

CHAPTER 153: UNIFIED DEVELOPMENT ORDINANCE

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Statutory reference:

Authority to enact zoning provisions, see G.S. §160D.702

GENERAL PROVISIONS

§ 153.001 AUTHORITY AND ENACTMENT CLAUSE.

Zoning provisions enacted herein are under the authority of G.S. § 160D-702, which extend to cities the authority to enact regulations that promote the health, welfare and safety of the community. It is further authorized under G.S. § 160D-703 that cities are allowed to regulate and restrict the erection, reconstruction, alteration, repair or use of buildings, structures or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of that district. The General Statutes also require that all regulations be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

(Prior UDO, § 1) (Ord. passed - -)

§ 153.002 SHORT TITLE.

This chapter shall be known and may be cited as the zoning regulations of the city.

(Prior UDO, § 2)

JURISDICTION

§ 153.015 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the city and within the territory beyond the corporate limits as now or hereafter fixed, the territory being more particularly described on the city's official zoning map as certified by the City Clerk. The area shall also be referred to as the planning jurisdiction of the city. The planning jurisdiction boundary lines shown on the map shall be incorporated and made a part of this chapter as if fully set out herein.

(Prior UDO, § 3.1)

§ 153.016 PURPOSE.

(A) The purpose of the zoning regulations shall be to regulate the height, number of stories and size of buildings and other structures; the size of yards and other spaces; the density of population; the location and use of buildings, structures and land for trade and residence, and other purposes, so as to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote desirable living conditions and the sustained stability of neighborhoods; to discourage blight; to conserve the value of buildings and land; to facilitate the adequate and economic provision of transportation, water, sewerage, schools, parks and other public facilities and services; and to encourage the most appropriate use of land, buildings, and other structures within the planning jurisdiction of this chapter.

(B) The zoning districts as depicted on the city's official zoning map have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the general plan for the development of the community, as well as with due consideration of existing development and uses of land in the city and its planning jurisdiction and uses of land in adjacent areas.

(C) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

(Prior UDO, § 3.2)

DEFINITIONS

§ 153.030 INTERPRETATION OF TERMS AND WORDS.

(A) *Generally.* For the purpose of interpreting this chapter, certain words or terms are herein defined. The definitions shall apply to the usage of words throughout this chapter except where specifically exempted. Definitions, as they are to be applied to specific sections of the chapter, are found in §§ 153.121(A) and 153.346.

(B) *Interpretation of terms and words.*

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise.

(3) The word **PERSON** includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

(4) The word **LOT** includes the word **PLOT** or **PARCEL**.

(5) The word **BUILDING** includes the word **STRUCTURE**.

(6) The words **SHALL** and **MUST** are always mandatory (and not merely directory). The word **MAY** is directory and not mandatory.

(7) The words **USED** or **OCCUPIED** as applied to any land or building shall be construed to include the words **INTENDED, ARRANGED, DESIGNED OR DESIGNATED TO BE USED OR OCCUPIED**.

(8) The word **MAP** or **ZONING MAP** or **CITY ZONING MAP** shall mean the official zoning map of the City of Lincolnton, North Carolina.

(9) Any word denoting gender includes the female and the male.

(10) The term **CITY COUNCIL** shall mean the City Council of Lincolnton, North Carolina.

(11) The term **PLANNING BOARD** shall mean the Planning Board of the City of Lincolnton, North Carolina.

(12) The term **BOARD OF ADJUSTMENT** shall mean the Board of Adjustment of the City of Lincolnton, North Carolina.

(13) The term **LAND DEVELOPMENT PLAN** shall mean the Lincolnton land development plan adopted by the Lincolnton City Council on July 13, 2003, and any amendments thereto.

(14) The term **ADMINISTRATOR** shall mean the Zoning Administrator of the City of Lincolnton, North Carolina and/or the Subdivision Administrator of the City of Lincolnton, North Carolina. Furthermore, this position may also be referred to as the Unified Development Administrator.

(15) The term **PLANNING DEPARTMENT** shall mean the Planning Department of the City of Lincolnton, North Carolina.

(16) The term **CITY MANAGER** shall mean the City Manager of the City of Lincolnton, North Carolina.

(17) The term **DEEDS OFFICE** shall mean the Office of the Register of Deeds of Lincoln County, North Carolina.

(18) The term **BUILDING SIDE** shall include front, rear, right and left sides unless otherwise noted.

(19) The term **RECREATION, PUBLIC PARK** shall mean any publicly owned, leased, operated or maintained property that is designated as a park by the city, including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the public park or recreation facility.

(20) The term **RECREATION FACILITY** shall mean any publicly owned, leased, operated or maintained property that is designated as a recreation facility by the city, including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the recreation facility.

(21) Where there is a discrepancy between the text in this chapter and an illustration that is used to depict the text, the text shall prevail.

(Prior UDO, § 4.1) (Ord. ZTA-4-2025, passed 10-2-2025)

§ 153.031 DEFINITIONS OF SPECIFIC TERMS AND WORDS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except where specifically noted, the following is a list of terms and words used in this chapter. All words not specifically defined in this chapter shall be assigned their customary dictionary definitions. Additional definitions are found in §§ 153.121(A) and 153.346.

ABANDONMENT. A use shall be deemed to be abandoned when:

- (1) The use is discontinued for a consecutive period of 180 days;
- (2) The premises are devoted to another use;
- (3) When the characteristic equipment and furnishings of the nonconforming nonresidential use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days; or
- (4) Failure to take all positive action to resume the nonconforming use with reasonable dispatch, including the failure to advertise the property for sale or for lease.

ACCESSORY STRUCTURE. A structure detached from the principal structure on the same lot and customarily incidental and subordinate to the principal structure.

ACCESSORY USE. A use customarily and clearly incidental and subordinate to the principal use or building and located on the same lot with the principal use or building.

ADMINISTRATOR, UNIFIED DEVELOPMENT. The administrative official(s) appointed by the City Manager of the City of Lincolnton to administer this chapter. This person(s) may also be referred to as the **ADMINISTRATOR**.

ADULT CABARET. Any place featuring topless dancers, go-go dancers, strippers, male or female impersonators or entertainers displaying **SPECIFIED ANATOMICAL AREAS** as defined by G.S. § 14-202.10 as the statute may be amended from time to time, or other similar entertainers.

ADULT ESTABLISHMENT. Any place as defined by G.S. § 14-202.10 as the statute may be amended from time to time, including adult cabarets, except that the definition of massage business shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. **ADULT ESTABLISHMENT** specifically includes, however, any massage business where massages are rendered by any person exhibiting specified anatomical areas. **SPECIFIED ANATOMICAL AREAS** are those defined by G.S. § 14-202.10 as the statute may be amended from time to time.

AGRICULTURE USES. The commercial production, keeping or maintenance, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of the animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts and vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program.

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

ALTERATION. A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location or use.

ANIMAL HOSPITAL. A place where animals are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use. All facilities associated with an animal hospital shall be located indoors.

ANIMAL KENNEL. A commercial enterprise where more than six dogs or other domesticated animals are groomed, bred, boarded, trained or sold.

ARCADE, AMUSEMENT CENTER or GAME ROOM. An establishment operated for profit where two or more billiard tables or ten or more other type amusement devices and/or games of skill such as video games, pinball or table games, are provided for public use. This definition shall be construed to include facilities for the conduct of bingo gaming as a principal use.

ARCADE, CLASSIC. An establishment which provides an assortment of equipment and devices such as classic video games and other electronic games, often requiring insertion of coins or tokens to begin the play sequence, for amusement purposes only. This category excludes establishments that are engaged in or resemble gambling activities.

ATRIUM HOUSE. Attached or semi-attached one-story house on a small lot, the lot having a small yard space that is surrounded by the house and its privacy walls. As distinguished from the patio house, an **ATRIUM HOUSE** is always one-story, its yard space and lot size is usually smaller, and it is always attached (to another unit) in some fashion.

AUTO HOBBYIST. One who collects, repairs or alters automobiles to which he or she holds title for enjoyment, and not for commercial purposes, as an incidental, use on the premises where the person resides.

AUTOMOBILE BODY SHOP. Any building, premises and land in which or upon which a business is conducted that primarily involves the painting of vehicles or external repairing of damaged vehicles.

AUTOMOBILE GARAGE, REPAIR AND SERVICE. Any building, premises and/or land in which or upon which a business is conducted involving the maintenance or servicing of vehicles.

AUTOMOBILE PARTS SUPPLY STORE. An establishment that sells new and/or rebuilt automobile parts and accessories but does not include junkyards, used auto parts sales, or the installation of parts.

AWNING. A structure made of cloth, metal, or other material affixed to a building in a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BAIL BOND SERVICE. An establishment that provides surety, pledge money, property or other financial transfers for the purpose of securing the release from jail of an accused defendant pending trial.

BANNER. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational or corporate organizations.

BED AND BREAKFAST. A use that:

- (1) Takes place within a building that at any time prior to the establishment, was designed and used as a single-family residence;
- (2) Consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients;
- (3) Where the provision of meals, if provided at all, is limited to the breakfast meal, available only to guests; and
- (4) Where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of two full-time employees.

BLOCK. A piece of land bounded on one or more sides by streets or roads.

BOARDING HOUSE. A building where, for compensation, rooms and/or meals are provided for not less than three persons and not more than 12 persons; provided however, the operator or owner must reside within a separate dwelling unit within the building.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING, ACCESSORY. A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

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

BUILDING, PRINCIPAL. A building in which is conducted the principal use on the lot on which the building is situated. In a residential district, any structure containing a dwelling unit shall be deemed to be the **PRINCIPAL BUILDING** on the lot where it is located.

BUILDING SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any

building, including porches, (but excluding steps, ramps, bay windows, awnings, and HVAC equipment) and the nearest edge of the street right-of-way when measured perpendicularly thereto.

BUILDING WALL. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this chapter, the area of a wall will be calculated for a maximum of 50 feet in height of a building.

BULLETIN BOARD. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial places of public assembly.

BUSINESS PARK. A development on a tract of land which contains two or more separate office buildings, constructed and managed in an integrated and coordinated basis. A **BUSINESS PARK** may also be cited as an office park.

CANOPY. A permanent structure, other than an awning, attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A **CANOPY** is not a completely enclosed structure.

CARNIVAL. A traveling enterprise offering amusements.

CEMETERY. Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A **CEMETERY** shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or gravesite.

CERTIFICATE OF APPROPRIATENESS. A certificate issued by the Historic District Commission indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within a HO - Historic Overlay District.

CERTIFICATE OF COMPLIANCE. A document issued by the city allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this chapter and all other applicable regulations.

CHECK CASHING ESTABLISHMENT. A business, other than a bank or financial institution, that cashes checks, drafts, and money orders for a fee, service charge, or other consideration regulated pursuant to the provisions of G.S. Ch. 53, Art. 22.

CHILD ADVOCACY CENTER. A facility providing treatment and resources for child abuse victims and non-offended family members. Facilities housed in the center include staff offices, medical exam rooms, forensic interview rooms and other similar facilities.

CHURCH/HOUSE OF WORSHIP. A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead.

CIRCUS. A large enclosed area used especially for sports and animal performances.

CLUSTER HOUSING. A development pattern where the dwelling units are grouped or clustered on a density basis for the total land area of the development, rather than spread evenly throughout the site on a lot-by-lot basis. A **CLUSTER HOUSING DEVELOPMENT** includes permanent open space usually owned and maintained by a homeowner's association or the developer.

COMMUNITY CENTER. A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONDOMINIUM. A building, or a group of buildings, in which units are owned individually and the structure, common areas and facilities are owned by all of the owners on a proportional basis.

CONSTRUCTION. The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

CONSTRUCTION TRAILER. A structure standing on wheels towed or hauled by another vehicle which is used for neither overnight nor year round occupancy and is used exclusively at a construction project on a temporary basis for office or storage purposes.

CONTIGUOUS. Next to, abutting, or touching and having a boundary, or portion thereof, which is contiguous including properties traversed or separated by a road, stream, right-of-way or similar manmade or natural configuration.

CONTINUING CARE COMMUNITIES. Also called **LIFE CARE COMMUNITIES** and **CONTINUING CARE RETIREMENT COMMUNITIES**, these complexes include independent living units (apartments, condominiums, or cottages), assisted living (domiciliary care) facilities and/or nursing home beds. Residents may pay an entry fee which purchases a housing unit that can be used for the rest of their lives or units may be made available on a rental basis. If owned, the unit often reverts back to the development owner upon the death of the resident or surviving spouse.

CONVENIENCE STORE. A one-story retail store containing less than 3,600 square feet of gross floor area that is designed and stocked to sell primarily fuel, food (packaged and/or prepared), beverages and other household supplies to

customers who purchase a relatively few items (in contrast to a super market). It is designed to attract, and depends upon, a large volume of stop-and-go traffic. If fuel is sold, the sale of fuel shall be limited to the hours of 6:00 a.m. and 12:00 midnight. See definition of **EXPRESS FUEL/MINI-MART**.

COPY SERVICE. An establishment that provides photocopying, facsimile transmission (FAX), typing and/or word processing services and may provide light duty printing service through the use of small offset presses (e.g., printing of business cards, envelopes, forms, and other documents as opposed to heavy duty commercial printing). No printing machine noises are heard or vibrations felt outside the building in which a copy service is located.

COUNTRY CLUB. A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests.

CROSSWALK. A specially paved or marked path for pedestrians crossing a road.

CUL-DE-SAC. A street containing a turnaround at the end or the turnaround located at the end of a street.

CUSTOMARY HOME OCCUPATION. Any use of a commercial service customarily conducted within a dwelling (except as otherwise specifically provided for in this chapter) by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior physical, visual, audible or other sensory evidence of the secondary use; where no power other than that used in the home is used; where no signs other than one unlighted sign not in excess of three square feet is displayed; where no merchandise or other articles are stored in the open or in accessory resident buildings or are displayed for advertising purposes; where no assistants other than family members are employed or otherwise report for work; and which an area equivalent of not more than 25% of the principal building is used.

DAY CARE CENTER. A place where daytime care is provided to six or more children, older adults or adults with disabilities unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Care recipients who are related by blood or marriage to the attendant adult shall not be counted as patrons of the **DAY CARE CENTER**.

DAY CARE CENTER, ACCESSORY. A day care center facility located on the premises or adjacent to the premises of an office use, institutional use, commercial use, industrial use or group development for the primary purpose of care for the dependents of employees of a commercial, office, institutional or industrial use or of persons employed with a group development. Two or more businesses may jointly operate or sponsor one **ACCESSORY DAY CARE CENTER**. At least 50% of the clients enrolled shall be dependent of employees of the establishment(s) or of businesses within the group development sponsoring the facility.

DAY CARE CENTER, SMALL GROUP. A place where daytime care is provided to not more than five children unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Children who are related by blood or marriage to the attendant adult shall not be counted as patrons of the **SMALL GROUP DAY CARE CENTER**.

DEMOLITION. Any act or process that destroys in part or in whole a landmark or a structure on a lot or property.

DENSITY GROSS. A ratio expressed as the number of dwelling units per gross acre. The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, road, facilities and open spaces.

DEVELOPMENT. Unless the context clearly indicates otherwise, the term means any of the following:

- (1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- (2) The excavation, grading, filling, clearing, or alteration of land;
- (3) The subdivision of land as defined in G.S. § 160D-802;
- (4) The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL.

(1) An administrative or quasi-judicial approval made pursuant to this chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. **DEVELOPMENT APPROVALS** include, but are not limited to:

- (a) Zoning permits;
- (b) Site plan approvals; and
- (c) Variances.

(2) The term also includes all other regulatory approvals required by regulations adopted pursuant to this chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DOMESTIC VIOLENCE SHELTER. A structure providing temporary habitation for not more than 15 people within a Residential District and not more than 35 people in a GMC district, including family members, who are victims of domestic

violence.

