑06‑01, passed 8‑10‑2004)

**44‑320 MOBILE, MANUFACTURED AND MODULAR HOMES.**

(A) Mobile homes, as defined in this chapter, are no longer allowed in any zoning district, including the towns ETJ area, of the town, except as allowed in approved mobile home (MH) zone districts.

(B) Manufactured homes, as defined herein, are no longer allowed in any zoning district under any condition including the towns ETJ areas of the town, except for two specific manufactured home overlay districts, as defined herein and below.

(C) Off‑frame manufactured and off‑frame modular homes, as defined herein, are allowed as a use by right within any residential district of the town.

(D) (1) Two manufactured home overlay districts are hereby created in the zoning jurisdiction including its ETJ area. Manufactured and on‑frame modular homes are allowed within these districts as a use by right as long as the structures meet all requirements of the zoning ordinance and the Department of Insurance. The Overlay Districts are described as Croomtown Overlay District, generally located at Croom Road and Mundy Street south to State Road #1120 and Brandi Lane Overlay District generally located in and around the Meadowood Subdivision with boundaries north at Airport Road, south at Hwy 74 Bypass, and west and east to the towns ETJ boundaries. For the purpose of this zoning ordinance amendment, ***ETJ BOUNDARIES*** are interpreted to be those in effect at the date this section is passed and in effect.

(2) These manufactured home overlay districts are further defined as follows:

(a) Croomtown Overlay District: Those tracts beginning at the southerly corner of Mundy Street and Croom Road and heading southerly on both sides of Croom Road continuing along Croom Road to State Road (SR) 1120. This district includes all the tracts of land adjacent to and having a common property line boundary with Croom Road and in the delimited segment of Croom Road. Properties within this general area that do not have a common property line boundary with Croom Road are not considered to be in the Croomtown Overlay District; and

(b) Brandi Lane Overlay District: Those tracts of land located within the Meadowood Subdivision and the additional tracts of land with boundaries north to Airport Road, south to Highway 74 Bypass, west and east to the existing ETJ boundaries of the town, as of 8‑1‑2006.

(Ord. Z‑2006‑08‑01, passed 8‑9‑2006)

**44‑32144‑350 RESERVED.**

***ARTICLE X. NONCONFORMING USES***

***Statutory reference:***

*Building setback lines, see G.S.  160A‑306*

**44‑351 INTENT.**

Within the districts established by this chapter, there may exist structures and uses of lands and structures which were lawful before 10‑19‑1987, but which would be prohibited, regulated or restricted under the terms of this chapter, it is the intent of this chapter to permit these nonconformities to continue; but they shall be in no case expanded; except that, a nonconforming use may be granted or a variance upon application to the Board of Adjustment.

(2001 Code,  44‑351) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑352 REPAIRS AND MAINTENANCE.**

On any building devoted in whole or part to any nonconforming use, work may be done on ordinary fixtures, wiring or plumbing; provided that, the cubic content of the building shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part of a building.

(2001 Code,  44‑352) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑353 NONCONFORMING STRUCTURES.**

Where a lawful structure existed on 10‑19‑1987, that could not be built under the terms of this chapter by reason of some characteristic may be continued as long as it remains otherwise lawful, subject to the following provisions.

(A) No structure may be enlarged or altered in a way which increases its nonconformity, except upon the authority granted by the Board of Adjustment.

(B) Nothing in this chapter shall be taken to prevent the restoration of a building destroyed to the extent of not more than 75% of its assessed value or 50% of the actual replacement value, whichever is smaller, by fire, explosion, act of God or the public enemy, nor the continued occupancy or use of the building or part of a building which is existing at the time of the partial destruction.

(2001 Code,  44‑353) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑354 CONTINUANCE AND CHANGE OF NONCONFORMING USE.**

Any legal nonconforming use may be continued for an indefinite period; however, if the use is discontinued for a period of 180 calendar days, the use shall not be continued and it shall not be changed to any other use, except one permitted within the district in which the use is located. All materials, debris and ruins foreign to any use permitted in the district on 10‑19‑1987, shall be removed within three years.

(2001 Code,  44‑354) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑35544‑390 RESERVED.**

***ARTICLE XI. EXCEPTIONS AND MODIFICATIONS***

***Statutory reference:***

*Planning and regulating development, see G.S.  160A‑360 et seq.*

**44‑391 WALLS AND FENCES.**

(A) The setback requirements of this chapter shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall. However, no planted buffer strip, fence or wall shall exceed a height of six feet in any front or side yard unless specified elsewhere in this chapter.

(B) Any commercial or industrial use established after the date from which this section derives in a commercial or industrial district which adjoins a residential property shall provide and maintain along the property line a continuous visual buffer. This buffer shall be a combined fence and either evergreen hedge, shrubbery screen or deciduous trees. This buffer shall be a minimum height of eight feet or 75% of the tallest structure being placed on the commercial or industrial site whichever height is greater. The fence shall be adjacent to the commercial or industrial use and the evergreen hedge, shrubbery screen or deciduous trees shall be adjacent to the residential property. The buffer shall cover a minimum area of 10% of the total area of the lot adjoining the residential property, or the largest lot located within 200 feet of the residential property. All evergreen hedge, shrubbery screen or deciduous trees used as a buffer must grow.

(2001 Code,  44‑391) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 99‑06‑01, passed 6‑8‑1999)

**44‑392 HEIGHT LIMITATIONS.**

The height limits of this chapter shall not apply to a church spire, belfry, cupola and dome or ornamental tower not intended for human occupancy, monument, water tower, observation tower, transmission tower, chimney, smokestack, conveyor, flagpole, radio or TV tower, mast or aerial, parget wall not extended more than three feet above the roof line of the building and necessary mechanical appurtenance.

(2001 Code,  44‑392) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑393 FRONT YARD SETBACK.**

If a proposed structure is within 100 feet of an existing conforming use structure within the same district and on the same side of the street, and the setback of the existing structure is less than the setback for the district within which it is located, the setback of the proposed structure may be established 20 feet behind the setback of the adjacent conforming use which is set back the greatest distance from the street right‑of‑way; provided, this does not exceed the normal setback requirements as elsewhere established.

(2001 Code,  44‑393) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑394 SUBSTANDARD LOTS OF RECORD.**

Any lot of record existing on 10‑19‑1987, which has an area or a width which is less than required by this chapter shall be subject to the following exceptions and modifications.

(A) *Adjoining lots.* When two or more adjoining lots with continuous frontage are in one ownership at any time after 10‑19‑1987, and the lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, the group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located.

(B) *Lot not meeting minimum lot size requirements.* Except as set forth in subsection (A) of this section, in any district in which single‑family dwellings are permitted, any lot of record existing on 10‑19‑1987, which has an area or a width which is less than required by this chapter may be used as building site for a single‑family dwelling.

(C) *Side yard requirements.* Except as set forth in subsection (A) of this section, where a lot has a width less than the frontage required in the district in which it is located, the Zoning Administrator shall be authorized to reduce the side yard requirements for the lot; however, no side yard shall be less than ten feet wide.

(2001 Code,  44‑394) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑395 VISIBILITY AT INTERSECTIONS.**

On a corner lot nothing, except as provided in this chapter shall be erected, placed or planted to exceed the height of three feet or to protrude lower than eight feet or to inhibit the visibility of a motor vehicle operator within the triangular area formed by the intersection of the right‑of‑way lines at two streets or railroads or of a street and a railroad and a diagonal line which intersects the right‑of‑way lines at two points each 25 feet from the intersection of the right‑of‑way lines.