DUPLEX. See **DWELLING, TWO-FAMILY.**

DWELLING, ATTACHED. A single-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED. A dwelling unit that is developed with open yards on all sides including modular homes but not including manufactured homes.

DWELLING, MULTI-FAMILY. A building, or portion thereof, used or designed as a residence for three or more families living independently of each other in separate dwelling units, including apartments, townhouses and condominiums.

DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family, but not to include manufactured homes as defined by this chapter.

DWELLING, TWO-FAMILY. A building arranged or designed to be occupied by two families living independently of each other in separate dwelling units.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. A grant by the property owner to the public, a corporation, or persons of the right to use a specified portion of a tract or tracts of land for a specified purpose.

ENGINEER, CITY. As designated by the City Council, a consultant or consulting firm(s) or city employee engaged or hired to provide engineering services for the city.

ESSENTIAL SERVICES.

(1) Publicly or privately-owned facilities or systems for the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not **ESSENTIAL SERVICES**, provided no transmitter or antenna tower exceeds 100 feet in height.

(2) **ESSENTIAL SERVICES** are divided into the following three classes:

(a) *Class I.* Transmission lines (whether, subterranean or overhead) including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields, cable television and telephone transmission lines; or similar utility lines.

(b) *Class II.* Booster stations, pumping stations, switching facilities, substations, lift stations, or other similarly required facilities in connection with telephone, electric steam, water, sewer or other similar utilities.

(c) *Class III.* Generation, production or treatment facilities such as power plants, sewage treatment plants, radio and television transmission towers, or similar utilities; operations centers for providers of essential services; and solid waste deposit stations where solid waste is deposited by the public in containers prior to the waste being hauled to another facility for disposal.

EXPRESS FUEL/MINI MART. A one-story retail store that is designed and stocked to sell a large volume of fuel and may also sell prepared and/or packaged foods, beverages, and household and picnic supplies, and automobile incidentals. It is designed to attract and depends upon a large volume of fueling and stop-and-go traffic. Automotive mechanical and/or maintenance services are not provided. Any retail business which generally meets the forgoing description and which sells fuel between the hours of 12:00 midnight and 6:00 a.m. shall be deemed an **EXPRESS FUEL/MINI-MART**.

FAMILY. An individual, or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit, exclusive of household servants; or a group of not more than six persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit.

FAMILY CARE HOME. A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities, the person with disabilities defined by state law.

FAMILY THEME PARK. An amusement and recreational facility with both indoor and outdoor amusements and including but not limited to enclosed game rooms, miniature 18 hole golf courses, batting cages, go-cart tracks, and remote controlled miniature car and boat operation facilities.

FARM, BONA FIDE. Property devoted to activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture. Any of the following constitutes sufficient evidence that property is being used for **BONA FIDE FARM** purposes:

(1) A farm sales tax exemption certificate issued by the Department of Revenue;

(2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. § 105-277.3;

(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax

return;

- (4) A forest management plan.

FARMERS' MARKET.

(1) **FARMERS' MARKET (SMALL SCALE).** A market (normally conducted outdoors) on pre-established dates at which locally and regionally grown fruits and vegetables are sold on a retail basis. Baked good items and handmade crafts may also be sold but may not constitute a majority of total sales.

(2) **FARMERS' MARKET (LARGE SCALE).** A market (normally with both indoor and outdoor facilities) normally with daily operating hours at which locally and regionally grown fruits and vegetables are sold on a retail basis. Baked good items, handmade crafts, produce items not native to the region, and other retail items may also be sold but may not constitute a majority of total sales.

FEED AND FLOUR MILLS. An establishment at which feed and grain are milled and stored.

FEED AND SEED STORE. A retail establishment at which animal feed, crop seeds and related products are sold. The milling or grinding of feed or flour at the establishments shall be prohibited as shall the storage of milled products.

FINANCE COMPANY. A commercial establishment that makes short and long term loans to individuals.

FINANCIAL INSTITUTION. A commercial bank, a mortgage bank, a savings bank, a savings and loan association, or a credit union any of which are licensed, insured or chartered by the United States of America or the state.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.

FLEA MARKET. An open-air market for new and/or second-hand articles and goods sold by one or more merchants that is conducted on an open nonresidential lot. Occasional yard sales conducted by individuals or nonprofit organizations shall not be deemed **FLEA MARKETS**, provided the yard sales are not conducted on more than six days per year or in the case of nonprofit organizations not more than ten days per year.

FLOOR AREA RATIO (FAR). The gross floor area of all buildings on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

FLORIST. A retail commercial establishment where flowers or ornamental plants are sold indoors.

FREEWAY BUSINESS SIGN. A sign which directs attention to an activity upon the premises where the sign is located so that the traveling public utilizing the limited access highway is conveniently provided with transient type services without endangering movement along and access to and from the limited access highway.

FRONTAGE. All the property abutting on one side of a street, not interrupted by an intersecting street, and measured along the street line.

GOLF COURSE. A tract of land for playing golf, improved with trees, fairways, hazards and which may also include as accessories clubhouses, shelters, golf ranges, and ball driving and golf course maintenance facilities.

GRADE OF STREET. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the side of the street at which grade is being measured.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale.

GREENHOUSE, COMMERCIAL. An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

GROSS FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building, measured for the exterior walls or from the centerline of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces or unused attics. This term also excludes pedestrian walkway common areas within enclosed shopping areas.

GROUND COVERS. Low growing plants such as grasses, ivies, creeping bushes and similar decorative planting. Where required by this chapter, **GROUND COVERS** shall have the capability of soil stabilization and erosion control.

GROUP DEVELOPMENT. A group of two or more principal structures built on a single lot, tract or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy by separate families, businesses or other enterprises. Examples would be: cluster-type subdivisions, row houses, apartment complexes, housing projects, school and hospital campuses and shopping centers.

GROUP HOME FOR AT-RISK YOUTH. A home with support personnel that provides room and board, personal care and habilitation services for not more than 12 at-risk youth between the ages of ten and 17 years.

GROUP HOME FOR PREGNANT WOMEN IN RECOVERY FROM SUBSTANCE ABUSE. A home with support

personnel that provides room and board, personal care and habilitation services for not more than 20 pregnant women in recovery from substance abuse.

GUN AND AMMUNITION SPECIALTY STORE. An establishment that specializes primarily in the sale of firearms, ammunition, hunting equipment and related items. A store such as a variety store, catalog showroom, department store, general sporting goods store or pawn shop which sells the items only as a sideline among a wide variety of merchandise shall not be deemed a **GUN AND AMMUNITION SPECIALTY STORE**.

HEALTH CENTER. A center, operated by a public agency, providing outpatient and short term hospital facilities for medical and mental health patients, as well as dental and social services.

HELISTOP. A facility or structure that is intended or used for the landing and takeoff of rotary wing aircraft in support of principal permitted uses, but not including the regular repair, fueling or maintenance of aircraft or the sale of goods or materials to users of the aircraft.

HEMP/CANNABIS DISPENSARY. A retail business that exclusively sells hemp or cannabis products for ingestion as authorized by the state. Such establishments shall not sell kratom, kava, tobacco, nicotine, or any paraphernalia.

HOMELESS SHELTER. A structure providing temporary habitation for not more than 35 homeless people. Qualified personnel shall staff **HOMELESS SHELTERS** on a full-time basis.

HOSPITAL. As defined in G.S. § 131E-76.

HOTEL. A facility offering transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms and recreation facilities.

IMPERVIOUS SURFACE. Any land surface covered by buildings or other material which reduces or prevents absorption of rainwater or other precipitation. Examples of this include buildings, canopies, paved surfaces and swimming pools.

IMPERVIOUS SURFACE RATIO. The gross area of all impervious surfaces on a lot divided by the lot area.

JAIL. As distinguished from a penal institution, a **JAIL** is a facility operated by Lincoln County (or a private contractor thereof) used for the temporary incarceration of persons after arrest or pending hearing or trial or for the incarceration and/or housing of persons serving sentences. The sentences are generally shorter than those assigned to state institutions and may involve work release or other types of overnight and/or weekend only incarceration in the facility.

JUNK YARD. The use of more than 600 square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles, appliances or machinery or parts thereof.

LANDMARK. A property or structure designated as a **LANDMARK** by ordinance of the City Council, pursuant to procedures prescribed in G.S. §§ 160D-940 through 160D-949, whereby it has been determined to be worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the city.

LINK. The portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered **LINKS**. However, alleys shall not be considered **LINKS**.

LOADING SPACE, OFF-STREET. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use or combination of uses, together with the customary accessories and open spaces belonging to the same. Utility and drainage easements located within the lot shall be deemed to be a part of that lot.

LOT AREA (SIZE). The total horizontal area within the legal lot lines of a lot exclusive of any portions of the lot that lie within street rights-of-way.

LOT, CORNER. A lot located at the intersection of two or more roads. A lot abutting on a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.

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

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

LOT LINE. A line of record bounding a lot that separates one lot from another lot or separates that lot from a public or private street or any other public space.

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.

LOT LINE HOUSE. A single-family detached dwelling unit that is placed against one of the side lot lines. The dwelling unit has a front and rear yard but only one side yard.

LOT LINE, INTERIOR. A lot line that does not have street frontage.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE. Any lot line abutting another lot and which is not a front or rear lot line.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the Deeds Office or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

LOT, PANHANDLE. A lot other than one having access on a cul-de-sac, which contains a narrow strip providing street access.

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or non-intersecting streets upon which it fronts.

LOT, SINGLE-TIER. A lot that backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

LOT, THROUGH. A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

LOT WIDTH. The distance between side lot lines measured at the building setback line.

MANUFACTURED HOME (MOBILE HOME). A dwelling unit that:

(1) Is not constructed in accordance with the standards set forth in the North Carolina State Building Code (Uniform Residential Building Code for One- and Two-family Dwellings);

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

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

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

(1) The minimum width (the width being the narrower of the two overall dimensions) of the main body of the manufactured home as assembled on the site shall be at least 22 feet for a distance extending along the length (the length being the longer of the two overall dimensions) of at least 20 feet;

(2) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run, the roof is finished with a type of shingle that is commonly used in standard residential construction and which does not exceed the reflectivity of gloss white paint, and the roof has an overhang (eave) extending at least ten inches from each vertical exterior wall. A site-installed gutter may be counted in the width of the eave;

(3) The exterior siding consists of wood, hardboard, vinyl, brick or aluminum and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, and which does not exceed the reflectivity of gloss white paint;

(4) A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy;

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

(6) The manufactured home is set up on the site in accordance with the standards set by the North Carolina Department of Insurance;

(7) Stairs, porches, entrance platforms and other means of entrance and exit to the manufactured home shall be installed and constructed in accordance with the standards set by the North Carolina Department of Insurance; and

(8) The manufactured home is oriented on the site in a manner that the side having the main entrance, and by design intended to be the front of the manufactured home is generally parallel to a public street abutting the site.

MANUFACTURED HOME (MOBILE HOME), CLASS B. A manufactured home that meets all of the criteria of a Class A manufactured home, except criteria divisions (1), (2), (3), (4) and (8).

MANUFACTURED HOME (MOBILE HOME), PARK. A parcel of land under single ownership on which three or more manufactured homes are occupied as residences.

MEDICAL CLINIC. A facility where one or more medical professionals (medical doctor, dentist, osteopath, chiropractor, optometrist, podiatrist, physical therapist) provide outpatient treatment services.

MEDICAL EDUCATION CENTER. A center for the ongoing training and education of licensed healthcare personnel. The centers include nursing schools and medical education centers in support principal permitted uses.

MEMORIAL SIGN OR PLAQUE. A sign commemorating the erection and/or dedication of a building including name of building, date of erection, and other information such as architect, contractor, or others involved in a building's creation, cut into or attached to a building surface.

MINI-WAREHOUSE. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis for indoor storage purposes. No outdoor storage shall be allowed in conjunction with the facility.

MOBILE HOME. See **MANUFACTURED HOME.**

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in North Carolina State Building Code (Uniform Residential Code for One- and Two-family Dwellings), and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A **MODULAR HOME** shall be deemed a single-family dwelling as defined in this chapter.

MOTEL. An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTORCYCLE SALES. A facility which displays and/or sells motorcycles. Outdoor storage is limited to during business hours only. Any outdoor storage of motorcycles not during business hours would require approval as a conditional use permit.

MULTI-FAMILY DEVELOPMENT. A tract of land under single individual, corporate, firm, partnership or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitely programmed series of development operations. The development shall consist of two or more duplex buildings, or three or more dwelling units sharing one or more common walls. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

NODE. The terminus of a street or the intersection of two or more streets, except that intersections that use a roundabout shall not be counted as a **NODE**. For the purposes of this section, an **INTERSECTION** shall be defined as the point of crossing or meeting of two or more streets.

NONCOMMERCIAL (SIGN) COPY. A sign message through pictures, illustrations, symbols and/or words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.

NONCONFORMING LOT. Any lot of record that does not meet the minimum area or width requirements established in these regulations or any amendment thereto.

NONCONFORMING SIGN. Any sign that was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this chapter, and which fails to conform to all applicable standards and restrictions of this chapter.

NONCONFORMING STRUCTURE. Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering the structure nonconforming, which does not comply with all of the standards and regulations of this chapter or any amendment thereto.

NONCONFORMING USE. A use or activity which does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of any subsequent amendments to this chapter.

NURSERY. A commercial enterprise on land used to raise flowers, shrubs and plants for sale. **NURSERIES** may use greenhouses for the raising of these items.

NURSING CARE FACILITY. A facility that serves people who need nursing and supportive domiciliary care. Nursing care is provided for eight or more hours per day.

OFFICE. A room or group of rooms used for the conduct of a business, profession, service industry or government where retail trade is not conducted.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services primarily for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OFFICE PARK. See **BUSINESS PARK.**

OFFICE TRAILER. A building manufactured in a plant and transported to the use site and used exclusively for business or office purposes on a temporary basis.

ON-PREMISES DAY CARE FACILITY. A publicly licensed day care facility for six or more children located on the site of a principal business, office or industrial use, the day care facility being designed and operated primarily for the care of children whose parent or guardian is employed on the site of the principal use.

OPEN-AIR VENUE/OUTDOOR VENUE. A facility which would be used for such events as weddings, rehearsal dinners, dinner parties, graduation parties, birthday parties, retirement parties, bridal showers, baby showers, luncheons and similar uses. The use shall have limited days and hours of operation and must be able to either provide parking on site or by contract with a nearby lot.

OPEN SPACE, COMMON. Land and/or water areas within the site designated for development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by street, street rights-of-way or off-street parking.

OPEN SPACE, COMMON, IMPROVED. Common open space which has been improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses and the like.

OPEN SPACE, UNOBSERVED. Land not covered by buildings or structures.

OPEN STORAGE. An unroofed area for the storage of bulk materials or discarded items whether fenced or not but not including items and non-bulk materials openly displayed for the purpose of retail sale.

OUTLET STORE, ACCESSORY.

(1) A sales facility located on the same premises and accessory to a principal manufacturing, distribution, or shipping facility. The **ACCESSORY OUTLET STORE** must be clearly incidental to the principal use.

(2) If open to the general public, at least 50% of the value of goods sold must either:

(a) Be manufactured by the owner of the store if owner is a manufacturer;

(b) Be salvage goods distributed from the principal use, if principal use is a distribution facility; or

(c) Be salvage goods obtained by the owner or operator of the principal use the requirement to meet either division (2)(a) or (2)(b) does not apply.

(3) If open only to employees of the owner or operator of the principal use, the requirement to meet either criteria (2)(a), (2)(b) or (2)(c) above does not apply.

OUTPATIENT WELLNESS CENTER. A center designed for the ongoing health care needs of established medical patients which can include a variety of services including, but not limited to, physical or mental therapy in support of principal permitted uses. The centers shall not be deemed to include YMCAs or YWCAs or commercial physical fitness centers.