(2001 Code,  44‑395) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑396 GROUP PROJECTS.**

If two or more buildings are to be constructed on a plot of land at least two acres in size, not subdivided into customary streets and lots, and which will not be subdivided, the application of the terms of this chapter may be varied by the Board of Commissioners in a manner that will be in harmony with the character of the neighborhood provided:

(A) The uses are limited to those permitted within the zoning district in which the project is located and, in no case, shall the Board of Commissioners authorize a use prohibited in the district in which the project is to be located;

(B) The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located;

(C) The distance of every building from the nearest property line shall meet the front, side and rear yard setback requirements for the district in which the project is located;

(D) The building heights do not exceed the height limits permitted in the district in which the project is located; and/or

(E) If the property lies within or adjoins a residential district and is to be used for a non-residential purpose, there shall be a densely planted buffer strip at least eight feet in height, along the rear and/or side lot lines adjoining a residential district or conforming residential properties. No buffer shall extend nearer to the street right‑of‑way than the established building line of adjoining conforming residential lots.

(2001 Code,  44‑396) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑397 FAMILY CARE HOMES.**

A family care home may be permitted in any residential district, subject to the requirements of the district, and shall be located not less than one-half mile in radius of an existing family care home, as provided by G.S.  168‑22.

(2001 Code,  44‑397) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑398 CELLULAR TOWERS.**

Cellular towers shall be permitted in any district as a conditional use subject to the following conditions.

(A) Cellular towers shall be subject to statutory conditions of any other conditional use application.

(B) Stand‑alone cellular towers shall be placed no closer to any commercial (including other cellular towers) or residential structure than the total height of the tower, plus five feet. The total height is calculated using the towers structure and any attachments such as, but not limited to, lights, antennas or transmission dishes.

(C) A cellular tower, including any guy wires or other supports and accessory buildings, shall meet all setbacks for the zone.

(D) Height limitations for the zone may be waived if satisfactory proof is provided to the Board of the need.

(E) Landscaping and sufficient fencing and a plan for their maintenance shall be provided. The landscaping plan shall be approved by the Zoning Department.

(F) The application and cellular tower meets FAA and Laurinburg Maxton Airport Commission requirements.

(G) The cellular tower or any person or company using the cellular tower does not impact E‑911 in any manner.

(H) The tower structure is neutral to environmental surroundings in relation to color, style, lighting and the like.

(I) A cellular tower shall meet any and all other requirements of the zone where the cellular tower is located unless specifically excepted in this section.

(2001 Code,  44‑398) (Ord. 98‑10‑01, passed 10‑13‑1998)

**44‑399 FLEA MARKETS.**

A flea market may be permitted as a conditional use in any business district within the town. No flea markets shall be permitted in any residential zone within the town zoning jurisdiction. The following conditions are incorporated as part of the requirements to establish a flea market within the zoning jurisdiction of the town. It is the obligation of the person or persons desiring to operate a flea market to meet all of the conditions described herein to receive an occupancy permit permitting the operator to open the flea market.

(A) The applicant shall apply for a conditional use permit as prescribed by the town and pay all required fees necessary to properly publicize and conduct the conditional use hearing.

(B) The area to be used for a flea market must be either completely within a building, other than a permanent retail store, or be located in a space of adequate size to hold all the individual sellers without spilling into adjacent property, public areas or rights‑of‑way. The town will consider as a general practice that there needs to be an area 150 square feet per seller.

(C) The area used for a flea market shall have adequate parking available in the immediate area as described in this chapter. Parking arrangements shall not cause hardship to adjacent property owners or impede the normal flow of traffic.

(D) The flea market operator shall provide adequate bathroom facilities that meet the standards, regulations and requirements of the Americans with Disabilities Act being 42 U.S.C. 1201 et seq. Portable restroom facilities or outhouses without adequate sewer are not acceptable.

(E) Signage shall comply with all ordinances currently in effect for the town.

(F) The flea market operator shall maintain adequate liability insurance to indemnify any and all parties, including the town, from litigation. The limits of liability insurance will be decided by the Board of Commissioners of the town at a time as an operator applies for a conditional use permit.

(G) Flea markets shall meet all code requirements, including the Fire Code, for the town and the county where the flea market is located and the state.

(H) The flea market operator shall be responsible for all litter generated from the operation of the flea market and shall keep the area clean from debris and litter at all times. Operator shall provide refuse collection containers manufactured for use as refuse collection containers on site during all hours of operation.

(I) The flea market operator shall be responsible for maintaining the general appearance of the area. This clause at a minimum addresses appearance of the site including, but not limited to, selling tables kept in good repair and painted, any fencing properly maintained and any permanent structures properly maintained with paint or similar protective covering.

(J) The flea market operator shall comply with all other laws of the town, the county where the flea market is located and the state.

(K) The flea market shall not create any adverse effect to the surrounding properties or community.

(L) No outdoor flea markets shall be allowed in the CB central business district.

(M) No outdoor flea markets shall be allowed in the towns historic downtown district.

(2001 Code,  44‑399) (Ord. 2000‑08, passed 9‑12‑2000)

**44‑400 RECREATIONAL EQUIPMENT, TRAILERS AND COMMERCIAL VEHICLES.**

Major recreational equipment, trailers and commercial vehicles shall be parked or stored behind the front line of the main building.

(2001 Code,  44‑400) (Ord. Z‑2004‑05‑01, passed 8‑10‑2004)

**44‑40144‑430 RESERVED.**

***ARTICLE XII. OFF‑STREET PARKING AND LOADING SPACE***

***Cross-reference:***

*Stopping, standing and parking, see  36‑71 et seq.*

***Statutory reference:***

*Parking, see G.S.  160A‑301*

**44‑431 GENERALLY.**

(A) *Scope.* Except as provided in this section, no applications for a building permit for a multi-family, commercial or industrial structure shall be approved unless there is included with the plan for the building, improvement or use a plot plan showing the required space reserved for off‑street parking and service purposes. An occupancy permit shall not be issued unless the required off‑street parking and service facilities have been provided in accordance with those shown on the approved plan. These provisions shall not apply to the central business district.

(B) *Off-street parking required.* Off‑street automobile parking or storage shall be provided for every establishment and every dwelling on every lot; or in a case where no parking space can be reasonably provided on the same lot, the space shall be provided on any lot a substantial portion of which is within 400 feet of the establishment or dwelling.

(C) *Combined lots permissible.* The required parking space for any number of separate establishments may be combined in one lot, but the required spaces assigned to one establishment may not be assigned to another establishment at the same or any other time; except that, half the parking spaces required for establishments such as churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to an establishment which will be closed at nights or on Sundays.

(D) *Exceptions and modifications.* Any structure or use in existence on the effective date from which this section derives is not affected by the provisions of this section until such time as the existing gross floor area is increased 10% or more. In the event of building destruction, these provisions shall be waived.

(2001 Code,  44‑431) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑432 PLAN AND DESIGN STANDARDS.**

(A) *Required area for each parking space.* Each automobile parking space shall contain not less than 200 square feet nor less than the minimum width for stalls as specified under subsection (D) of this section.

(B) *Drainage, construction and maintenance.* All off‑street parking, loading and service areas shall be drained so as to prevent damage to adjacent properties and public streets. All these areas subject to wheeled traffic shall be paved with a bituminous substance.

(C) *Separation from sidewalks, walkways and streets.* All off street parking, loading and service areas shall be separated from sidewalks, walkways and streets by curbing and other suitable protective devices.