PACKAGE TREATMENT PLANT. A small self-contained sewage treatment facility built to serve developed areas beyond the service area of sanitary sewers. The facilities are usually not owned by a governmental unit.

PAINTBALL GAMING FACILITY, OUTDOOR. The play of paintball games in an outdoor area consisting of more than five acres of land. No buildings or structures temporary or otherwise can be erected as part of the gaming area. The gaming area shall be at least 200 feet away from any residential structure and the use of tires as barriers shall be prohibited. Screening shall be required adjacent to all residential areas. The boundaries of the gaming area must be clearly identified by fencing, netting, trees, berms or a combination thereof.

PARAPET. The portion of a building wall or false front that extends above the roofline.

PARK. See **RECREATIONAL FACILITIES.**

PARKING BAY. The parking module consisting of 1 or more sets of 1 or 2 rows of parking spaces and the aisle from which motor vehicles enter and leave.

PARKING SPACE. A storage space of not less than 9 feet by 19 feet for one automobile, plus the necessary access space. All off-street **PARKING SPACES** shall be located outside the dedicated street right-of-way.

PATIO HOUSE. A single-family house built on a small lot enclosed by garden walls that provide privacy. Dwelling units themselves are detached but may be connected to other dwelling units by means of garden walls. Dwellings may be located with 1 or 2 sides on lot lines and in those cases the outside wall of the dwelling forms the privacy wall for the adjoining lot.

PAWN SHOP. A shop where money is lent on the security of personal property pledged. The property may then later be sold on a retail basis at the shop.

PENAL INSTITUTION. As distinguished from a jail, a facility operated by the state (or private contractor thereof used primarily for the incarceration or housing of persons serving criminal sentences. State prisons, prison camps and penitentiaries are examples of **PENAL INSTITUTIONS.**

PERMANENT COSMETICS. The application of pigments to or under the human skin for the purpose of permanently or semi-permanently changing the color or other appearance of the skin. **PERMANENT COSMETICS** shall include but are not limited to cosmetic enhancement or restoration of the eyebrows, lips, and hairline on the top of the skull, or for areola re-pigmentation post- mastectomy. **PERMANENT COSMETICS** do not include body art, body piercing or the adornment of the body with letters, images, drawings, or other illustrations.

PERMIT, BUILDING. Written permission issued for the construction, repair, alteration or addition to a structure.

PERMITTED USE. A use allowed within a zoning district as a matter of right (as opposed to a use that is permitted subject to prescribed standards).

PERSONAL HEALTH CLINIC. A medical or health clinic which routinely provides for the care and treatment of and testing for physical emotional or mental injury, illness or disability and which may include overnight patient care.

PLANNED RESIDENTIAL DEVELOPMENT (PRD). A development planned and developed as an integral unit consisting of 1 or more residential-unit types and conforming to all applicable lot and bulk regulations.

PLANNED UNIT DEVELOPMENT. An area planned as a single entity containing one or more residential, commercial or mixed-use clusters.

PLANNING JURISDICTION. All areas within the corporate limits of the city and the city's extraterritorial jurisdiction as depicted on the city's official zoning map that are subject to the rules and regulations contained in this chapter.

PLANTING STRIP. A section of land that contains plant or other natural materials and for the purpose of creating a visual separation between uses or activities.

PLAT. A map or plan of a parcel of land that is to be or has been subdivided showing the subdivision.

POSTAL STORE. A commercial establishment that specializes in the sale of postal and packaging items and mailing and parcel expressing services. Private mailboxes, rental service, photocopying and facsimile transmission (FAX) services may also be offered.

PREMISES. A parcel of real property with a separate and distinct number of designations shown on a recorded plat, record of survey, parcel map or subdivision map. When a lot is used together with 1 or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered as single **PREMISES** for purposes of these regulations.

PRINCIPAL USE. The primary or predominant use of any lot.

PRIVATE RESIDENTIAL QUARTERS. An accessory dwelling (other than a manufactured home) either attached or part of the principal residential use or separate from the principal use in the form of a guest house or garage apartment provided that the dwelling is not rented or occupied for gain and provided that no accessory building containing the use is constructed on a lot until the construction of the main building has commenced. All private residential quarters shall require a permit to be issued annually by the Administrator. The principal dwelling on the lot containing the private residential quarters shall be owner-occupied.

PUBLIC SAFETY STATION. A facility operated by a public agency, a private contractor thereof, or by a private non-profit volunteer organization and used for the base of operations and/or housing of equipment or personnel for the provision of dispatched public safety services including law enforcement, fire protection, rescue services, and/or emergency medical services. The facility may contain living quarters for on-duty personnel. It may also contain up to 4 holding cells for the temporary custody of persons under arrest. Facilities for the maintenance of equipment housed at the operation site are also permitted.

RECREATION, INDOOR. An establishment that is primarily intended for recreational activities within enclosed structures. This category includes but is not limited to venues such as classic arcades, bowling alleys, skating rinks, billiard tables, escape rooms, theaters, trampoline parks, dance studios, gymnastics centers, fitness centers, smash rooms, sports simulation machines, and virtual reality gaming centers. These spaces offer a range of entertainment, physical activity, and social engagement opportunities and are designed to accommodate various age groups and recreational interests. This category excludes establishments that are engaged in or resemble gambling activities. The noise level generated by this activity should not adversely impact surrounding uses.

RECREATION, OUTDOOR. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate the activities.

RECYCLING CENTER. A structure at which newspapers, aluminum cans, glass, corrugated paper or backyard waste (i.e., grass cuttings, tree limbs and the like) are deposited for the purpose of being recycled. All goods shall be housed at all times within the structure. The outdoor storage of all goods to be recycled shall be prohibited. Closed bins shall be deemed to be a structure for the purpose of this definition.

RECYCLING STATION - CONSTRUCTION AND DEMOLITION MATERIAL. A facility which recycles construction and demolition material including concrete, asphalt, wood materials, metal, wall materials (sheetrock, and drywall). These materials would be separated and either crushed or ground into usable material. 95% of the material would be recycled and any residuals that cannot be reused would be placed in a permitted landfill either private or county. Stockpiles would be created from the usable material and be sold by weight or by truckload count.

REMOVAL. Any relocation of any part or all of a structure that is taken from its existing site or to another site.

REST HOME (HOME FOR THE AGED AND INFIRM). Facilities licensed to provide domiciliary care for more than six elderly or disabled adults who do not need nursing care but are no longer able to remain in their own homes because they need assistance in meeting their day-to-day basic needs. The facilities servicing 6 or fewer people are deemed **FAMILY CARE HOMES**.

RESTAURANT. A commercial establishment other than a drive-in or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

RESTAURANT, DRIVE-IN. A building or portion thereof where food and/or beverage are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises.

ROAD. A dedicated public right-of-way for vehicular traffic (or a private road when permitted by this chapter). The word **ROAD** includes, but is not limited to, **STREET, FREEWAY, HIGHWAY, EXPRESSWAY** and **THOROUGHFARE**.

(1) **ROAD, ARTERIAL.** A road that collects and distributes traffic to and from collector roads and which may contain signals at important intersections.

(2) **ROAD, COLLECTOR.** A local access road that serves as a connector street between local roads and the thoroughfare system.

(3) **ROAD, FRONTAGE.** A local road that is parallel to a full or partial access controlled road and functions to provide access to adjacent lands.

(4) **ROAD, LOCAL.** Cul-de-sacs and loop streets generally less than 2,500 feet in length, or streets less than one mile in length that do not serve as major traffic generators.

(5) **ROAD, LOCAL RESIDENTIAL.** A local road serving primarily residential properties.

(6) **ROAD, PUBLIC.** A road meeting all minimum construction standards of NCDOT and available for use by the general public.

SALON. An establishment where people go to receive beauty treatments, and/or purchase beauty products. These treatments primarily include one or more of the following: 1) cutting, trimming, shampooing, weaving, coloring, waving, or styling hair; 2) providing facials; 3) applying makeup (including permanent makeup, but not Body Art); and 4) providing nail care services, such as manicures, pedicures, and nail extensions. **TATTOO STUDIO** shall not be included under this definition.

SATELLITE DISH. An apparatus capable of receiving a communications signal from a transmitter relay located in planetary orbit.

SCALE (PLAN SCALE). Where this chapter uses the term **SCALE** in the sense of requiring plans drawn to scale, it shall mean scale using a standard civil engineer's scale.

SERVICE STATION. Any building, land area or other premises, or portion thereof, primarily used or intended to be used for the retail dispensing or sales of vehicular fuels and including any minor repair work conducted as an accessory use, but not including convenience stores.

SETBACK. A distance measured inward from a property line that shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this chapter.

SETBACK, FRONT. The portion of the front yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted in this chapter.

SETBACK, REAR. The portion of the rear yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter.

SETBACK, SIDE. The portion of the side yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted in this chapter.

SEWAGE DISPOSAL SYSTEM, PRIVATE. A sewage disposal system serving one connection that is usually owned and controlled by a private single entity.

SEWER SYSTEM, PUBLIC. A means of collecting, transporting and treatment of sewage by a public entity (e.g., city, town, county or district), or other public body created by, or pursuant to state, federal and local laws, or any combination thereof acting cooperatively or jointly. A package treatment plant shall be considered part of a public sewer system if owned by a city, town, county, district and the like.

SHOPPING CENTER. Two or more retail uses planned, developed and managed as a unit and related in location, size and type of shop to the needs of the trade area which is being serviced and with customer and employee parking provided on site and the provisions goods delivery separated from customer access. **SHOPPING CENTERS** shall be construed to include all out parcels, whether or not developed, located within the shopping center site or development plan. **SHOPPING CENTERS** are divided into three classes - Class A, Class B and Class C. **SHOPPING CENTER** may contain any use otherwise, permitted or subject to prescribed standards in the respective zoning district.

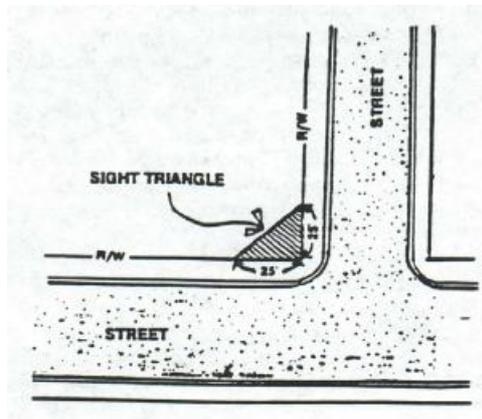
SHOPPING CENTER, CLASS A. A small neighborhood shopping center which does not exceed a total of 10,000 square feet in gross floor area.

SHOPPING CENTER, CLASS B. A community shopping center that has at least 10,000 but no more than 50,000 square feet of gross floor area.

SHOPPING CENTER, CLASS C. A shopping center which is designed to serve the entire community and has over 50,000 square feet of gross floor area.

SHRUB. A woody bush-type plant that has branches and is at least 16 inches tall above the highest root at the time of planting.

SIGHT TRIANGLE. A triangular area on a corner lot adjoining the rights-of-way of the two intersecting streets, the triangular area being formed by the intersecting lines of the street rights-of-way and a straight line connecting two points, each points being 25 feet from the intersection of the two street rights-of-way. See diagram below:



SIGN. Any object, device, or structure, or part thereof, situated outdoors (or indoors behind transparent surfaces on the wall or window of a building intended to be viewed only from outdoors), which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letter, figures, designs, symbols, fixtures, colors, illumination or projected images. **SIGNS** do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; religious symbols; or scoreboards located on athletic fields.

SIGN, ADVERTISING. A sign that directs attention to or communicates information about a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is displayed. Any sign larger than 32-square feet directing attention to a commodity, service or entertainment conducted, sold or offered only incidentally upon the premises where the sign is displayed shall also be deemed an **ADVERTISING SIGN**.

SIGN, CAMPAIGN OR ELECTION. A sign that advertises one or more candidates or other individual person for public office, political party or issue, to be voted on a definite election day.

SIGN, CANOPY OR AWNING. A sign attached to or painted or printed onto a canopy or awning. For the purposes of this chapter, the permitted size of a **CANOPY OR AWNING SIGN** will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be deemed a wall sign.

SIGN, CONSTRUCTION. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

SIGN, DIRECTIONAL. A sign fronting on a road containing only the name of the principal use, directional arrow and mileage to the principal use. The principal use shall not be visible to the motorist at the location at which the sign is placed.

SIGN, DIRECTORY. A sign on which the names and locations of occupants or the use of a building or property is identified.

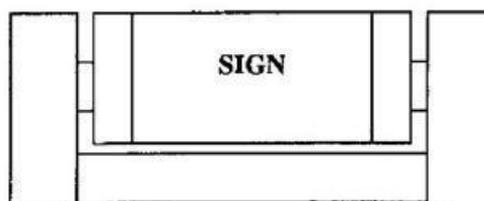
SIGN, FLASHING. A sign that uses an intermittent or flashing light source or windblown and/or mechanical moved reflective materials to attract attention.

SIGN, FREE-STANDING. Any sign that is not affixed to a building and is securely and permanently mounted in the ground. The sign may be a ground mounted sign, pole or monument sign.

SIGN, GOVERNMENT. Any temporary or permanent sign erected and maintained for any government purposes.

SIGN, GROUND MOUNTED. A sign which extends from the ground or which has supports which places the bottom thereof less than two and one-half feet from the ground directly beneath the sign.

Example of Ground Mounted Sign



SIGN, IDENTIFICATION. A sign which displays on the name, address and/or crest, or insignia trademark, occupation or profession of an occupant or the name of any building on the premises.

SIGN, INCIDENTAL. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps,

vending machines or newspaper racks.

SIGN, INSTRUCTIONAL. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using words such as "Entrance," "Exit," "Parking," "One-Way" or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

SIGN, ILLUMINATED. A sign either internally or externally illuminated.

SIGN, LIGHTED. A sign illuminated only by light cast upon the sign from an external light source.

SIGN, LUMINOUS. A sign lighted by or exposed to artificial lighting either by lights on or in the sign. Neon signs shall be deemed **LUMINOUS SIGNS**.

SIGN, MEMORIAL OR PLAQUE. A sign commemorating the erection and/or dedication of a building including a name of building, date of erection, and other information such as architect, contractor or others involved in a building's creation, cut into or attached to a building surface.

SIGN, MONUMENT. A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.

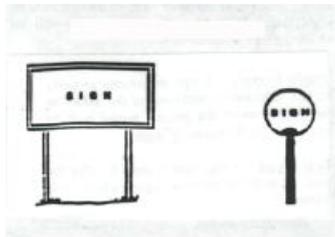
SIGN, NONCONFORMING. Any sign that was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this chapter, and which fails to conform to all applicable standards and restrictions of this chapter.

SIGN, OFF-PREMISES TEMPORARY SPECIAL EVENT. A sign that directs attention to or communicates information about a temporary special event offered elsewhere than upon the premises where the sign is displayed.

SIGN, ON-PREMISES. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided on the premises where the sign is located.

SIGN, POLE. A detached sign erected and maintained on a freestanding frame, mast or pole and not attached to any building but not including ground-mounted signs. The bottom of the signs shall be greater than two and one-half feet from the ground directly beneath the sign.

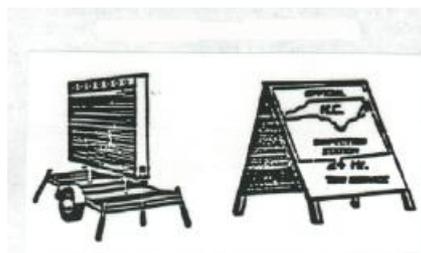
Examples of Pole Sign



SIGN, PORTABLE. Any freestanding sign that is not permanently affixed to the ground and can freely and easily be removed from one location to another. A sign is permanently affixed to the ground if its supporting elements are set in a manner as to manifestly indicate that the sign is intended to remain in one location for an indefinite period. Without limiting the generality of the foregoing, **PORTABLE SIGNS** shall include any sign mounted on a trailer or on a stand not attached to the ground, or on wheels as well as A-shaped or sandwich signs that can, with little difficulty, be moved from place to place.