(D) *Parking stalls and interior driveways.*

(1) Parking stalls and interior driveways shall have at least the following dimensions:

| ***Type of Parking (degrees)*** | ***Width of Stall (feet)*** | ***Depth of Stall (feet)*** | ***Minimum Driveway Width (feet)*** |
| --- | --- | --- | --- |
| 90 | 10 | 20 | 23 |
| 60 | 9 | 25 | 18 |
| 45 | 8‑1/2 | 30 | 12 |

(2) Where there is no parking, interior driveways shall be at least ten feet wide for one‑way traffic and 20 feet wide for two‑way traffic.

(2001 Code,  44‑432) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑433 MINIMUM PARKING REQUIREMENTS.**

(A) For any use or class of uses not specifically mentioned in this section, the requirements for off‑street parking and loading facilities for a similar use or class of uses specifically mentioned shall apply. For the purposes of this section, the number of employees shall be computed on the basis of the largest number of persons to be employed on the largest shift.

(B) (1) Required parking is as follows:

| ***Uses*** | ***Required Parking*** |
| --- | --- |
| (1) Amusement center | 1 off‑street parking space is required for every 4 seats attached permanently or temporarily placed and 1 for every 2 employees, plus requirements for any other use associated with the establishment, except in the central business district. |
| (2) Apartment or multi-family dwelling | 1‑1/2 spaces for each unit. |
| (3) Auditorium or theater | 1 space for each 4 seats in the largest assembly area. |
| (4) Auto washateria | 1 space for each 2 employees on shift of greatest employment, plus 1 space for the manager and reserve spaces equal to 5 times the capacity of the washateria at the locations of ingress and egress. |
| (5) Ball park | 1 space for every 8 spectator seats. |
| (6) Bowling alley | 3 spaces per alley, plus requirements for any other use associated with the establishment such as a restaurant and the like. |
| (7) Church or other place of worship | 1 space for each 4 seats in a main auditorium; not applicable in the central business district. |
| (8) Club or lodge | 1 space for each 100 square feet used for assembly or dancing plus auditorium requirements listed in subsection (B)(3) of this section. |
| (9) Commercial or personal service establishments | 1 space for each 100 square feet of nonstorage floor area. |
| (10) Convenience store | 1 space for every 200 square feet of nonstorage floor area. |
| (11) Golf course | 4 spaces for each hole, plus requirements for any other use associated with the golf course, restaurant and the like. |
| (12) Hospital or family care home | 1 space for each 3 beds, plus 1 space for each 2 employees (nurses, attendants and the like), plus 1 space for each staff or visiting doctor. |
| (13) Hotel | 1 space for each guest room, suite or unit, plus 1 space for each 2 employees. |
| (14) Industrial or manufacturing establishment or warehouse | 1 space for each 2 employees on shift of greatest employment, 1 space for each managerial personnel, 1 visitor or parking space for each 10 managerial personnel and 1 space for each vehicle used directly in the conduct of the business. |
| (15) Kindergarten or nursery | 1 space for each employee and 4 spaces for off‑street dropoff and pickup. |
| (16) Library | 1 space for each 3 seats provided for patron use. |
| (17) Medical and dental office and clinic | 4 spaces for each practicing doctor or dentist at the clinic, plus 1 space for each employee. |
| (18) Mobile home park | 1 space for each mobile home stall, plus 1 space for each 2 employees. At least 1 space shall be located on each mobile home lot if served by a street or drive. At least 1 off-street space shall be supplied for each 4 stalls for visiting purposes. |
| (19) Mortuary or funeral home | 1 space for each 4 seats in the assembly room or chapel, plus a minimum of 10 spaces for funeral vehicles, plus 1 space for each 2 employees. |
| (20) Motel | 1 space for each unit plus, 1 space for each 2 employees, plus requirements for any other use associated with the establishment. |
| (21) Office, professional building or single use | 1 space for each 200 square feet of gross floor area. |
| (22) Outdoor recreation areas (commercial), driving range, miniature golf and the like | 1 space for each 3 persons able to use the facility at its maximum capacity, plus 10 spaces for waiting, plus 1 space for each 2 employees. |
| (23) Restaurant or drive‑in | 1 space for each three seats, plus a minimum of 15 spaces for drive‑in service, plus 1 space for each 2 employees. |
| (24) Restaurant or place dispensing food, drink or refreshments | 1 space for each 3 seats, plus 1 space for each 2 employees. |
| (25) Roominghouse and boardinghouse | 1 space for each 3 guest rooms, plus 1 additional space for the owners. |
| (26) School: |  |
| a. Elementary and junior high schools | 1 space for each 2 teachers, employees and administration personnel, plus safe and convenient loading and unloading of students and 1 space for each 50 pupils. |
| b. High school | 5 spaces for administration personnel, plus 1 space for each 2 administration employees, plus 5 spaces for each classroom or 1 space for each 4 seats in the largest auditorium. |
| (27) Service station | 2 spaces for each pump, 5 spaces for each grease rack and 1 space for each 2 employees, but no fewer than 10 spaces. |
| (28) Shopping center | 1 parking space per 150 square feet of non-storage floor space. |
| (29) Single‑ or two‑family dwelling | 2 spaces for each dwelling unit. |
| (30) Stadium | 1 space for each 4 seats, including adjacent off‑street accommodations. |

(2) Note: a seat is 20 inches wide.

(2001 Code,  44‑433) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑434 REQUIRED OFF‑STREET LOADING AND UNLOADING SPACE.**

(A) Every building or structure used for business, trade or industry shall provide spaces as indicated in this section for loading and unloading of vehicles off the street or public alley. The space shall have access to an alley or, if there is no alley, to the street. For the purpose of this chapter, an off‑street loading and unloading space shall have minimum dimensions of 12 feet by 50 feet and an overhead clearance of 15 feet in height above the alley or street grade.

(B) The following spaces are required:

|  |  |
| --- | --- |
| ***Uses*** | ***Required Spaces*** |
| (1) Retail business | 1 space for each 5,000 square feet of floor space. |
| (2) Wholesale and industrial | 1 space for each 10,000 square feet of floor space. |

(C) The following businesses shall not be required to provide a loading/unloading space:

(1) Apartment or multi-family dwelling;

(2) Ball park;

(3) Church or other place of worship;

(4) Club or lodge;

(5) Kindergarten or nursery;

(6) Library;

(7) Medical and dental office and clinic;

(8) Office (professional building or single use);

(9) Personal service establishments (does not include commercial);

(10) Roominghouse or boardinghouse; and

(11) Single‑ or two‑family dwelling.

(2001 Code,  44‑434) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑43544‑460 RESERVED.**

***ARTICLE XIII. CURB CUT***

***Statutory reference:***

*Curb cut regulations, see G.S.  160A‑307*

**44‑461 REQUIREMENTS.**

Any business or industry located on a street maintained by the town in a business or industrial district which requires lowered or cutaway curbs for purposes of ingress and egress shall be subject to the following provisions.

(A) No more than two combined entrances and exits shall be allowed any parcel or property the frontage of which is less than 200 feet on any one street. Additional entrances or exits for parcels of property having a frontage in excess of 200 feet shall be permitted, after showing of actual requirements of convenience and necessity, and upon the approval of the Planning Board. Where frontage is 50 feet or less, only one combined entrance/exit shall be located.

(B) At street intersections, no curb cut shall be located within 25 feet of the intersection of two curblines, or the lines extended, or within 15 feet of the intersection of two property lines, whichever is least restrictive.

(C) The distance between any two curb cuts on the same side of the street shall be no less than ten feet, which distance shall be measured between the points of tangency of the curb return radius, and the established curbline of the adjoining street.

(D) All driveways shall be constructed so as to be at least five feet from any side property line; except that, a curb return may become tangent to a curb at a point where the property line extended intersects the curbline.

(E) The angle of driveways shall not be less than 45 degrees with the edge of the road; except on dual highways where there is a median strip, the entrance angle on dual highways may be decreased to 30 degrees; exit drives on dual roads shall have an angle not less than 60 degrees with pavement.

(F) No loading of vehicles shall take place on the right‑of‑way at service stations; if servicing of vehicles is desired on both sides of pump islands, the island must be a minimum of 12 feet from the right‑of‑way.

(G) The grade of entrance and exit shall slope away from the road surface at a rate not less than one‑fourth inch per foot and not more than one inch per foot for a distance equivalent to the prevailing width of the shoulder.

(H) The maximum width of any driveway shall not exceed 30 feet, measured at the right‑of‑way line.

(I) The maximum width of any curb cut, including curb returns, shall not exceed 45 feet.

(J) The sum of the two curb return radii for any one curb cut shall not exceed 15 feet.

(2001 Code,  44‑461) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑462 CURB CUTS ON STATE‑MAINTAINED STREETS.**

Any business or industry located on a street or highway maintained by the state in a business or industrial district which requires lowered or cutaway curbs for purposes of ingress and egress shall be subject to the following provisions.

(A) All driveways located on a state‑maintained street or highway shall be constructed so as to be at least five feet from any side property line.

(B) All curb cuts and driveway entrances located on a state‑maintained street or highway shall conform to the requirements set forth by the State Department of Transportation. The approval of a street and driveway access permit by the State Department of Transportation shall be prima facie evidence that the curb cut and driveway plans conform to the state policy.

(2001 Code,  44‑462) (Ord. 1987‑4, passed 10‑19‑1987)

***Statutory reference:***

*Curb cuts for handicapped persons, see G.S.  136‑44.14*

**44‑4634‑490 RESERVED.**

***ARTICLE XIV. SIGNS***

***Statutory reference:***

*Zoning regulations, see G.S.  160A‑360 et seq.*

**44‑491 PURPOSE.**

It is the purpose of this article to permit signs of a commercial, industrial and residential nature in districts which have appropriate uses and to regulate the size and placement of signs intended to be seen from a public right‑of‑way.

(2001 Code,  44‑491) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑492 GENERAL PROVISIONS.**

(A) *Scope.* All signs within the jurisdictional area of the town shall be covered by this article and shall be erected, constructed and maintained in accordance with the provisions of this article; only those signs that are listed in this article shall be erected within the jurisdictional area of this chapter. The town has adopted a downtown sign policy that further governs and restricts signs located in the Town Historic District. The Historic District is located principally in the Central Business (CB) district. The downtown sign policy is the governing authority for any signs placed in the historic district and shall be used as the final determination for any signs placed in this district. The downtown sign policy shall override any conflicts between the downtown sign policy and other sections found in Article XIV. This policy is on file with the Town Clerk and available as a public record.

(B) *Traffic safety.* No sign shall be erected or continued that:

(1) Obstructs the sight distance at intersections or along a public right‑of‑way;

(2) Would tend by its location, color or nature to be confused with or obstruct the view of traffic signs or signals or would tend to be confused with a flashing light of an emergency vehicle; or

(3) Uses admonitions such as the terms stop, go, slow, damage and the like, which might be confused with traffic directional signals and signs.

(C) *Maintenance.* Wherever a sign becomes structurally unsafe or endangers the safety of a building or the public, the Zoning Administrator shall order that the sign be made safe or removed. A period of ten days following receipt of the order by the person owning or using the sign shall be allowed for compliance.

(D) *Construction prohibited.* No sign shall be attached to or painted on any telephone pole, light pole, telegraph pole or other human-made object not intended to support a sign or on any tree, rock or other natural object.

(E) *Illumination.* Illumination devices, such as, but not limited to, floodlights or spotlights shall be so placed and so shielded as to prevent the ray of illumination being cast upon neighboring buildings and/or vehicles approaching from either direction.

(F) *Nonconforming signs.* All signs or advertising structures located in districts where they would not be permitted as a new use under the terms of this chapter are declared to be nonconforming uses. The nonconforming uses shall be discontinued and removed within two years after receiving notification of the nonconformance from the Zoning Administrator. If the nonconforming use is continued beyond the stated period, the Zoning Administrator shall cause the use to be removed at the expense of the owner of the nonconforming use.

(G) *Sign limit.* In no case shall there exist more than one freestanding sign per parcel and in total no more than three signs per establishment to include freestanding, wall sign and or projecting signs.

(H) *Political signs exempted.* Signs whose purpose are to demonstrate political support or opposition for a candidate running for political office that is on the ballot of the next election shall be exempt from the regulations of this article; provided, the signs are removed within three days after the election.

(2001 Code,  44‑492) (Ord. 1987‑4, passed 10‑19‑1987; Ord. 2005‑08‑1, passed 8‑9‑2005)

**44‑493 ADMINISTRATION, FILING PROCEDURE, PERMITS.**

(A) *Administration.* The Zoning Administrator shall only issue a permit for the erection or construction of a sign which meets the requirements of this article.

(B) *Filing procedure.* Applications for permits to erect, place or alter the structure of a sign shall be submitted on forms obtainable from the Zoning Administrator. Each application shall be accompanied by a plan showing the following:

(1) Area of the sign;

(2) Size, character, general layout and designs proposed for painted displays;

(3) The method and type of illumination, if any;

(4) The location proposed for the signs in relation to property lines, zoning district boundaries, right‑of‑way lines and existing signs; and

(5) If conditions warrant it, the Zoning Administrator may require additional information as will enable him or her to determine if the sign is to be erected in conformance with this article.

(2001 Code,  44‑493) (Ord. 1987‑4, passed 10‑19‑1987)

***Cross-reference:***

*Administration, see Ch. 2*

**44‑494 SIGNS WHICH DO NOT REQUIRE A PERMIT.**

The following signs may be erected, hung or placed without a permit from the Zoning Administrator but shall not be illuminated unless otherwise specified.

(A) *Temporary real estate sign.* One temporary real estate sign not exceeding six square feet in area. Where the property on which the sign is placed faces more than one street, one sign shall be allowed on each street frontage.

(B) *Temporary construction sign.* One temporary construction site sign not exceeding 24 square feet, erected on the site during the period of construction, to announce the name of the owner or developer, contractor, architect, land planner, landscape architect or engineer.

(C) *Commercial accessory sign.* One freestanding commercial accessory sign on each street frontage to be read from either direction. The sign shall not exceed 12 square feet in area and the sign shall meet the setback requirements for signs which do not require a permit as set forth in this article.

(D) *Directional or informational sign.* Directional or informational signs of a public or quasi-public nature shall not exceed 12 square feet in area. The signs shall only be used for the purpose of stating or calling attention to:

(1) The name or location of the town, hospital, community center, public or private school, church, synagogue or other place of worship;

(2) The name of a place of meeting or an official or civic body, such as the Chamber of Commerce, service club or fraternal organization;

(3) An event of public interest, such as a public hearing, rezoning announcement, general election, church or public meeting, local or county fair and other similar community activities and campaigns;

(4) Soil conservation, 4‑H and similar projects; and

(5) Zoning and subdivision jurisdiction boundaries.