SIGN, PORTABLE SIDEWALK. A portable sign with a maximum dimension of ten square feet and displayed only during the business operating hours of the business/use being advertised. The signs shall be sufficiently weighted so as to be stable in windy conditions.

Examples of Portable Signs



SIGN, PRIMARY. The main or principal sign located on-premises.

SIGN, PROJECTING. Any sign other than a wall, awning, canopy or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

SIGN, PUBLIC INTEREST. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as "Warning" and "No Trespassing" signs.

SIGN, REAL ESTATE. A sign that is used to offer for sale, lease or rent the premises upon which the sign is placed.

SIGN, ROOF. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

SIGN, SETBACK. The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member whichever is nearest to the property line or right-of-way.

SIGN, VEHICULAR. Signs on parked vehicles or trailers visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this chapter, **VEHICULAR SIGNS** shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

SIGN, WALL. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls shall be deemed **WALL SIGNS**.

SIGN, WINDOW. A sign in a building window intended to be seen primarily or entirely from outside the building.

SMOKE SHOP. A commercial establishment, operated as a principal use, engaged in the retail sale of tobacco, nicotine, hemp-derived compounds, including CBD, for the purpose of human ingestion as authorized for sale by the state, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco, tobacco-related paraphernalia of any type, electronic cigarettes, any electronically actuated device or inhaler meant to simulate cigarette smoking that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. **SMOKE SHOP** does not include **HEMP/CANNABIS DISPENSARY**.

SPECIAL, HIGHWAY. Any highway listed as a special highway in § 153.120 of this chapter.

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

STREET PROPERTY LINE. The line which separates a lot or parcel of land from a street right-of-way created by dedication resulting from the recording of the lot.

STREET RIGHT-OF-WAY. An area of land occupied or intended to be occupied by a public street, including areas offered for dedication to the public for those purpose, areas claimed by the city or the state for those purposes or actually used for those purposes.

STRUCTURE, ACCESSORY. A building separate and subordinate to the principal building on the same lot as the principal building used for purposes customarily incidental to the principal building.

STRUCTURE, PRINCIPAL. A structure in which the principal use on the lot takes place.

SUBDIVIDER. Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined. The subdivider shall also be known as the **APPLICANT**.

SUBDIVISION. All divisions of a tract or parcel of land into 2 or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets.

SUBDIVISION, EXCEPTION is not subject to subdivision regulations but is subject to plat review, zoning, and other regulations.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as shown in its subdivision regulations;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

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

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the city as shown in this chapter; and

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with interstate succession under G.S. Ch. 29.

SUBDIVISION, MAJOR. A subdivision where:

(1) New roads are proposed or rights-of-way are dedicated; or

(2) More than 10 lots are created after the subdivision is completed.

SUBDIVISION, MINOR. A subdivision where:

(1) No new roads are proposed or road rights-of-way dedicated; and

(2) Where 10 or fewer lots are created after the subdivision is completed.

SUBDIVISION TECHNICAL REVIEW COMMITTEE. A committee appointed by the City Council to review plats and to make recommendations to the Planning Board regarding the plats. The committee may also be referred to as the **TRC**. The **TRC** shall consist of a representative from the following agencies:

- (1) Lincoln County Health Department;
- (2) North Carolina Department of Transportation;
- (3) Soil and Water Conservation District;
- (4) City of Lincolnton Public Works Department; and
- (5) City of Lincolnton Planning Department.

TATTOO STUDIO (BODY ART). A facility licensed by the North Carolina Department of Public Health to administer body art, including body piercing and artistic tattooing. See the following subsection definitions for clarity:

(1) **BODY ART.** Art that is made on the human body, including body piercing, artistic and cosmetic tattooing.

(2) **BODY PIERCING.** The act of penetrating the skin to make, generally permanent in nature, a hole, mark, or scar. Body piercing does not include practices that are considered medical procedures or the puncturing of the outer perimeter or the lobe of the ear using a pre-sterilized, single use stud and clasp ear piercing.

(3) **TATTOOING.** Any method of placing designs, letters, scrolls, figures, symbols or any other marks upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

TAVERN. An establishment devoted primarily to serving alcoholic beverages to the public for on-premises consumption including pubs, microbreweries, brewpubs and bars.

TEMPORARY HOMELESS SHELTER. A structure providing temporary habitation for not more than 35 homeless people. The structure shall not be used for more than one year before the use must cease for a period of not less than one year. Qualified personnel shall staff **TEMPORARY HOMELESS SHELTERS** on a full-time basis.

TENT ASSEMBLY. Public assemblies using tent or similar temporary structure for purposes other than a business, circus, carnival, entertainment performances or overnight occupancy.

THOROUGHFARE. Any existing or proposed road designated on a thoroughfare plan as a major or minor thoroughfare, the plan having been duly adopted or accepted by the City Council or County Board of Commissioners, the GCL MPO and the North Carolina Department of Transportation.

THOROUGHFARE PLAN. The most recently adopted version of the thoroughfare plan of the city as approved by the City Council, the GCL MPO and the North Carolina Department of Transportation.

TOWN HOUSE. Attached dwellings on separate lots that share common walls at the side lot lines. Yards are small.

TRACT. A piece of property upon which a subdivision is proposed.

TRADITIONAL NEIGHBORHOOD DEVELOPMENT. A type of planned unit development (PUD) that contains both residential and nonresidential uses that are built in an urban and compact configuration

TRANSITIONAL INFILL DEVELOPMENT (TID). A type of planned residential development (PRD) intended to be situated on smaller lots than a typical PRD.

TREE, LARGE. A tree which, at the time of planting, has a caliper of at least one and three-fourths inches and a height of at least ten feet and of a species which, at maturity, can be expected to reach a height of at least 40 feet under normal growing conditions in the local climate.

TREE, PROTECTED SIZE. All deciduous and coniferous trees with a caliper of three inches or greater and all dogwoods, redbuds and American hollies that are at least four feet high.

TREE, SMALL. A tree which, at the time of planting, has a caliper of at least one and one-half inches and a height of at least five feet and of a species which at maturity, can be expected to reach a height of at least 20 feet under normal growing conditions in the local climate.

TWIN HOUSE. Two dwelling units on separate lots joined by a common building wall along the property line.

UNOBSTRUCTED OPEN SPACE. See **OPEN SPACE, UNOBSTRUCTED.**

UNIFIED DEVELOPMENT ADMINISTRATOR. The administrative official appointed by the City Manager to administer this chapter. This person may also be referred to as the Administrator.

UTILITIES, PUBLIC. Utilities (e.g., sewer, water, electricity) provided by a city, town, county, district or other public body, pursuant to state, federal and local laws, or any combination thereof acting cooperatively or jointly.

VARIANCE. A relaxation of the strict terms of a specific provision of this chapter by the Board of Adjustment in accordance

with the provisions of §§ 153.275 through 153.281 of this chapter.

VILLAGE HOUSE. A single-family detached dwelling built on a small lot (typically smaller than the minimum lot size for the zoning district). Land saved by use of smaller lots is dedicated for common use. Houses may be placed close to the street to maximize rear yards. Shared driveways with separate parking areas may be utilized.

WATER SYSTEM, INTERMEDIATE. The provision of piped water for human consumption, if the approved system is not owned and operated by a public entity.

WATER SYSTEM, PRIVATE. A water supply system having one service connection whose water supply comes from a single source, usually limited to a well or spring.

WATER SYSTEM, PUBLIC. The provision to the public of piped water by a system owned and operated by a public entity.

WHOLESALE SALES ESTABLISHMENT. A business where more than 50% of its gross sales are for re-sale purposes as evidenced by sales tax reports submitted to the State Department of Revenue.

YARD, FRONT. An area measured between the edge of the public street right-of-way line, and the front of a building, projected to the side lot lines. See § 153.062 for special circumstances.

YARD, REAR. A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the point of the principal building nearest the rear lot line. See § 153.062 for special circumstances.

YARD SALE, GARAGE SALE, ATTIC SALE OR RUMMAGE SALE. An occasional sale conducted by a household or a group of up to 4 households, or by a nonprofit organization, at which surplus and primarily used household goods and/or clothing are sold. In a case where the sales are conducted on the same property more than 6 days per year (or in the case of nonprofit organizations more than 10 days per year) or, in cases when new or used merchandise, purchased for resale, are re-sold it shall be deemed a flea market and not a yard sale.

YARD, SIDE. A space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

(Prior UDO, § 4.2) (Ord. ZTA-5-2009, passed 11-5-2009; Ord. ZTA-6-2009, passed 1-7-2010; Ord. ZTA-1-2013, passed 2-7-2013; Ord. ZTA-3-2014, passed 11-13-2014; Ord. ZTA-4-2016, passed 7-7-2016; Ord. passed 4-6-2016; Ord. O-17-17, passed 11-2-2017; Ord. O-09-2019, passed 11-7-2019; Ord. ZTA-1-2020, passed 3-5-2020; Ord. ZTA-4-2020, passed - - ; Ord. passed - - ; Ord. O-01-23, passed 1-5-2023; Ord. O-12-23, passed 8-9-2023; Ord. O-1-2024, passed 1-4-2024; Ord. O-4-2024, passed 5-2-2024; Ord. O-17-2024, passed 12-5-2024; Ord. ZTA-2-2025, passed 5-1-2025; Ord. ZTA-5-2025, passed 12-4-2025)

GENERAL REQUIREMENTS

§ 153.045 CUSTOMARY HOME OCCUPATIONS.

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this chapter for the district in which the uses are located.

- (A) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.
- (B) No accessory buildings or outside storage shall be used in connection with the home occupation.
- (C) Use of the dwelling for the home occupation shall be limited to 25% of the area of the principal building.
- (D) Residents of the dwelling plus a maximum of 1 nonresident may be engaged in a home occupation or otherwise report to work at the dwelling.
- (E) No display of products shall be visible from any adjoining lot or street and only articles made or reconditioned on the premises may be sold; except that nondurable articles incidental to a service conducted at the home occupation may be sold on the premises.
- (F) No external alterations inconsistent with the residential character of the building shall be permitted.
- (G) Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
- (H) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way in the manner and in the amount provided for in § 153.185 of this chapter.
- (I) Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling shall be prohibited.
- (J) Home occupations may only be conducted between the hours of 7:00 a.m. and 9:00 p.m.
- (K) All customary home occupations shall require the issuance of a certificate of occupancy by the Administrator.

(L) Tutoring or home instruction classes shall be limited to a maximum of 6 students at a time.

(M) (1) One nonilluminated professional name plate, occupational sign or business identification sign mounted flush to the dwelling unit and not more than 2 square feet in area shall be allowed per customary home occupation.

(2) In lieu of a flush mounted sign, a freestanding sign of up to 2 square feet and not higher than 5 feet may be erected in the front yard not closer to the street than a line located equidistant between the front of the principal dwelling and the street right-of-way. In no case shall a freestanding sign be located within a sight triangle.

(Prior UDO, § 5.1) Penalty, see § 153.999

§ 153.046 SCREENING.

The intent of these screening requirements shall be to create a screen between zoning districts and other zoning districts or to screen certain uses in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy. Any screening required under this section shall materially screen the subject use between the ground level and the height of the required screening from the view of the adjoining.

(A) *Screening.* Screening shall be required under the following situations.

(1) *Between residential and nonresidential districts.* Where an OI, NB, GB, CC, HB, PB, GMC or GI District abuts a Residential (R) District, screening shall be provided on the lot(s) which are located in the OI, NB, GB, CC, HB, PB, GMC or GI District (except a residential use) at the time the lots are developed (except with a residential use) or when any existing and/or accessory structure on the lot is expanded.

(2) *Between residential and nonresidential uses in the R-O District.* In an R-O District where a nonresidential use adjoins a residential use, screening shall be provided on the nonresidential use lot, except that screening shall not be required where the adjoining residential use is located in a NB, CB, CBT, GB, CC, HB, GMC or GI District.

(3) *Multi-family developments.* All multi-family developments shall be screened from all other lots which lie in a Residential (R) District except that screening shall not be required around a multi-family development whose side and rear boundaries abut multi-family development.

(4) *Open storage and open structures.*

(a) Within any NB, GB, CC, HB, PB, GMC or GI District, screening shall be required for the open storage of any goods other than vending machines, retail goods left outside only during business hours, vehicles, trailers, other equipment capable of being driven on a roadway and any fixtures fastened to a building, ground or impervious surface; or for any unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment, whenever the storage or structure is located within 100 feet of the street right-of-way line.

(b) Open storage of vehicles, trailers and other equipment is not permitted in the CB or CBT Districts.

(c) Screening shall be placed on the property so as to effectively screen the open storage or structure from the public view from any street right-of-way.

(5) *Manufactured home parks.* See § 153.128 of this chapter.

(6) *Planned developments.* See §§ 153.123 through 153.127.

(7) *Manufacturing uses.* Manufacturing uses shall meet the minimum screening requirements of § 153.046 of this chapter. Additional screening will be installed as necessitated by the visual characteristics of the particular use so that the use will be screened from view of adjoining residential districts. If the nature of the topography makes the screening from distant view from residential areas impossible, then other measures such as heavy on-site landscaping will be taken to lessen any near or distant visual impacts.

(8) *Other.* Other situations as specifically listed in the zoning district regulations (§§ 153.105 through 153.129 of this chapter).

(B) *Location of screening.*

(1) (a) Any screening required by division (A) shall be located along side and/or rear property lines of the lot(s) in question except that screening shall not be required along any street right-of-way unless otherwise stipulated in this chapter.

(b) If screening is required along a street right-of-way it shall be located behind the right-of-way and outside the area of the sight triangle (defined in § 153.031 of this chapter).

(2) (a) Whenever an industrial use is located on the opposite side of a street right-of-way from a (R) residential zone, screening shall be installed on the industrial use property along the street right-of-way.

(b) An exception to this requirement is made when the street is a special highway as listed in §153.120 of this chapter because § 153.120(G) sets forth special landscaping along a special highway.

(c) For the purposes of this requirement, an industrial use is deemed to be any use that is listed only in the GMC or GI Districts and not in any other general zoning district (permitted use or use subject to prescribed standards).

(C) *Specifications for screening.* Screening may be in the form of natural plantings, planted berms, walls or fences. Screening shall be encouraged, however, in the form of natural plantings. Where sufficient room exists to place a screen consisting of natural plantings or maintain an existing screen of natural plantings, the natural plantings shall be used as the required form of screening. Otherwise, screening in the form of a planted berm, wall or fence may be used. The Administrator may approve a combination of natural planting, planted berm, wall or fence, if he or she determines that the spirit and intent of this section are met by the combination. (See this section, this division (C) and division (D) below and note street landscaping requirements in this division.)

(1) *Natural plantings.*

(a) Where natural plantings are used, a buffer strip of at least 20 feet in width (10 feet for a nonresidential use in the R-O District) shall be planted. This strip shall be free of all encroachment by structures, parking areas or other impervious surfaces. The amount and type of buffer materials to be planted per 100 linear feet shall be as indicated in Figure A below.

(b) All materials planted shall be free from disease, installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth, properly guyed or staked and planted in a manner that is not intrusive to utilities and/or pavement and planted in accordance with division (G) below of this section.