(E) *Temporary non-profit signs.* One temporary non-profit sign of not more than 32 square feet shall be allowed at any one lot for any event sponsored by a temporary non-profit organization. Not more than four signs may be displayed within the towns zoning jurisdiction.

(1) *Time limit.* A temporary non-profit sign may be displayed for a period not more than 14 days prior to the event for which it advertises, with the day of the event counting as one day. In the case of events lasting more than one day, each day of the event shall be counted towards the 14‑day time limit. In no case shall a temporary non-profit sign be allowed to be erected or displayed for more than 14 days.

(2) *Location.* Temporary non-profit signs may be placed at the location where the event is to take place and/or any lot located in the following districts; provided that, there is not more than one sign per lot, and provided written permission is obtained from the owner of the property the sign is to be located on:

(a) Central business district;

(b) Neighborhood business district;

(c) Highway business district;

(d) Light industrial district; and

(e) Heavy industrial district.

(3) *Application.* An applicant for a temporary non-profit sign shall complete and submit to the office of the Zoning Administrator a sign permit application but shall not be required to obtain a sign permit or pay a sign permit fee. The applicant shall state on the application the date the applicant intends to erect the temporary non-profit sign and the date of the event to which the sign pertains. Applications for temporary non-profit signs located on lots other than where the event is to take place shall be accompanied by a letter signed by the property owner stating that the applicant has the permission of the property owner to erect or display the sign on the lot. The Zoning Administrator shall approve the application, sign and date the application, and provide a copy of the approved application to the applicant.

(4) *Removal.* The applicant for a temporary non-profit sign shall be responsible for removal of the sign not more than 48 hours after the end of the event.

(5) *Total.* Temporary non-profit signs shall not count towards the total sign limit.

(6) *Banners.* Temporary non-profit signs in the form of banners may, upon approval by the Town Manager, be placed over Patterson Street, at or near the intersection of Central Street and Saunders Street.

(F) *Banners.* One banner (a plastic, cloth or other similar material sign, used for advertising a product sale or other business activity by business in commercial or industrial districts) may be hung from a building wall, roof or porch support. A banner shall not exceed 25 square feet, shall be hung parallel with the building wall, roof or porch, and shall not protrude from the building in any way.

(G) *Setback requirements.* Signs which do not require a permit shall meet the setback requirements of this chapter.

(H) *Political signs exempted.* Political signs are exempted from the provisions of the sign ordinance provided that the following conditions are adhered to:

(1) Not located within a sight triangle;

(2) Not located in a manner so as to obscure vision or obstruct traffic or create a hazard;

(3) Not located on a utility or sign post or pole;

(4) Cannot be located on public property or vacant land;

(5) If located on private property must have the permission of private property owner;

(6) Must comply with most current version of G.S. Ch. 132; and

(7) All political signs must be removed no later than ten days following an election.

(2001 Code,  44‑494) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑495 SIGNS WHICH REQUIRE A PERMIT.**

(A) *Generally.* No sign, except those listed in  44‑494, shall be erected, hung, placed or structurally altered without a permit from the Zoning Administrator. The signs specified in this section shall be erected, hung, placed or structurally altered only after a permit has been issued by the Zoning Administrator and the minimum requirements for the signs are met.

(B) *Temporary sign.* A temporary sign permit shall be required for all signs of a temporary nature which are enumerated in  44‑494 as signs which do not require the issuance of a permit, but which exceed the size specifications contained in that section. Temporary signs exceeding maximums set forth in  44‑494 must be approved by the Planning Board. A temporary sign shall not remain in place for a period exceeding 12 months. The applicant for a temporary sign permit shall deposit a sum of an amount determined by the annual budget ordinance for each square foot of sign area with the Zoning Administrator to ensure proper removal of the sign when its purpose ceases to exist, or when the permit period expires, whichever is the shorter period of time. The deposit shall be returned in full to the applicant upon the satisfaction of the requirements for removal. A temporary sign shall be removed by the person owning the sign or structure or by the owner of the building or premises on which the sign is affixed or erected within ten calendar days following the date on which the permit expires.

(C) *Outdoor advertising signs.*

(1) Each outdoor advertising sign shall require a permit.

(2) An outdoor advertising sign may be illuminated.

(3) An outdoor advertising sign shall not exceed two standard poster panels or 750 square feet in copy area. A double‑face or V‑type sign structure shall not exceed 750 square feet, per side in copy area.

(4) Where outdoor advertising signs are freestanding, uprights shall be spaced no more than 12 feet on centers. The minimum clear distance between the ground level and the bottom of the trim shall be ten feet.

(5) The back of all structures shall be painted in a neutral color to blend with the surrounding area.

(6) The area surrounding the base of all signs shall be maintained free of unsightly debris.

(7) Shrubbery may be planted around sign bases.

(D) *Additional sign rules.*

(1) Signs may be illuminated.

(2) All signs shall meet setback requirements set forth in subsection (E)(2) of this section if not otherwise specified within this chapter. For purposes of this subsection, a sign‑supporting structure will only need to meet the setback regulations. Overhangs shall not go beyond the right‑of‑way or any property line.

(3) Signs shall not exceed 81 square feet unless otherwise specified within this chapter.

(4) Signs attached to buildings shall be considered one sign per entire unit, not each building side, unless otherwise considered unattached by definition within this chapter.

(E) *Density and setback requirements for signs which require permits.*

(1) Temporary identification and principal use signs are regulated as follows:

(a) In neighborhood business, highway business, light industrial and heavy industrial districts:

1. Signs shall be no closer than five feet from any right‑of‑way line and no closer than ten feet from any adjoining property line; and

2. At intersections and driveways, sign poles, supports or other sign appurtenances shall not encroach in the vertical plane of a triangular area formed by the intersection of the back of the curb (or in locations where no curb and gutter exists, the edge of the pavement or gravel road), and extending from the point of intersection of the two curbs 25 feet in the direction of each curb. At driveways extending into a parking lot that are not defined by a curb and gutter or other edge, a line perpendicular to the street shall be used to define the triangle. Sign faces with a height between ground level and three feet or above ten feet may protrude into the triangle. The sign setback requirements in this section shall be considered as an exception to the this chapter and is intended to require clear visibility between three and ten feet at intersections provided that subsection (E)(1)(a)1. above is adhered to.

(b) In the central business district, adequate setbacks and clearance shall be provided in order that trucks and other large vehicles may move close to the curb. No part of an attached or freestanding sign shall extend beyond a line projected vertically from two feet inside the curb, and no portion of the sign shall be less than ten feet above the finish grade of the sidewalk; provided that where the sign clearance is at least 15 feet above the finished sidewalk grade, the projecting or freestanding sign may be extended to a line projected vertically from the curbline.

(2) Outdoor advertising signs shall be set back a distance equal to the minimum setback requirements for the district in which they are located unless otherwise specified in this article. No permit shall be issued for any outdoor advertising sign closer than 100 feet to any residential use. In districts where there are not setback requirements, all freestanding outdoor advertising signs shall be at least ten feet from any right‑of‑way line or property line and 20 feet from a right‑of‑way intersection. The minimum distance between signs shall be 100 feet.

(2001 Code,  44‑495) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑496 PORTABLE SIGNS.**

(A) *Location.* Portable signs may be placed at the location where the event is to take place, or any lot located in an authorized zone, provided that there is not more than one portable sign per lot; and, provided that, written permission is obtained from the owner of the property where the portable sign is to be located.

(B) *Time limit.* A portable sign may be displayed for a period not to exceed 14 days prior to the special event being advertised, with the day of the event counting as one day. In no case shall a portable sign be allowed to be displayed for more than 14 days.

(C) *Size.* A portable sign shall not exceed 32 square feet in area.

(D) *Setback requirements.* Portable signs must meet density and setback requirements for signs which require permits.

(E) *Illumination.* Portable signs may be illuminated. A flashing sign is not allowed. The sign shall be neutral in color (white or off‑white) to blend with the surrounding area.

(F) *Area.* The area for the placement of the portable sign must be of adequate size; not hazardous to public safety and traffic, both vehicle and pedestrian; and not encroach upon other property.

(G) *Time limitation.* Use of a portable sign will be allowed once in a three‑month period and no more than four times in any individual calendar year.

(H) *Application.* An applicant for a portable sign shall complete and submit to the office of the Zoning Administrator a portable sign application and pay a permit fee as set from time to time and provided in the annual budget ordinance for each event a portable sign is to be placed. The applicant shall state on the application the date the applicant intends to place the portable sign, and the date of the event to be advertised. Applications for a portable sign located on lots other than where the event is to take place shall be accompanied by a letter signed by the property owner stating that the applicant has the permission of the property owner to display the sign on the lot. The Zoning Administrator shall determine the suitability of the sign for approval of the application. The Zoning Administrator shall have the authority to request additional information in order to evaluate the sign request.

(I) *Appeals.* Appeals may be made through the Board of Adjustment.

(J) *Removal.* The applicant for a portable sign shall be responsible for removal of the sign not more than 48 hours after the end of the event.

(K) *Zones allowed.* Portable signs shall be allowed by permit in the following zones: central business, neighborhood business, highway business, light industrial and heavy industrial. Portable signs shall not be allowed in any residential zone.

(2001 Code,  44‑496) (Ord. 98‑08‑01, passed 8‑11‑1998)

**44‑497 DISCONTINUED SIGNS.**

Upon the discontinuance of a business or occupancy of an establishment for a consecutive period of 180 days, the Zoning Officer shall require the removal of the on‑premises sign(s) advertising or identifying the establishment. The Zoning Officer shall give 30 days notice to the owner or his or her agent or the owner of the property where the sign is located to remove the sign(s). Failure to remove the sign(s) within the 30‑day period shall constitute a violation of this chapter and shall be remedied in accordance with  44‑18, 44‑19 or 44‑20 if this chapter.

(Ord. Z‑2005‑03‑1, passed 5‑10‑2005)

**44‑49844‑510 RESERVED.**

***ARTICLE XV. BUFFERING AND SCREENING***

**44-511 GENERALLY.**

(A) *General buffering and screening requirements*. Whenever screening is required, a minimum ten‑foot wide vegetation buffer must be provided to materially screen the uses within the subject property from the view of abutting properties. The vegetative buffer shall contain evergreen shrubs spaced not more than five feet apart, and not less than one row of dense shrubs planted at an initial height of at least three feet and shall be of a type that can be expected to be five feet or more in height after three growing seasons. The vegetative buffer shall be maintained continuously in a healthy state by the property owner(s). When a vegetative buffer is deemed inappropriate due to limited lot area, the Zoning Administrator may allow either a durable masonry wall or wooden fence designed to be compatible with the character of adjacent properties. Within residential districts, walls and fences must be at least five feet in height but not greater than ten feet in height, measured from the ground along the common lot line boundaries, walls and fences must be at least five feet high but not greater than eight feet high. Walls and fences must be constructed and maintained in safe and sound condition. No permanent structure(s) shall be allowed in the buffer area unless pre-existing and then only if approved by the Zoning Administrator.

(B) *Screening and outdoor storage*. Outdoor storage of any material, stocks or equipment, accessory to a principal use on any lot within any district other than a residential district must be screened from any abutting lots in residential districts in accordance with the requirements of division (A) above and other pertinent provisions of this chapter. The screening may be located anywhere on the property, subject to other pertinent provisions of this chapter, and provided that the open storage area is effectively screened as specified above.

(C) *Screening junkyards and salvage yards*. Junkyards and salvage yards must be screened from public view from any public street and from any abutting lots in accordance with the requirements of division (A) above and other pertinent provisions of this chapter. The screening may be located anywhere on the property, subject to other pertinent provisions of this chapter and provided that the junkyard or salvage yard is effectively screened as specified above.

(D) *Screening and zoning district boundaries*. In all cases where a residential district is bounded by any other zoning district, screening shall be required in accordance with the requirements of division (A) above and other pertinent provisions of this chapter when nonresidential property is developed. The screening shall be located along the perimeter of the property which is not zoned residentially.

(E) *Waiver of screening requirements when screening is already provided*. There may be cases where the unusual topography and elevation of a site, of the size of the parcel involved, or the presence of screening on abutting property would make the strict adherence to this chapter serve no useful purpose. In those cases, the Zoning Administrator is empowered to waive the requirements for screening as long as the spirit and intent of this chapter and the general provisions of this chapter pertaining to screening are adhered to. This section does not negate the necessity for establishing screening for uses abutting vacant property.

(F) *Vegetative requirements along perennial waters of the State of North Carolina and storm water drainage facilities.* In all circumstances where buffers and or screening is required and the area is with 50 feet of a perennial water or a storm water drainage facility, every effort shall be taken to preserve the integrity of the riparian area. The Zoning Administrator shall take into consideration existing conditions prior to her/his determination to remove any established vegetated materials in the buffer zone in order to comply with the requirements of this section.

**44‑51244‑520 RESERVED.**

***ARTICLE XVI. PLANNED UNIT DEVELOPMENT***

***Statutory reference:***

*Planning and regulation of development, see G.S.  160A‑360 et seq.*

**44‑521 STATEMENT OF PURPOSE.**

(A) For purposes of this chapter, a planned unit development (PUD) shall be a tract of land at least five acres in area, under single, corporation, firm, partnership or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved outline development plan and a preliminary site plan. It should be noted that a planned unit development that offers sites for sale is a subdivision and must be approved as such under the subdivision regulations, Ch. 34.

(B) The purpose of planned unit developments is to encourage the development of planned, commercial, industrial and residential neighborhoods and communities that provide a full range of residence types as well as certain commercial and office uses designed to serve the inhabitants. It is recognized that only through ingenuity, imagination and high‑quality design can residential developments be produced which are in keeping with the intent of this chapter while departing from the strict application of conventional use and dimensional requirements of the several zoning districts.

(C) Use of the PUD procedure is a conditional use in certain residential, commercial and industrial districts. This process will provide a voluntary alternate development procedure which will:

(1) Permit creative approaches to the development of land, reflecting changes in the technology of land development;

(2) Accomplish a more desirable environment than would otherwise be possible, providing a variety of housing and other building types, designs and arrangements;

(3) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower housing costs;

(4) Enhance the appearance of neighborhoods through the preservation of natural features, the provision of underground utilities and the provision of recreational and open space areas;

(5) Provide an opportunity for new approaches to home and commercial property ownership; and

(6) Provide an environment of stable character compatible with surrounding residential areas.

(2001 Code,  44‑521) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑522 APPLICATION REQUIREMENTS.**

An application for a conditional use permit for a planned unit development shall be accompanied by an outline development plan and text presenting the following information:

(A) Proposed land uses, the location of various dwelling types, and dwelling units, densities and the location of all other proposed buildings and construction;

(B) Proposed primary traffic circulation pattern;

(C) Proposed parks, playgrounds and other common open space areas;

(D) Delineation of the units or phases to be constructed in progression;

(E) Proposed means of dedication of common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space;

(F) Relation to land uses in surrounding area and to the land use plan;

(G) Impact on services provided by the town;

(H) Drainage, water and sewerage plans; and

(I) Statement as to ownership of streets, alleys and pedestrian ways and responsibility for their maintenance.