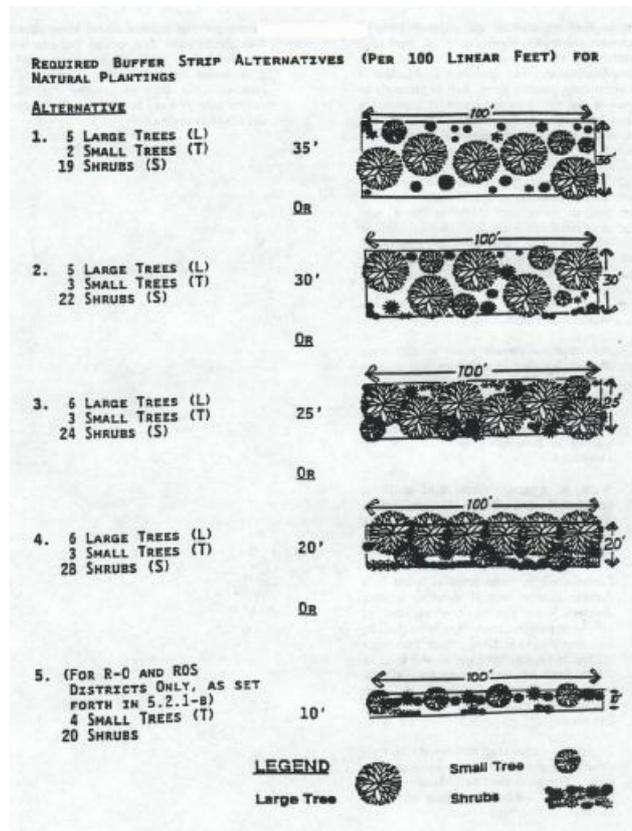
(2) *Walls or fences.*

(a) Any wall shall be constructed in a durable fashion with a finish surface of brick, stone or other decorative masonry material approved by the Administrator.

(b) Fences shall be constructed of wood in a durable fashion and of durable, weather resistant wood fencing materials and of consistent pattern. No wall or fence shall be less than six feet nor greater than eight feet in height above grade. All walls or fences used for screen purposes shall be opaque. Walls and fences shall be constructed in accordance with division (G) of this section.

(3) *Berms.* All berms shall be planted with both shrubs and ground covers to leave no bare earth. The berm shall be at least three feet in height and contain at least 30 shrubs per 100 linear feet. The shrubs shall be a species that can be expected to materially screen the development site within five years of planting. No slope of a berm shall be steeper than one foot of rise for every three feet in plane.

Figure A



(D) *Relief to screening requirements.* In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and/or maintain the required screen, the Administrator may alter the requirements of this chapter provided the spirit and intent of the screening requirement as outlined in this section are maintained. An alteration may occur only at the request of the developer, who shall submit a plan to the Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer will plant or construct to screen the proposed use. The Administrator shall have no authority to provide relief unless the developer demonstrates that existing site features and any additional screening materials will screen the proposed use as effectively as the required screen.

(E) *Areas deficient in screening.*

(1) All existing uses whether conforming or nonconforming, that have existing junked or inoperable vehicles stored on site, shall be required to install screening within 24 months of the date of adoption of these provisions in accordance with this division.

(a) If the use can be viewed from a street, the first 20 feet between the street right-of-way and the use must be screened so that junked or inoperable vehicles cannot be viewed from the street. If this cannot be done due to lack of space for plantings, an opaque fence six feet in height may be provided in lieu of plantings.

(b) If a vehicle storage yard, automotive wrecker service, or junkyard is adjacent to a residential district, a minimum 20-foot landscaped strip shall be provided between the property line and the use.

(2) An exception to the requirements of this division may be made where the Administrator determines either:

(a) The use has insufficient land to install required screen;

(b) The use would be required to utilize land developed for off-street parking for screening; or

(c) The use is already screened by existing topography or plant life. In these cases he or she may partially or entirely (as necessary) waive the requirements of this division by allowing less screening, use of alternative materials, existing features or any combination thereof, provided the spirit and intent of this chapter are preserved.

(F) *Existing screened areas.* In cases where an existing screened area exists, further plantings and or improvements shall not be required provided the screened area is of sufficient width and depth and contains adequate and sufficient materials to meet the requirements of this chapter. If the screened area is deficient, the developer shall make needed improvements and/or additions to satisfy the screening requirements and intent of this chapter.

(G) *Screen construction and installation maintenance.*

(1) The plantings, fences, walls or berms that constitute a required screen shall be properly installed and maintained in order for the screen to fulfill the purpose for which it is established. Walls, fences and berms shall be constructed in a durable and attractive fashion in accordance with any applicable codes and generally accepted construction and workmanship practices and meet all specifications herein. Plant species shall be recommended for healthy growth under local climate conditions, not highly prone to disease and be expected to grow in a manner to meet the spirit and intent of this section. Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.

(2) The owner of the property and any tenant on the property where a screen is required shall be jointly and severally responsible for the maintenance of all screen materials. The maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy and growth from interfering with safe vehicular or pedestrian travel, or use of parking areas, or from creating any nuisances to adjoining property owners and to keep walls, fences and berms in good repair and neat appearance. Any vegetation that constitutes part of a screen shall be replaced in the event that it dies. All screen materials shall be protected from damage by erosion, motor vehicles or pedestrians.

(Prior UDO, § 5.2) (Ord. passed - - ; Ord. O-5-23, passed 4-6-2023; Ord. ZTA-1-2025, passed 4-3-2025)

§ 153.047 LANDSCAPING.

(A) *Generally.*

(1) The intent of these landscaping requirements shall be to enhance the visual quality of development, to soften the appearance of expansive paved areas and building mass, create and maintain a pleasing appearance in the community, reduce the effects of glare and heat caused by parking areas and to reduce visual clutter along commercialized streets.

(2) Landscaping required by this section shall be installed in the following situation:

(a) All new construction, development or any expansions in developed site area land uses; or

(b) For all existing development, other than one- or two-family residential land uses, when more than 50% of the land area developed at the time of application for zoning permit is disturbed, redesigned, altered or reconstructed.

(3) Where screening or buffering requirements of this chapter overlap in area, duplicate or otherwise conflict with any requirement of this section, only the more stringent requirements need be met; provided however, no fence, wall or berm may be substituted for any requirement in this section.

(4) The succeeding divisions described the minimum types and amounts of landscaping which shall be required.

(5) Where growing conditions permit, large trees may be substituted for small trees and large or small trees may be substituted for shrubs, however, required larger plant material may not be substituted with smaller plant materials. Where existing plant life satisfies the requirements of this section the owner is encouraged to use plant life in lieu of destroying it and planting new materials.

(B) *Street landscaping,*

(1) Street landscaping off the street right-of-way and behind the sight triangle shall be required in the OR, OI, NB, GB, CC, HB, PB, GMC and GI Zoning Districts along all thoroughfares.

(2) The landscaping shall be provided in a designated landscaping area which shall include, as width, at least the first 12 feet of the front yard and side yard as measured from the edge of the street right-of-way line. Per 100 linear feet of landscaping, there shall be, at a minimum, 4 small trees and 12 shrubs, or 4 large trees. The remaining portion of the landscaped area shall be improved with ground covers or natural mulching materials. No part of the landscaped area shall be left as bare soil. It shall be the responsibility of the owner of the property and any tenant of the property to maintain the landscaped area in a healthy condition; to keep plant growth off roadways or otherwise from interfering with traffic visibility or safety, and to keep the landscaped area free of litter, debris and uncontrolled weed growth. Within the designated landscaped area, landscaped decorative fences and masonry walls may be constructed no closer than 6 feet to the street right-of-way line and behind the sight triangle, however, the construction of the fences or masonry walls shall not relieve the developer from planting requirements except as provided in the succeeding divisions of this section.

(3) All required plantings shall be located on the street side of any fence or wall, and where berms are constructed, between the street right-of-way line and the crest of the berm. Any side devices constructed within the designated landscaped area shall be limited to the following.

(a) *Berms.* All earth shall be planted with ground covers except where mulching is provided for trees or shrubs. Shrubs and trees on the berms and within the designated landscaping area may be counted in planting requirements. Berms shall meet all requirements of § 153.046(C)(3) of this chapter.

(b) *Fences.* Fences shall be constructed of decorative wood or metal materials, designed specifically for fencing, be of a consistent pattern, and not exceed 6 feet in height. Metal fences shall be limited to decorative steel or iron. Utility metal fencing such as chain link fencing is not permitted within the designated landscape area. (Utility fences are permitted outside (side opposite street side) the designated landscaping area, see § 153.049 and other applicable requirements.) Wood fences shall be limited to pressure treated wood or naturally preserved species approved by the Administrator (e.g., locust and redwood). Wood fencing may be rail, picket, or opaque in construction and must be of a consistent pattern.

(4) In the event that the size of the parcel to be developed or its location would make it physically impossible to install and/or maintain the required landscaping, the Administrator may alter the street landscaping requirements of this chapter provided, however, the spirit and intent of this chapter are maintained. An alteration may occur only if the developer submits a plan to the Administrator that shows any existing and proposed landscaping. The Administrator shall otherwise have no authority to alter any landscaping requirements.

(5) No street landscaping materials, wall or fence device shall be constructed or maintained in a manner which blocks sight distance at vehicular ingress and egress points on the property or obstructs sight distance at street intersections as set forth in § 153.052 of this chapter. All plantings exceeding two and one-half feet in height shall be located behind the sight triangle.

(C) *Parking lot landscaping.*

(1) Parking lots shall be landscaped in accordance with this division. The provisions of this section do not apply to rear parking lots. As used herein, the rear parking lots include only parking areas located between the rear building line and a rear interior lot line (a line not adjoining a street. The amount of plant materials required for parking lot landscaping is in addition to any plant materials required by any other provision of this chapter (e.g., buffer strips, street landscaping and building landscaping).

(2) The following minimum number of plants shall be required for each parking space. If calculations result in a fraction, the fraction shall be increased to the next whole number.

Large trees	0.10
Small trees	0.075
Shrubs	0.50

(3) The following rules shall apply to the arrangement and installation of required parking lot landscaping. These requirements apply only to the minimum number of trees required by this section. Non-required trees (additional trees beyond what is required by this section) may be planted in any fashion.

(a) Large trees shall be planted so that no point of the tree's main trunk is closer than four feet from parking lot or driveway surfaces. If large trees required by this division are planted in an island (area surrounded by paved surfaces), peninsula, or median there shall be sufficient pervious planting area (pervious area shall also mean impervious materials (e.g., walks), that drain into the trees root area) for viable growth of the tree(s). Trees may be clustered where appropriate for the species and this area may also be used for planting shrubs or small trees. To be counted for required parking lot landscaping, a large tree must be planted within 25 feet of the parking lot. Where existing plant stock is to be counted at distances greater than 25 feet from the paved surfaces where the developer can show that the existing stock casts shadows upon the paved surface. No trees located off the project site may be substituted for new plantings.

(b) Small trees shall be planted so that no point of the tree's main trunk is closer than four feet from parking lot or driveway surfaces. To be counted for required parking lot landscaping, a small tree must be planted within 15 feet of the parking lot.

(c) No shrubs shall be located within any vehicle overhang area. (Area three feet beyond curb or wheel stop at the

head of a parking space.)

(d) Required parking lot landscaping shall generally be distributed throughout the parking area. Plantings may be located along the perimeter of the parking lot, along entranceways, and on interior features such as islands, peninsulas and medians. The minimum percent each of the required large trees, small trees, and shrubs to be planted on interior features (islands, peninsulas, and medians) is as follows:

Number of Spaces	Minimum Percent of Plant Materials to be Planted on Interior Features
40 or less spaces	No minimum
40 to 100 spaces	30%
More than 100 spaces	50%

(e) Each parking space shall be not further than 100 feet from a tree (large tree or small tree).

(f) It is encouraged that trees be located so as to maximize shading of parking spaces during summer months.

(g) All parking lot landscaped areas shall be covered with ground covers or natural mulching materials, however, areas subject to vehicle overhang may be covered with brick, stone, mulch or other non-living materials.

(D) *Area deficient in landscaping.* Where an existing commercial development lacks sufficient trees to meet the requirements of new development as set forth in divisions (B) and (C) of this section, no tree inside or within 25 feet of a parking area, or within 12 feet of the street right-of-way shall be removed without a permit issued by the Administrator. The Administrator shall issue the permit only after having first determined:

(1) The tree is either:

(a) Diseased and dying; or

(b) Otherwise a threat to public safety or potential property damage; or

(2) That the removal of the tree would not make the property less conforming to the standards of either divisions (B) or (C) of this section.

(E) *Landscaping installation and maintenance.*

(1) The plantings that constitute required landscaping shall be properly installed and maintained in order to fulfill the purpose of which it is established.

(2) Plant species shall be recommended for healthy growth under local climate conditions, not of a type highly prone to disease, and be of a type highly prone to disease, and be of a type expected to grow in a manner which will satisfy the spirit and intent of this section of this chapter. Plant materials shall be planted in accordance with generally recommended and accepted planting and growing practices. The owner of the property, any tenant on the property where landscaping is required shall be jointly and severally responsible for the maintenance of all required landscape materials. The maintenance shall include all actions necessary to keep the landscaped areas free of litter and debris; to keep plantings healthy; to keep growth from interfering with safe vehicular or pedestrian travel, or use of parking areas, or from creating any nuisances to adjoining properties; and to keep walls, fences, and berms in good repair and neat appearance.

(3) Any vegetation that constitutes required landscaping shall be replaced in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles or pedestrians.

(Prior UDO, § 5.3) (Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.048 SCREENING AND LANDSCAPING REQUIRED PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLIANCE.

After the effective date of this chapter, a certificate of zoning compliance shall not be issued for any use located on a lot(s) upon which screening and/or landscaping is required, unless the screening and landscaping is provided on the lot(s) as herein specified. This provision may be temporarily waived by the Administrator in cases where it was not possible for the developer to install certain species of plant material prior to occupancy due to the recommended planting season not occurring at an appropriate phase in construction, and in that case, the time deadline for planting the materials shall be extended only to the ideally recommended planting season for the materials.

(Prior UDO, § 5.4)

§ 153.049 FENCES OR WALLS PERMITTED.

Except as otherwise noted, fences or walls are permitted in the various districts subject to the following regulations.

(A) *In Residential (R) and Office/Institutional (O-I) Districts.*

(1) When fences or walls are installed in a required setback area (required front, side or rear yard), the maximum height shall be 6 feet, except when the fence or wall is installed pursuant to § 153.046(C)(2) of this chapter it shall not

exceed 8 feet in height.

(2) No electrical fences shall be permitted.

(B) *In NB, CB, CBT, GB, CC, HB, PB, GMC and GI Districts.*

(1) Maximum height shall be 12 feet except that no maximum shall apply to jails and penal institutions where the wall or fence is installed behind any required setbacks.

(2) No electrical fences shall be permitted.

(Prior UDO, § 5.5) (Ord. passed - -) Penalty, see § 153.999

§ 153.050 LOT TO ABUT A DEDICATED STREET.

No lots may be created after the effective date of this chapter that do not have at least 35 feet of dedicated street right-of-way frontage except as follows.

(A) A lot not having 35 feet of dedicated street right-of-way frontage may be created if located entirely within a planned shopping center or office park.

(B) A one-family residence may be constructed on a lot which existed at the effective date of this chapter which does not abut a dedicated street right-of-way provided the lot is given access to a dedicated street by an easement at least 12 feet in width for the use of the dwelling established on the lot and further provided that the easement is maintained in a condition passable for automobiles and service and emergency vehicles. This easement may not be extended to provide access to any other lots or to any other residence not having frontage on a dedicated street.

(Prior UDO, § 5.6) Penalty, see § 153.999

§ 153.051 ONE PRINCIPAL BUILDING.

(A) No more than 1 principal residential structure shall be located on a lot, except as a part of multi-family development. A lot with 2 Class A or Class B manufactured homes that existed at the time of the adoption of this amendment (May 6, 1999) may continue and the manufactured homes on the lot may be replaced provided that the replacement homes meet the minimum requirements of § 153.136(G).

(B) More than 1 principal structure devoted to a nonresidential use may be located on a lot provided that access is available from a public street to each building for use by service or emergency vehicles.

(Prior UDO, § 5.7) (Ord. passed 6-25-2020) Penalty, see § 153.999

§ 153.052 VISIBILITY AT INTERSECTIONS.