(2001 Code,  44‑522) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑523 APPLICATION APPROVAL.**

(A) In approving an application for a conditional use permit for a PUD and the outline development plan, the Town Board of Commissioners, subsequent to review, public hearing and recommendations from the Planning Board, shall find that the facts submitted with the application and presented at the public hearing establish:

(1) Each individual phase of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that the objective will be obtained; that the uses proposed will not be detrimental to present and potential surrounding uses;

(2) The primary streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in amounts as to overload the street network outside the planned unit development;

(3) Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the outline development plan;

(4) The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development; and

(5) Existing or proposed utility services are adequate for the population densities and uses proposed.

(B) If, from the facts presented, the Planning Board and the Town Board of Commissioners are unable to make the necessary findings, the application shall be denied.

(2001 Code,  44‑523) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑524 CONFORMITY TO PLAN AND TIME LIMITATION.**

(A) Site development within the PUD shall conform to the outline development plan and associated requirements approved by the Town Board of Commissioners as part of the permit conditions. Modification of the outline development plan and associated requirements may be made by the Town Board of Commissioners after review of the Planning Board, when requested by the owner of the PUD property.

(B) If construction of the PUD is not started within two years of the date of approval, the Town Board of Commissioners may consider canceling the approved outline development plan and conditional use permit. This time period is longer than other conditional use permits due to the complexity of the project.

(2001 Code,  44‑524) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑525 RESIDENTIAL PLANNED UNIT DEVELOPMENTS.**

(A) *Common open space.* In addition to the residential uses permitted in the district, common open space is required. Neighborhood business district uses may be permitted in developments of 30 acres or larger if they will serve the purposes of the PUD procedures. A list is to be submitted of the proposed uses at the same time the outline development plan is approved. Subsequent changes in the list may be made in the same manner as other outline development plan modifications.

(B) *Dimensional requirements.* All dimensional requirements shall be as in the applicable residential district with the exceptions, as defined in subsection (D) of this section. Yards forming the outer boundary of a planned unit development shall be in conformance with the minimum requirements of the applicable residential district. The only other exception to the dimensional requirements of the district is that zero lot lines are permissible so long as all required yards are maintained around each building and around the entire perimeter of the planned unit development.

(C) *Density.* Development area density shall be no greater than that normally permitted for the district in which the PUD is to be located, except as provided below. Development area density shall be computed by subtracting 15% of the gross area (as an allowance for streets), plus all areas designated for non-residential purposes (such as schools, churches and commercial facilities) from the gross area and dividing the remaining area by minimum conventional lot area requirements for the zoning district in which the PUD is to be located.

(D) *Density bonus.* A density bonus not to exceed 25% of the number of dwelling units permitted under the standard applicable district regulations may be approved by the Planning Board and Town Board of Commissioners in accordance with the following ratios of residential area to common open space. In each case, the Town Board of Commissioners must make a finding that the development will result in a significantly better environment than would otherwise have occurred in accordance with the established permitted density. Tentative application of the density bonus shall be included in the outline development plan for review and approval.

| ***Density Bonus Scale*** | |
| --- | --- |
| ***Percentage of Residential Area to Be Common Open Space*** | ***Percentage of Density Bonus*** |
| 1019 | 4 |
| 2029 | 8 |
| 3039 | 11 |
| 4049 | 15 |
| 5059 | 18 |
| 6069 | 22 |
| 70 or more | 25 |

(E) *Commercial, office and professional facilities.* Commercial, office and professional facilities, when permitted in a residential planned unit development, shall be developed in accordance with conventional requirements as outlined in this chapter. In addition, they shall be subject to the following requirements.

(1) The areas of specified size shall be planned as an integral part of the planned unit development.

(2) Proposed uses are gauged primarily for the service and convenience of residents of the planned unit development.

(3) Commercial areas are permitted at a maximum ratio of one acre commercial area per 100 dwelling units constructed and at increments of one‑half acre and 50 dwelling units above the first acre.

(4) The areas shall be so located and designed as to provide direct access to a major street without creating traffic hazards or congestion on other streets.

(5) The layout of parking areas, loading areas, entrances, exits, yards, courts and landscaping, control of signs, lighting, noise or other potentially adverse influences shall be such as to protect the residential character within and adjacent to the planned unit development.

(6) The establishments shall not by reason of their location, construction, manner of timing or operations, signs, lighting, parking arrangements or other characteristics have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular traffic.

(7) No building designed or intended to be used in whole or in part for commercial purposes shall be constructed prior to the construction of less than 50% of the dwelling units proposed in the plan, or construction of 100 dwelling units, whichever is smaller.

(2001 Code,  44‑525) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑526 COMMON OPEN SPACE.**

(A) Common open space required in residential PUDs means a parcel of land or an area of water or a combination of both land and water within the site designated for a planned unit development designed and intended for the use and enjoyment of residents of the proposed development or for the general public, not including streets or off‑street parking areas. Common open space shall be substantially free of structures, but may contain improvements as are in the plan as finally approved and are appropriate for the benefit of the residents.

(B) A minimum total area of 10% of the gross residential area shall be set aside as common open space in a planned unit development. Of this 10%, a maximum of one‑half may be areas covered by water.

(C) A maximum of 5% of the area designated to be common open space may be covered by structures clearly ancillary to the recreational use of the area. The structures may include tennis courts, pro shops, clubrooms, swimming pools and the like.

(D) The location, shape and character of the common open space must be suitable for the proposed development.

(E) Common open space shall be used only for amenity or recreational (active or passive) purposes and shall be dedicated to the town or remain in control of the PUD through a homeowners association or similar means. The uses authorized for the common open space must be appropriate to the scale and character of the development.

(F) Common open space must be suitably improved for its intended use, but common open space containing natural features clearly worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the area having regard to its topography and unimproved condition.

(G) All land shown on the outline development plan as common open space must be conveyed under one of the following options.

(1) It may be dedicated to the town for public use. Any dedication must be formally accepted by the town to be valid. Nothing in this chapter in any way obligates the town to accept the dedication of any property.

(2) It may be conveyed to the trustees provided in an indenture establishing an association of homeowners. The common open space must be conveyed to the trustees subject to covenants and easements to be approved by the Planning Board and Town Board of Commissioners which restrict the common open space to the uses specified on the plan, and which provides for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose. If the common open space is deeded to a homeowners association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for approval. The provisions shall include, but are not limited to, the following.

(a) The homeowners association shall be established before the homes are sold.

(b) Membership shall be mandatory for each home buyer, and any successive buyer.

(c) The homeowners association shall be responsible for liability insurance, payment of local taxes and the maintenance of recreational and other facilities.

(d) Any sums levied by the homeowners association that remain unpaid shall become a lien on the individual property.

(e) The homeowners association shall be able to adjust the assessment to meet changed needs.

(3) The common open space may be retained, operated and maintained by the PUD property owner or developer if a legal document is submitted to the town prior to the issuance of a building permit binding in perpetuity the common open space to be used as such and to be maintained in an appropriate manner. If, at any future date, the owner and operator of the common open space and its facilities wishes or is required to relinquish control of the facilities the common open space shall be conveyed as described in this section, dedicated to the town for public use or sold with all operating requirements and legal obligations still binding. The common open space shall forever be part of the planned unit development.