On a corner lot in any district (other than the CB and CBT Districts) no planting, structure, sign (other than traffic regulation signs), fence, wall or artificial obstruction to vision more than 2-1/2 feet in height shall be placed or maintained within the sight triangle.

(Prior UDO, § 5.8) Penalty, see § 153.999

Cross-reference:

Definition of sight triangle, see § 153.031

§ 153.053 TEMPORARY STRUCTURES AND USES.

Temporary structures and uses, when in compliance with all applicable provisions of this chapter and all other ordinances of the city shall be allowed. The following temporary structures and uses shall be permitted.

(A) Construction trailers used in connection with construction projects shall not require temporary use permits provided that the following conditions are met:

(1) The construction trailers shall be located on a building site only upon receipt of a valid building permit for the construction project;

(2) The construction trailers may remain on a construction site as long as there is a valid building permit for the construction project; and

(3) All construction trailers shall be located off all street rights-of-way.

(B) (1) Carnivals, circuses, tent assemblies, and similar commercial and charitable uses not otherwise listed as a permitted use or a use subject to prescribed standards in the district in which they are located and which are of limited time duration and which do not involve the use of any permanent structures and which are located less than 200 feet from residential land uses located in residential zoning districts may be permitted upon the authorization of the Board of Adjustment and subsequent issuance of a permit by the Administrator. The Board of Adjustment, in approving the use, may authorize conditions regarding duration of the use, hours of operation, signage, lighting and the like, and these conditions shall be made part of the permit issued by the Administrator.

(2) Carnivals, circuses, tent assemblies, and similar commercial and charitable uses not otherwise listed as a permitted use or a use subject to prescribed standards in the district in which they are located and which are of limited time duration and which do not involve the use of any permanent structures and are located 200 feet or more from residential land uses located in residential zoning districts may be permitted upon the authorization of the Zoning Administrator. The Zoning Administrator, in approving the use, may authorize conditions regarding duration of the use, hours of operation, signage, lighting and the like, and these conditions shall be made part of the permit issued by the Administrator.

(C) In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his or her family may occupy a manufactured home on the property. The permit granted by the Administrator, shall be for a 1 year period and may be renewed by the Board of Adjustment provided that construction has proceeded in a diligent manner.

(D) Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted. The permits shall be issued by the Board of Adjustment for a period of 1 year, and are renewable for a period of time to be determined by the Board of Adjustment, provided the development is being actively marketed. At the completion of the sales in a tract or upon expiration of the permit, whichever occurs first, the temporary structure(s) shall be removed, and any permanent structure(s), temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district.

(E) (1) In any Single-Family Residential (R) District, a temporary health care structure is a permitted accessory use subject to the provisions of this section.

(2) The following definitions apply in this section:

(a) **ACTIVITIES OF DAILY LIVING.** Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(b) **CAREGIVER.** An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

(c) **FIRST- OR SECOND-DEGREE RELATIVE.** A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(d) **MENTALLY OR PHYSICALLY IMPAIRED PERSON.** A person who is a resident of this state and who requires assistance with 2 or more activities of daily living as certified in writing by a physician licensed to practice in this state.

(e) **TEMPORARY FAMILY HEALTH CARE STRUCTURE.** A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to 1 occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. § 143-139.1(b). Placing the **TEMPORARY FAMILY HEALTH CARE STRUCTURE** on a permanent foundation shall not be required or permitted.

(3) A temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver is a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(4) A temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person is a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(5) Only 1 temporary family health care structure shall be allowed on a lot or parcel of land. Such temporary family health care structures shall comply with all setback requirements that apply to the principal structure.

(6) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Zoning Administrator. The applicant must provide sufficient proof of compliance with this section in order to obtain a permit. The applicant must also provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the Zoning Administrator or his or her designee of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.

(7) Any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable state and local ordinances as if the temporary family health care structure were permanent real property.

(8) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(9) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.

(10) The Zoning Administrator or his or her designee may revoke the permit granted pursuant to division (E)(6) if the permit holder violates any provision of this section.

(Prior UDO, § 5.9) (Ord. ZTA-3-08, passed 11-18-2008; Ord. ZTA-1-2011, passed 5-5-2011; Ord. O-02-18, passed 4-5-2018; Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024) Penalty, see § 153.999

§ 153.054 HEIGHT CALCULATIONS AND EXCEPTIONS.

(A) *Generally.*

(1) For purposes of this chapter, the height of a structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.

(2) The maximum heights as indicated in the various districts may be exceeded for the following uses:

(a) Roof structures not intended for human occupancy such as skylights, transmission or television towers, housing for elevators and stairways, water tanks, ventilating fans, air conditioning equipment or similar equipment; steeples, spires; belfries, cupolas or chimneys;

(c) Radio and television antennas; and

(c) Hospitals, health centers and medical education centers.

(B) *Setbacks for structures with height exceptions.* Any structure which exceeds the prescribed maximum building height for the zoning district in which it is located shall be located on the lot so that no portion of the structure is located closer to any lot line than the difference between the actual height of the structure and the normally allowed maximum building height in that zoning district.

(Prior UDO, § 5.10) Penalty, see § 153.999

§ 153.055 RELIEF OF FRONT YARD SETBACK FOR CERTAIN DWELLINGS.

The front yard requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as the lot is less than the minimum required front yard depth. In that case the front yard on those lots may be less than the required front yard but not less than the average of the existing front yard on the aforementioned lots, or a distance of 15 feet from the edge of the street right-of-way, whichever is greater.

(Prior UDO, § 5.11) Penalty, see § 153.999

§ 153.056 OUTDOOR LIGHTING.

Outdoor lighting shall be located in a manner that does not endanger motorists.

(Prior UDO, § 5.12) Penalty, see § 153.999

§ 153.057 ACCESSORY STRUCTURES.

(A) Within any Residential (R) District, accessory structures shall be located as follows.

(1) Except as herein provided, no portion of any accessory structure shall be located within any front yard. Exceptions are:

(a) Water wells may be located in any front, side or rear yard; and

(b) Automobile garages designed to accommodate no greater than 3 automobiles may be located in any front yard other than in the required front setback. Any garage shall also observe the minimum dwelling side setback requirement for the zoning district in which it is located.

(2) Accessory structures are allowed in any side yard, provided they observe a setback of 10 foot side yard from any side yard lot line.

(3) Accessory structures are allowed in any rear yard provided that all accessory structures observe a 10 foot setback from any rear lot line.

(B) On any lot containing a principal residential use, the aggregate area of all accessory structures (excluding barns, farm-related structures and satellite dish antennas) shall not cover more than 30% of the required rear yard nor exceed the height of the principal building. All lots, however, shall be allowed to have an accessory garage of no greater than 500 square feet provided that the garage:

(1) Meets all required setbacks; and

(2) Is designed primarily to house automobiles.

(C) For all nonresidential uses, no off-street parking or loading areas shall be located within 12 feet of any street right-of-way line.

(D) Within any NB, CB, CBT, GB, CC, HB, PB, GMC or GI District, accessory structures shall be located as follows.

(1) Except as herein provided, no accessory structure shall be located in any required front or side setback. A water well may be located in any front, side or rear yard.

(2) Accessory structures are allowed within with rear principal building setback area provided that no accessory structure (except as provided in division (B)(1) above of this section) shall be allowed within 10 feet of a rear or side yard line or within 20 feet in the case of any rear or side yard line which abuts a Residential (R) District.

(E) Outpatient wellness centers, medical education centers, nursing care facilities and helistops are permitted as accessory uses to hospitals and health centers.

(F) Accessory structures of a bona fide farm are exempt from the North Carolina State Building Code in accordance with G.S § 160D-903.

(Prior UDO, § 5.13) (Ord. O-10-19, passed 11-7-2019; Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.058 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF CHAPTER.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designed use of any building or structure upon which a building permit was secured prior to the adoption of this chapter, provided the construction was in conformance with the city's zoning ordinance adopted by the City Council on November 1, 1990 and/or the city subdivision ordinance, adopted by the City Council on January 10, 1991, and any amendment subsequent thereto and provided the building permit remains valid.

(Prior UDO, § 5.14) Penalty, see § 153.999

§ 153.059 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

(A) No required yard or lot area existing at the time of adoption of this chapter or any amendment subsequent thereto shall be reduced in size below the minimum requirements set forth herein, except as the result of street widening or other taking for public use or conveyance in lieu thereof.

(B) Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter. This prohibition shall not be construed to prevent the condemnation of land for public purposes.

(Prior UDO, § 5.15) Penalty, see § 153.999

§ 153.060 USE OF MANUFACTURED HOMES AND SIMILAR STRUCTURES.

A manufactured home may only be used as a principal residential structure, except when serving as a manufactured home sales lot office.

(Prior UDO, § 5.16) (Ord. passed - -) Penalty, see § 153.999

§ 153.061 USES NOT EXPRESSLY PERMITTED OR SUBJECT TO PRESCRIBED STANDARDS.

(A) No building or structure, sign or land shall hereafter be used, erected or occupied and no building or structure shall be erected, expanded or moved except in conformity with the regulations of this chapter. This chapter specifies uses that are allowed in each zone.

(B) Uses designated as permitted uses are allowed in a zone as a matter of right. Uses designated as subject to prescribed standards are allowed subject to the additional standards outlined in this chapter.

(C) Certain uses pre-dating the adoption of this chapter are allowed to remain as nonconforming uses in accordance with §§ 153.135 through 153.145 of this chapter.

(D) Certain temporary uses may be allowed in accordance with §153.053 of this chapter. Unless a use is allowed as a permitted, subject to prescribed standards, nonconforming or temporary use, then the use is expressly prohibited in that zone by this chapter.

(Prior UDO, § 5.17) (Ord. passed - -) Penalty, see § 153.999

§ 153.062 LOCATION OF REQUIRED YARDS ON IRREGULAR LOTS.

(A) *Generally.* The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the spirit and intent of this chapter to achieve and appropriate spacing and location of buildings and structures on individual lots.

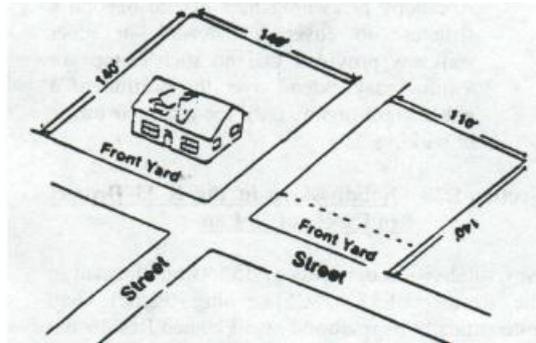
(B) *Front yards and rear yards on corner lots.*

(1) On corner lots, the front yard shall be measured perpendicular from the street lot line having the shortest linear footage. If both street lot lines have equal linear footage and no principal structure is located on the lot, the property owner shall determine the location of the front yard. On lots having equal frontage and there is a principal structure located on the lot the front yard shall be based on the architectural orientation of the house. Once the front yard is determined the rear yard

shall be the yard opposite the front yard.

(2) A graphic example of this is as follows:

Figure B

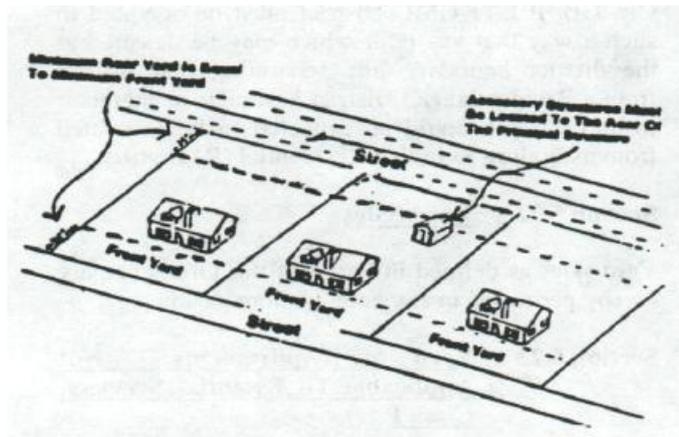


(C) *Front yards and rear yards on through lots.*

(1) On through lots, the required front and rear yards shall each equal or exceed the greater of either the required front or rear yard setback that would normally be applied in that zoning district. For example, if a through lot were located in a zoning district which normally required a 35-foot front setback and a 25-foot rear setback, both front and rear setbacks would have to equal or exceed 35 feet. For the purpose of placing accessory structures, however, the rear yard shall be deemed to be the yard opposite the street-side yard which the architectural front of the building faces. For the purpose of placing a principal residence, the Administrator shall require the architectural front of the building to be oriented similar to residences on either side.

(2) A graphic example of this is as follows:

Figure C



(Prior UDO, § 5.18) Penalty, see § 153.999

§ 153.063 VIBRATION.

No established use in any district may be operated in a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

(Prior UDO, § 5.19) Penalty, see § 153.999

§ 153.064 NOISE.

Every use of land shall be operated in a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment or nuisance to any person of ordinary sensitivities. Every use in a NB, CB, CBT, GB, CC, HB, PB, GMC or GI District must be operated in a way that any noise which may be detected by the human senses without instruments at the district boundary line separating that district from a Residential (R) District is no louder or frequent than the noise which could normally be expected from uses allowed in that Residential (R) District.

(Prior UDO, § 5.20) (Ord. passed - -) Penalty, see § 153.999

§ 153.065 ODOR.

Every use of land shall be operated in a way that regularly recurring odors are not disturbing and do not cause injury, detriment or nuisance to any person of ordinary sensitivities. Every use in a NB, CB, CBT, GB, CC, HB, PB, GMC or GI District must be operated in a way that any odor which may be detected at the district boundary line separating that district

from a Residential (R) District is similar in character to odors which could be expected to be generated from uses allowed in that Residential (R) District.

(Prior UDO, § 5.21) (Ord. passed - -) Penalty, see § 153.999

§ 153.066 YARD SALES.

Yard sales as defined in §153.031 of this chapter are hereby permitted in any zone without permit.

(Prior UDO, § 5.22) Penalty, see § 153.999

§ 153.067 YARD REQUIREMENTS NOT APPLICABLE TO ESSENTIAL SERVICES, CLASS I.

No yard requirements as set forth in §§153.105 through 153.122 of this chapter are applicable to essential services, Class I. There are no yard requirements for essential services, Class I.

(Prior UDO, § 5.23) Penalty, see § 153.999

§ 153.068 ACCESSORY DAY CARE CENTER.

Any business or industrial use is permitted one accessory day care center, as defined in §153.031 of this chapter.

(Prior UDO, § 5.24) Penalty, see § 153.999

Cross-reference:

Definition of accessory day care center, see §153.031

§ 153.069 COMMERCIAL VEHICLES.

(A) On any residential lot of less than two acres in size and located in a Residential (R) zone, commercial vehicles which may be parked on an overnight basis shall be limited to school buses, vans and pick-up trucks. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any Residential (R) District for a period of up to 24 hours nor shall this restrict the overnight parking of freight truck tractors without trailers on any lot.

(B) A residentially developed lot shall not be used as the base of operation for any freight hauling truck.

(Prior UDO, § 5.25) Penalty, see § 153.999

§ 153.070 CANOPIES IN NB, GB, CC, HB, PB, GMC AND GI DISTRICTS.

On any lot where a canopy or canopies are used to shelter vehicles, such as lots containing convenience stores, service stations, express-fuel mini-marts and other similar uses requiring vehicular shelter, the edge of the canopy may extend to within ten feet of the front and rear property lines and five feet of the side yard property line. However, in no case, shall a canopy or canopies extend to within ten feet of a street right-of-way boundary.

(Prior UDO, § 5.26) (Ord. passed - -) Penalty, see § 153.999

§ 153.071 CANOPIES AND AWNINGS IN CB, CBT DISTRICT.