(2001 Code,  44‑526) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑527 COMMERCIAL AND INDUSTRIAL PLANNED UNIT DEVELOPMENTS.**

Commercial and industrial developments, such as shopping centers or planned industrial parks, may but are not required to use the PUD procedure. In such a case, all use, dimensional and other requirements of the district must be met There shall be no density bonus and no requirement for common open space. If sites are to be sold, the project is a subdivision and must be approved as such under the subdivision regulations, Ch. 34. The advantage of using the PUD procedure is that zero lot lines become permissible so long as all required yards are maintained around each building and around the perimeter of the planned unit development.

(2001 Code,  44‑527) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑528 SITE PLANNING.**

(A) *External relationships.*

(1) Site planning in the proposed development shall provide protection on the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.

(2) Consideration will be given to the location of uses, buffer, setbacks and street design and arrangement in the evaluation of the relationship of the development to its surrounding areas.

(B) *Internal relationships.*

(1) *Service and emergency access.* Access and circulation shall be adequately provided for firefighting equipment, service deliveries and refuse collection.

(2) *Underground utilities.* Planned unit developments shall provide for underground installation of utilities, including telephone and power in both public and private rights‑of‑way. Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm waters, prevent erosion and formation of dust.

(3) *Ways for pedestrians.* Walkways shall form a logical, safe and convenient system for pedestrian access to all dwelling units, project facilities and principal off‑site pedestrian destinations. Walkways to schools or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. Street crossings shall be held to a minimum.

(2001 Code,  44‑528) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑52944‑550 RESERVED.**

***ARTICLE XVII. MANUFACTURED HOME RENTAL COMMUNITIES***

***Statutory reference:***

*Zoning regulation of manufactured housing, see G.S.  160A‑383.1*

**44‑551 PURPOSE.**

The purpose of this article is to provide standards for the development of a manufactured home rental community. The requirements of this chapter cover the development of a plan for the rental community, the review and approval of the rental community plan, the design standards of the rental community and the inspection of the rental community.

(2001 Code,  44‑551) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑552 INTENT.**

The intent of this article is to promote the safety and health of the residents within the manufactured home rental community and to enhance the development of manufactured home rental communities in the town and the extraterritorial jurisdiction.

(2001 Code,  44‑552) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑553 DEVELOPMENT OF PLAN.**

A manufactured home rental community plan shall be developed and drawn to a scale of one inch to 100 feet and shall include the following:

(A) The name of the rental community, the name and address of the owner and the name and address of the designer or surveyor;

(B) The date, scale and approximate north arrow;

(C) The boundaries of the rental community;

(D) The site plan of the rental community showing streets, driveways, open areas, parking spaces, service buildings, watercourses, easements and manufactured home spaces;

(E) Name of adjoining property owners; and

(F) The identification of all gas, water, electric, telephone, television cable and sewer lines that will service the rental community. Streetlights, solid waste containers and surface water drainage plans shall also be included.

(2001 Code,  44‑553) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑554 REVIEW AND APPROVAL OF PLAN.**

Before a permit is issued for construction of a manufactured home rental community, the plan for the rental community must be submitted to the Zoning Administrator to ensure that the proposed manufactured home rental community meets the standards of this article. If the plan meets the standards of this article, the Building Inspector shall issue the permit for construction of the manufactured home rental community.

(2001 Code,  44‑554) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑555 DESIGN STANDARDS.**

(A) *General requirements.*

(1) A manufactured home rental community shall have one sign designating the community.

(2) A manufactured home rental community may have a manufactured home as a designated office.

(3) There shall be no more than one manufactured home or mobile home per space made available for the home.

(4) A manufactured home rental community may have material and equipment storage buildings for maintenance of the rental community.

(5) Each manufactured home shall be set up and installed in accordance with state regulations for installation of manufactured homes adopted and published by the State Department of Insurance.

(6) The operator/manager of a manufactured home rental community shall designate and enforce a uniform type of foundation enclosure for all manufactured homes or mobile homes in the rental community. Uniform type underpinning of brick or concrete block shall be required. No other substitutions will be permitted.

(B) *Manufactured home space.*

(1) Each manufactured home space shall have a permanent site number sign that is clearly visible from the street and located on each power panel box serving the home.

(2) Each manufactured home space shall have a minimum width of 50 feet and shall be open and unobstructed. Every home shall be located on a space with a minimum size of 5,000 square feet.

(3) Each manufactured home space shall have proper drainage to prevent accumulation of water.

(4) Each manufactured home stand shall have a solid ground surface where the home will be placed.

(5) Each manufactured home shall be located at least 25 feet from any building. Each home shall be at least 20 feet from any property line or right‑of‑way. Each home shall be set back at least 25 feet from streets within the rental community.

(6) There shall be an open area within the rental community provided by the owner and designated for recreational purposes.

(7) There shall be adequate space for off‑street parking of two passenger cars at each home.

(8) There shall be front and rear steps for each manufactured home. If a resident elects to have decks, the home will be required to have steps until decks are completed.

(C) *Streets.*

(1) Streets within the manufactured home rental community shall be constructed with an all‑weather surface, paved, which will provide all weather access to all manufactured home spaces. The town must approve grade and texture of pavement to be used.

(2) All streets shall be at least 20 feet wide.

(3) The street layout shall be designed to provide for the continuous flow of traffic, with culs‑de‑sac being permissible.

(4) Traffic control signs (stop, yield and speed signs) shall be placed throughout the rental community where necessary.

(5) Each street shall have a permanent sign installed with a designated name identifying each street.

(6) Streets and parking areas shall be maintained by the operator/manager of the rental community.

(7) Street lighting shall be provided throughout the rental community.

(D) *Utilities.*

(1) An adequate, safe and potable supply of water shall be provided for the rental community. The source of the water supply shall either be through a municipal or public water system with the rental community connecting to the water lines; or when a system is not available, the rental community must be serviced by a supply approved by the State Division of Environmental Management or the County Health Department, as required by law.

(2) An adequate and safe sewage disposal system shall be provided in the manufactured home rental community. Collection systems, sewage treatment facilities or individual septic tank systems shall be approved by the State Division of Environmental Management or the County Health Department as required by law.

(3) There shall be a storage and disposal system for solid waste for the rental community in order to alleviate health and pollution hazards. The residents of each home shall have a sufficient number of containers that have an adequate capacity and can be tightly sealed. It shall be the responsibility of the operator/manager of the rental community to see that a municipal or private solid waste disposal service is provided to the residents of the rental community on a weekly basis. This may or may not be at the expense of the residents.

(E) *Grounds and buildings.*

(1) The grounds of a manufactured home rental community shall be free of debris, trash and litter.

(2) Grounds, buildings and storage areas within the rental community shall be maintained to prevent the infestation of rodents, flies, mosquitoes and other pests.

(3) Grounds within the rental community shall also be maintained to prevent the growth of ragweed, poison ivy, poison oak and other weeds.

(4) All grounds within the rental community shall have proper drainage to prevent the accumulation of water.

(5) All recreational areas provided by the owner for the manufactured home rental community shall be maintained in a safe and sanitary manner by the operator/manager.

(6) The operator/manager shall provide space on the grounds for mail service to the residents of the rental community.

(2001 Code,  44‑555) (Ord. 1987‑4, passed 10‑19‑1987)

**44‑556 INSPECTION.**

The Building Inspector shall have the right to make inspections of a manufactured home rental community to determine that the requirements of this article are met. It shall be the responsibility of the operator/manager of the manufactured home rental community to see that the requirements of this article are met.

(2001 Code,  44‑556) (Ord. 1987‑4, passed 10‑19‑1987)