A canopy or awning may extend beyond a structure to cover a sidewalk or other walkway provided that no canopy or awning may extend over the portion of a public right-of-way used for vehicular traffic or parking.

(Prior UDO, § 5.27) Penalty, see § 153.999

§ 153.072 RESERVED.

§ 153.073 RESERVED.

§ 153.074 SUPPLEMENTARY REQUIREMENTS FOR DEVELOPMENT IN THE CENTRAL BUSINESS AND TRANSITIONAL BUSINESS DISTRICTS.

(A) *Purpose.* The purpose of establishing supplementary requirements for development in the Central Business (CB) and Central Business Transitional (CBT) Districts is to protect and enhance the visual character of development and to preserve the unique streetscape of downtown by encouraging compatibility among downtown structures.

(B) *Development standards.*

(1) Buildings within the CB and CBT Districts exhibit design elements that contribute to the unique sense of character of downtown Lincolnton. Specifically, older retail style buildings tend to have flat or low pitch roofs concealed by the front façade parapet, no front or side yard setback, large storefront windows on the first floor and strong horizontal separations between the first and any upper floors created by window and/or changes in façade materials. Adjacent retail structures should embrace that style when possible. The many churches exhibit primarily two distinct styles, late gothic revival and classic (Greek) revival. Perimeter buildings and residential buildings convey a more common pitched roof, with styles of colonial, revival and craftsman (among others) intermingled. Some of the older structures have or had steep pitched metal roofs in neutral or muted colors. New or renovated structures in CB and CBT zones are expected to compliment the nearby

structures, extending styles that adjoin or creating an aesthetic blend from style to style where adjoining styles transition, particularly at the zoning district edges where blending from style to style is important.

(2) In order to continue, recreate and, in some cases, replicate (such as in the CBT District) the historic development pattern of downtown Lincoln, the following standards shall apply to all new construction, additions, and substantial modifications to existing structures; except that the Board of Adjustment may waive or modify one or more requirements whenever, in its opinion, the waiver or modification is consistent with the intent of this section and results in a development which meets the findings of fact required herein. For the purposes of this section, **SUBSTANTIAL MODIFICATION** shall be defined as any work which involves the alteration of the building's footprint, construction of additional stories, changes in roof pitch, modification of building fenestration and entryways, material changes to the building façade, or painting which does not use natural material colors.

(a) *Awnings and canopies.* When used, awnings and canopies shall be placed at the top of window openings and shall relate to the shape of the top of the window. Awnings shall be made of canvas or treated canvas material; or standing seam prefinished metal on open metal framing. Awnings, where existing conditions are in place and subject to staff review, can be recovered with slate or simulated slate, shingles, or standing seam metal in neutral or earth tone colors. In new construction the above standards may be incorporated when determined by staff that it is appropriate, based on review of other nearby structures, generally within approximately 300 feet of the new building and within the same zoning district. Vinyl awnings are not permitted. No awning shall extend more than two-thirds the width of the sidewalk or nine feet, whichever is less. Awnings and canopies must be self-supporting from the wall; no supports shall rest on or interfere with the use of pedestrian walkways or street. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities. The use of metal or other rigid roofing material is not intended to be used as a vertical facade for awnings or canopies. A vertical drop of acceptable scale is permitted. Metal is not permitted as a vertical wall face or screen.

(b) *Building height.* In no case shall any structure in the downtown exceed the height of the base of dome on the Lincoln Cultural Center.

(c) *Building presentation.* In individual commercial buildings, building entrances shall face the street and be accessible from the public sidewalk. Any portion of a building that faces an adjacent street right-of-way shall be considered a building front and shall be subject to the presentation entrance and fenestration requirements of this section. For non-commercial buildings (residential, religious, etc) or for commercial cluster group development, when approved, the street facade shall be addressed via fenestration requirements or design elements and entrances shall be accessible via walkways or plazas from the public sidewalk.

(d) *Building width.* Additions and new construction located in the CB or CBT Districts shall maintain the existing building wall by extending the building front from side lot line to side lot line, except that an appropriate architectural wall or similar design feature may be used instead of a building extension. Where penetration through the lot line is required, such as access for pedestrians or vehicular access to an area behind the front, such as rear yard parking or courtyards, the penetration shall be appropriately visually framed, by use of a fence termination feature, walls, replicated or existing building walls, or scalable landscaping where appropriate, subject to staff review.

(e) *Color.* Additions and new construction shall relate paint colors to natural material colors found on neighboring historic buildings and nearby buildings. Contrasting colors, which accent architectural details and entrances may be used. (A pallet of suggested colors is available.)

(f) *Fenestration.* New construction and remodeling of existing buildings in the CB and CBT Districts shall maintain the prevalent pattern and spacing of the windows and doorways on downtown buildings. Windows on the street level front of buildings shall constitute at least 20% and not more than 50% of the façade. Window on subsequent levels shall be a minimum of 15 square feet. Windows must be clear, transparent glass (not mirrored or tinted dark) and shall not be lower than two feet above grade. Double-hung windows with a height-to-width ratio of 2:1 are preferred for upper stories. No window or door shall be horizontally separated by more than 15 feet from the nearest other window or door in the same façade. Frames and sashes for windows shall be of wood, vinyl or pre-finished metal and may have stone, brick or cast concrete lintels and sills. Window glass shall always be set back from the building face rather than flush.

(g) *Front build-to-line.*

1. The fronts of all new commercial buildings constructed in the CB District shall abut existing sidewalks, where provided, except for outdoor café-type uses when a low wall or other architectural articulation is carried across the right-of-way to continue the visual continuity of building faces.

2. The fronts all new commercial buildings constructed in the CBT District may vary from zero to 20 feet (i.e., thus creating a maximum front yard setback of zero to 20 feet) as measured from the street right-of-way boundary. Variable front yard setbacks are encouraged in the CBT District to allow for building articulation. Any setback areas shall be geared for pedestrian use. No off-street parking shall be allowed in these areas. Outdoor storage of retail goods (during daylight hours) shall be permitted, as shall outdoor seating areas.

(h) *Horizontal rhythms.* Downtown building patterns traditionally emphasized a strong horizontal design element. New construction and additions to or remodeling of existing buildings shall maintain a clear visual division between street level and any upper architectural feature used to accomplish this effect.

(i) *Materials.* Façade materials found in the downtown district include wood, brick and stone. Additions and new construction shall use facing materials that are compatible in quality, color, texture, finish, and dimension to those common in the downtown area. Acceptable materials include, but may not be limited to brick, stone or wood. Under no circumstances

shall metal siding, unfinished concrete block or vinyl siding be allowed.

(j) *Roofs.* Additions and new construction using flat pitch or low pitch roof design (anything under 3:12) must install parapet walls on all sides or cap the walls with a cornice treatment that provides articulation to the roofline. When the roof drains to the rear of the building and is guttered the parapet may be eliminated upon staff approval.

(k) *Signs.* Signs should relate in placement and size to other building elements and shall not obscure building elements such as windows, cornices or decorative details. Sign material, style and color shall complement the building façade in terms of design, scale, color and materials. Individual shop signs in a single storefront shall relate to each other in design, size, color, placement on the building, and lettering style. Canvas signs placed on the outside of buildings, excluding canopy signs, whether for permanent or temporary use are prohibited. Signs placed on the inside of window areas shall conceal no more than 20% of the area of the window on which the signs are located.

(l) *Streetscape protection.* Any damage to the existing streetscape design, including street trees, by development, use, or condition or private property shall be corrected by the proper owner at the owner's expense to the satisfaction of the city's Public Works Department, prior to the release of a certificate of occupancy. Any damage not corrected by the owner shall be corrected by the city, the cost of which is to be billed to the owner, including city administrative costs. For the purposes of this section, **STREETSCAPE** shall be defined to include any public improvement adjacent to private property.

(m) *Walls and entrances.* Walls and entrances in the CB and CBT Districts shall be designated to encourage and complement pedestrian-scale activity. Recessed doorways at building fronts are required.

(C) *Demolition.*

(1) No building shall be demolished without the building owner or his or her representative first consulting with the city's Planning Director or his or her designee. Following initial communication from the building owner, the Director shall have 21 days to render a recommendation to the applicant.

(2) If the property owner so desires, he or she may secure a demolition permit from the Lincoln County Building Inspector at the end of the 21-day review period. The demolition of any contributing member of the National Register District is strongly discouraged.

(D) *Procedures.* Prior to the construction of any new building, structure or parking area or the substantial renovation of that, a zoning permit must be secured from the Administrator.

(E) *Permit applications.* Applications for a zoning permit shall be accompanied by supporting material sufficient to determine compliance with the standards outlined in this section. The material shall include, but may not be limited to, a detailed site plan, street elevations, a height disclosure statement, and where necessary, the location of all public utilities. The information shall be sealed by a registered engineer, surveyor, architect or landscape architect licensed in the state. Applications for a zoning permit shall be filed on forms provided by the Planning Department. The Administrator will consider no incomplete applications. All applications will be reviewed by the Administrator within 21 working days from the date of submittal.

(Prior UDO, § 5.30) (Ord. ZTA-7-2016, passed 1-5-2017; Ord. passed - -; Ord. O-5-23, passed 4-6-2023) Penalty, see § 153.999

§ 153.075 RESERVED.

§ 153.076 BONA FIDE FARMS IN EXTRATERRITORIAL JURISDICTION.

(A) Property located in the city's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the city's zoning regulations as provided by G.S. § 160D-903. As used in this division (A), **PROPERTY** means a single tract of property or an identifiable portion of a single tract.

(B) Property that ceases to be used for bona fide farm purposes shall become subject to exercise of the city's zoning regulations under this chapter.

(C) Note: In accordance with G.S. § 160D-903, property that is exempt from the exercise of municipal extraterritorial planning and development regulation jurisdiction pursuant to G.S. §160D-903(c) is subject to Lincoln County's floodplain regulations or all floodplain regulation provisions of the Lincoln County Unified Development Ordinance.

(Ord. passed - -)

ESTABLISHMENT OF ZONING DISTRICTS

§ 153.090 INTRODUCTION.

(A) In order to achieve the purpose of this chapter, the following districts, based on the concepts and proposals of the city's land use plan and other plans and policies are hereby established. In addition to the primary uses that are permitted by right or subject to prescribed standards, other uses including accessory uses, off-street parking and signs are permitted as listed in this chapter.

(B) The districts are divided into three different categories:

(1) General zoning districts;

- (2) Overlay districts; and
- (3) Conditional zoning districts.

(Prior UDO, § 6.1) (Ord. passed - -)

§ 153.091 GENERAL ZONING DISTRICTS.

General zoning districts are designated throughout the zoning jurisdiction and include numerous uses that are allowed by right subject to those uses meeting yard and height regulations. In addition, some zones allow for uses subject to prescribed standards. The following general zoning districts are hereby established.

(A) *R-25 Rural Residential District.* This district is intended to accommodate very low-density residential and agricultural uses in fringe areas of the zoning jurisdiction that generally are non-intensely developed. This district is established to accommodate very low-density development where public utilities are nonexistent or partially existent. The continuance of agricultural operations is encouraged within this district.

(B) *R-15 Single-Family Residential District.* This district is established to provide areas consisting primarily of single-family residences located in both urban and suburban settings. Generally, public water and sewer are available or are readily available. Permitted residential uses consist solely of single-family residences and the minimum lot size shall be 15,000 square feet. In addition to single-family residences, a limited number of private and public community uses are allowed.

(C) *R-10 Residential District.* This district is established to provide primarily for single-family residences. The minimum lot size for single-family dwellings on a use by right basis is established at 10,000 square feet. These areas are served by water and sewer. Certain public and private community uses are allowed.

(D) *R-8 Residential District.*

(1) This district is established to accommodate single-family dwellings on 6,000 minimum square foot lots and two-family dwellings on 12,000 minimum square foot lots. These districts are located where water and sewer are present. The district accommodates both single- and two-family residences.

(2) A limited number of private and public community uses are allowed or may be allowed where certain criteria specified in this chapter are met.

(E) *RMF Residential Multi-Family District.* This district is intended primarily as a residential district for the location of detached single-family dwellings, two-family dwellings, and multi-family dwellings along with their customary accessory uses to establish areas where development patterns are somewhat more dense than surrounding areas. A limited number of private and public community uses are allowed.

(F) *RO Residential Office District.* This district allows for single- and two-family residential uses and certain commercial, office, and institutional uses which would create an area convenient for both residential and employment purposes. In certain areas this district is also established to provide a transition between purely residential areas and primarily commercial areas. In order to enhance the district's residential character, the R-O District, for purposes of this chapter is deemed a residential district. This classification does require screening and buffering from all new uses in adjacent commercial and industrial districts. Small offices, certain community facilities, and single- and two-family residences are permitted by right.

(G) *O-I Office Institutional District.* This district is established to allow for a wide variety of offices, certain commercial uses having minor impacts, certain community facilities, professional and medical service and certain institutions. Single-family and two-family residences are permitted, but unlike the R-O District, the emphasis of this zone is on nonresidential uses. This zone may also be established in certain areas to provide an orderly transition between residential areas and more intensive commercial uses.

(H) *N-B Neighborhood Business District.* This district is designed primarily for local business centers for retailing of merchandise such as groceries, drugs, and household items and for furnishing certain personal, business, and professional services. Unlike some of the other commercial zones, this district is established to serve local neighborhoods and other relatively small trading areas. The standards established for these business areas are designed to promote sound, permanent business development and also to protect abutting or surrounding residential areas from undesirable aspects of nearby business developments. These districts are located at accessible places with respect to traffic circulation in order to conveniently serve the trading population and to promote the grouping of several places of business at locations so designated. Since this district is established to provide for small neighborhood oriented businesses, limitations on gross floor areas are established for certain uses. A Neighborhood Business District is typically a relatively small area. Off-street parking, landscaping and yard requirements are established for the NB District.

(I) *C-B Central Business District.* The purpose of this district is to permit concentrated development of a wide variety of retail establishments, personal services, and professional and non-professional offices. In light of the concentrated amount of development normally found in a downtown area, yard regulations are minimal. Given the lack of space for off-street parking, this requirement has also been eliminated.

(J) *CBT Central Business Transitional District.* The purpose of this district is to permit concentrated development of a wide variety of retail establishments, personal services, and professional and non-professional offices. Like the Central Business District, yard regulations are minimal. However, unlike the Central Business District, off-street parking standards must be met for all uses permitted in the district. The number of off-street parking spaces required for uses in the Central

Business Transitional District is less than that for other Business and Commercial Districts since land size limitations restrict parking area availability. Land in this district exhibits some of the same characteristics as land within the Central Business District but is generally not developed in the same concentrations as the Central Business District.

(K) *G-B General Business*. The purpose of this district is to provide an array of retail, wholesale and service uses to serve the entire community and with access to the uses being primarily by automobile. The districts are located along major arterial and collector streets.

(L) *H-C Highway Commercial*. The purpose of this district is to provide an array of highway-oriented retail, wholesale and service uses to serve the entire community and with access to the uses being primarily by automobile. The districts are generally located along major arterial and collector streets in order to have a minimal effect on residential neighborhoods.

(M) *P-B Planned Business*. The purpose of this district is to promote orderly and aesthetic commercial development along major highways and entranceways in the Lincolnton area.

(N) *GMC General Manufacturing and Commercial*. This district is designed primarily for general commercial and industrial land uses, including manufacturing, processing and assembling of parts and products; distribution of products at wholesale outlets, retail outlets; transportation terminals; various public and utility uses; and a broad variety of specialized commercial and industrial operations.

(O) *GI General Industrial*. This district is designed primarily for general and heavy commercial and industrial land uses, including outdoor storage.

(Prior UDO, § 6.2) (Ord. passed - - ; Ord. passed 6-29-2023; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.092 OVERLAY DISTRICTS.

Overlay districts are established to provide for certain additional requirements and/or uses for properties located in 1 or more general zoning districts. Thus, in addition to the requirements of the underlying general zoning district, the provisions of the overlay district and/or any subsequent rezonings may be initiated by an individual, Planning Board or City Council. A zoning map change either establishing or changing any overlay district shall be subject to the same procedures and requirements as any other zoning map change.

(A) *MHO Manufactured Home Overlay*. The purpose of this district is to provide areas in which Class A manufactured homes can be located on individual lots. In order that these homes, when placed on the lot, are compatible with single-family residences, the MH District does provide certain size, construction and aesthetic standards for manufactured homes by allowing only Class A manufactured homes (as defined in § 153.031). The MH Overlay District supplements the range of uses permitted in the underlying district. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified in the MH Overlay District. The MH Overlay District may only be located in areas that contain a Residential (R) underlying general zoning district. The overlay areas may not consist of an individual lot or scattered lots, but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes. The intent of this approach is to allow manufactured homes in parts of a zoning district where they would not otherwise be allowed, subject to appropriate conditions. In determining these areas, the City Council will give close consideration to whether manufactured homes would be compatible with surrounding land uses.

(B) *SH Special Highway Overlay District*. The purpose of this district is to protect and preserve the natural scenic beauty of the landscape of areas which lie near or adjacent to designated Special Highways and that development which takes place on land which lies near the highways be developed in a manner which maximizes the attractiveness of uses and the safety and order of development of the area through the application of additional development standards. Ensuring that development occurs in a manner, it will in turn contribute to and enhance trade, tourism, capital investment, public safety and the general welfare.

(C) *HO Historic Overlay District*. This shall be an additional zone established pursuant to G.S. Chapter 160D, Article 9, Part 4 which may overlay other zoning districts on the official zoning map. That portion of any zoning district to which the HO District shall apply shall also be delineated on the official zoning map. The HO District is intended as an area in which conservation, preservation, restoration and development of historic character and significance and be fostered and maintained. No Historic District or districts shall be designated until:

(1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any proposed district, and a description of the boundaries of the district has been prepared; and

(2) The State Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee shall have made an analysis of and recommendations concerning the report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for the analysis has been received by the Department of Cultural Resources shall relieve the city of any responsibility for awaiting the analysis, and the City Council may at any time thereafter take any necessary action to adopt or amend the zoning regulations.

(Prior UDO, § 6.3) (Ord. passed - -) Penalty, see § 153.999

§ 153.093 CONDITIONAL DISTRICTS.

(A) A conditional district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have

significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations and the adopted Land Use Plan. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties.

(B) Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

(1) Parallel conditional zoning districts. A parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name. Following the approval of a petition for a parallel conditional district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A parallel conditional district shall be identified by the same designation as the corresponding general district followed by the letters "CD" (for example "G-B(CD)").

(2) Conditional zoning districts as identified in §§153.123 through 153.129:

- (a) Planned Residential District;
- (b) Planned Unit Development District;
- (c) Traditional Neighborhood Development;
- (d) Transitional Infill Development District;
- (e) Manufactured Home Park District; and
- (f) Commercial Center District.

(3) The conditional zoning districts allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. In order to accommodate these uses, this chapter establishes specific development standards for these uses intended to protect existing developed areas. The permitted uses and development standards are contained within each district. Each of the conditional zoning districts requires submittal of a site plan as part of the application review process. In addition, each of the conditional zoning districts is subject to approval by City Council in order to be established.

(Ord. passed - -)

ZONING DISTRICT REGULATIONS

§ 153.105 R-25 RURAL RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Manufactured homes, Class A;
- (4) Agriculture uses;
- (5) Family care homes;
- (6) Day care centers, small group;
- (7) Customary home occupations in accordance with §153.045 of this chapter;
- (8) Essential services, Class I and II;
- (9) Churches with a maximum sanctuary seating capacity of not greater than 500 seats. Customary accessory uses shall also be permitted. Church owned and maintained cemeteries as an accessory use are permitted;
- (10) Publicly owned and operated outdoor recreation facilities which are 1 acre or less in area. No facility shall contain a swimming pool or indoor community center or meeting facility;
- (11) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof;
- (12) Public and private elementary and secondary schools and private schools district administrative offices where located on the same parcel as a school;

(13) Stands for the in-season sale of produce out of a home garden located on the premises where the produce is being sold;

(14) Accessory structures in accordance with §153.057 of this chapter;

(15) Signs in accordance with §§ 153.160 through 153.172 of this chapter;

(16) Off-street parking in accordance with §§ 153.185 through 153.188 of this chapter;

(17) Private residential quarters provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the spaces required for the principal dwelling; and

(18) Public parks and recreation facilities.

(B) *Uses subject to prescribed standards.*

(1) Cemeteries as a principal use (setbacks apply to both buildings and graves) provided primary vehicular access is not provided by a local residential road;

(2) Customary home occupations which meet all the criteria as set forth in §153.045 of this chapter except § 153.045(B) of the section; provided however, if an accessory or outside storage building is used in connection with a home occupation it shall not exceed 800 square feet in floor area and not more than 1 building shall be devoted to the home occupation and the building is located in the rear yard and not less than 50 feet from any property line;

(3) Auto hobbyist (see Definitions, § 153.031) provided the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(4) Churches having a sanctuary seating capacity in excess of 500 seats provided that primary vehicular access is not provided by a local residential road and the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(5) Country clubs and privately-owned outdoor recreation facilities provided that go-cart tracks and outdoor vehicular racing facilities shall not be permitted provided that primary vehicular access is not provided by a local residential road and the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(6) Publicly-owned and operated outdoor recreation facilities in excess of 1 acre in area and/or containing a swimming pool, or indoor community center or meeting facility provided that primary vehicular access is not provided by a local residential road and the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(7) Bed and breakfast inns provided the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(8) Public safety stations and Essential Services III provided that the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(9) Rest homes, nursing care facilities and continuing care communities provided that primary vehicular access is not provided by a local residential road and the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(10) Public schools administrative offices (freestanding) provided that primary vehicular access is not provided by a local residential road and the use is screened from any adjoining property located in a residential district in accordance with § 153.046;

(11) Communication towers subject to the following standards.

(a) The height of the communication tower may not exceed 199 feet above ground level;

(b) The tower may only be placed on a property containing a minimum of 3 acres;

(c) The tower must be set back a distance of at least 200 feet from any public right-of-way and 200 feet from any property line;

(d) The tower must provide technically-suitable space for at least 4 users;

(e) The tower shall be constructed using a monopole design;

(f) A new communication tower cannot be placed within a 1/4-mile radius of an existing tower that could accommodate an additional user;

(g) No equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made;

(h) Towers shall not be artificially lighted except to insure human safety as required by the Federal Aviation Administration (FAA) regulations;

(i) Screening in accordance with § 153.046 shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing on-site trees and other vegetation shall be

preserved to the extent possible;

(j) No more than 1 communication tower shall be constructed on a single tract of land;

(k) The tower will not result in interference with the safe operation of aircraft in relation to existing or planned airport facilities; and

(l) All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.

(C) *Yard regulations.*

(1) *Minimum lot size.*

(a) Single-family dwellings and Class A manufactured homes:

1. 25,000 square feet where no public water or public sewer is provided at the lot;
2. 22,500 square feet where either one of public water or public sewer are provided at the lot; or
3. 20,000 square feet where both public water and public sewer are provided at the lot.

(b) Two-family dwellings:

1. 50,000 square feet where no public water or public sewer are provided at the lot;
2. 35,000 square feet where either one of public water or public sewer are provided at the lot; or
3. 20,000 square feet where both public water and public sewer is provided at the lot.

(c) Churches: 2 acres.

(d) Schools: 5 acres.

(e) Bed and breakfast inn: 1 acre.

(f) Essential services: none.

(g) Cemeteries as a principal use: 3 acres.

(h) Rest homes: 1 acre.

(i) Nursing care facilities: 60,000 square feet.

(j) Continuing care communities: 5 acres.

(k) Country clubs: 5 acres.

(l) All other principal uses: 1 acre.

(2) *Minimum front yard setback (as measured from the edge of the street right-of-way line).*

(a) Where public water and public sewer are provided to the lot: all uses: 40 feet.

(b) Where only one of either or neither public water and public sewer are provided to the lot: all uses: 50 feet.

(3) *Minimum side yard setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

(a) Single-family and two-family dwellings and manufactured homes, Class A: 10 feet.

(b) Schools: 40 feet.

(c) Bed and breakfast inns: 25 feet.

(d) Public safety stations: 25 feet.

(e) Church: 40 feet.

(f) Rest home, nursing care facility and continuing care communities: 40 feet.

(g) Swimming pools located in a public or privately maintained recreation facility: 40 feet.

(h) Community center or meeting facility: 40 feet.

(i) Essential Services II: 20 feet.

(j) Essential Services III: 40 feet.

(k) All other uses: 15 feet.

(4) *Minimum rear yard setback. 40 feet.*

(5) *Maximum building height. All uses: 35 feet, except as provided in §153.054 of this chapter.*

(6) Minimum lot width (as measured at the required front yard setback).

(a) Churches, community centers, meeting facilities, schools, country clubs, bed and breakfast inns and essential services, Class III: 150 feet.

(b) All other uses: 100 feet.

(D) *Screening and landscaping.*

(1) Screening, as provided in § 153.046 of this chapter, shall be required for the following uses and for all other circumstances required by § 153.046(A) of this chapter.

(a) Country club, but screening is not required for golf course playing areas;

(b) Outdoor swimming pools located in a public or privately maintained recreation facility;

(c) Churches;

(d) Community centers and meeting facilities;

(e) Country clubs but not including golf courses;

(f) Bed and breakfast inns;

(g) Public safety stations;

(h) Rest homes, nursing care facilities and continuing care communities;

(i) Public or private elementary or secondary schools; and

(j) Public or private outdoor recreation facilities not constructed pursuant to a permit authorizing the construction of some residential development.

(k) Essential Services II;

(l) Essential Services III.

(2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.1) (Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024; Ord. O-17-2024, passed 12-5-2024; Ord. ZTA-4-2025, passed 10-2-2025)

§ 153.106 R-15 SINGLE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

(1) Single-family dwellings;

(2) Day care centers, small group;

(3) Customary home occupations in accordance with §153.045 of this chapter;

(4) Family care homes;

(5) Essential services, Class I and II;

(6) Accessory structures in accordance with §153.057 of this chapter;

(7) Signs in accordance with §§153.160 through 153.172 of this chapter;

(8) Off-street parking in accordance with §§153.185 through 153.188 of this chapter;

(9) Publicly owned and operated outdoor recreation facility one acre or less in size and not containing a swimming pool; and

(10) Public parks and recreation facilities.

(B) *Yard regulations.*

(1) *Minimum lot size.*

(a) Single-family dwellings: 15,000 square feet.

(b) Essential services: none.

(2) *Minimum front yard setback (as measured from the edge of the street right-of-way line).*

(a) All residential uses in division (A) above: 35 feet.

(b) All other uses: 50 feet.

(3) *Minimum side yard setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

(a) Single-family detached dwellings: 10 feet.

(b) All other uses: 15 feet.

(4) *Minimum rear yard setbacks. All uses: 25 feet.*

(5) *Maximum building height. All uses: 35 feet, except as provided in § 153.054 of this chapter.*

(6) *Minimum lot width (as measured at the required front yard setback).*

(a) All uses: 90 feet except that in no instance shall the lot width measured at the street right-of-way be less than 35 feet.

(C) *Screening and landscaping.*

(1) Screening, as provided in § 153.046 of this chapter, shall be required for the following uses and for any other circumstances as required by § 153.046(A) of this chapter.

(a) Essential services, Classes I and II;

(b) Public outdoor recreation facilities not constructed pursuant to a permit authorizing the construction of some residential development.

(2) Where applicable landscaping shall be provided in accordance with §153.057 of this chapter.

(Prior UDO, § 7.2) (Ord. passed 4-6-16; Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-4-2025, passed 10-2-2025) Penalty, see § 153.999

§ 153.107 R-10 SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

(1) Single-family dwellings;

(2) Day care centers, small group;

(3) Customary home occupations in accordance with §153.045 of this chapter;

(4) Family care homes;

(5) Essential services, Class I and II;

(6) Accessory structures in accordance with §153.057 of this chapter;

(7) Signs in accordance with §§ 153.160 through 153.172 of this chapter;

(8) Off-street parking in accordance with §§153.185 through 153.188 of this chapter;

(9) Publicly owned and operated outdoor recreation facility 1 acre or less in size and not containing a swimming pool;
and

(10) Public parks and recreation facilities.

(B) *Yard regulations.*

(1) *Minimum lot size.*

(a) Single-family dwellings: 10,000 square feet.

(b) Essential services: none.

(2) *Minimum front yard setback (as measured from the edge of the street right-of-way line).*

(a) All principal uses listed as permitted uses in division (A) above: 35 feet.

(3) *Minimum side yards setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

(a) Single-family dwellings: 10 feet.

(b) All other uses: 15 feet.

(4) *Minimum rear yard setbacks. All uses: 25 feet.*

(5) *Maximum building height. All uses: 35 feet, except as provided in § 153.054 of this chapter.*

(6) *Minimum lot width (as measured at the required front yard setback).*

(a) Single-family dwellings: 80 feet at front yard setback; 30 feet at street right-of-way.

(b) All other uses: 90 feet at front yard setback, except that in no instance shall the lot width measured at the street right-of-way be less than 35 feet.

(C) *Screening and landscaping.*

(1) Screening, as provided in § 153.046 of this chapter, shall be required for the following uses and for all other circumstances as required by § 153.046(A) of this chapter:

(a) Essential services, Classes I and II;

(b) Publicly owned and operated outdoor recreation facility one acre or less in size and not containing a swimming pool.

(2) Where applicable landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.3) (Ord. passed - - ; Ord. passed 6-29-2023; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-4-2025, passed 10-2-2025) Penalty, see § 153.999

§ 153.108 R-8 SINGLE AND TWO-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

(1) Single-family dwellings;

(2) Two-family dwellings;

(3) Day care centers, small group;

(4) Customary home occupations in accordance with §153.045 of this chapter;

(5) Family care homes;

(6) Essential services, Class I and II;

(7) Accessory structures in accordance with §153.057 of this chapter;

(8) Signs in accordance with §§153.160 through 153.172 of this chapter;

(9) Off-street parking in accordance with §§153.185 through 153.188 of this chapter;

(10) Publicly owned and operated outdoor recreation facility one acre or less in size and not containing a swimming pool; and

(11) Public parks and recreation facilities.

(B) *Yard regulations.*

(1) *Minimum lot size.*

(a) Single-family dwelling: 6,000 square feet.

(b) Two-family dwellings: 12,000 square feet.

(2) *Minimum front yard setback (as measured from the edge of the street right-of-way line).*

(a) All residential uses: 30 feet.

(b) All other uses: 40 feet.

(3) *Minimum side yard setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

(a) All residential uses: 10 feet.

(b) All other uses: 15 feet.

(4) *Minimum rear yard setback.* All uses: 25 feet.

(5) *Maximum building height.* All uses: 35 feet, except as provided in § 153.054 of this chapter.

(6) *Minimum lot width (as measured at the required front yard setback).*

(a) Single-family dwelling: 70 feet at front yard setback; 35 feet at street right-of-way.

(b) Two-family dwelling: 80 feet at front yard setback; 35 feet at street right-of-way.

(c) All other uses: 90 feet at front yard setback, except that in no instance shall the lot width measured at the street right-of-way be less than 35 feet.

(C) *Screening and landscaping.*

(1) Screening, as provided in § 153.046 of this chapter shall be required for the following uses and for any other

circumstances as required by § 153.046(A) of this chapter:

- (a) Country club, but screening is not required for golf course playing areas;
- (b) Essential services, Classes I and II;
- (c) Publicly owned and operated outdoor recreation facility 1 acres or less in size and not containing a swimming pool.

(2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.4) (Ord. ZTA-3-2016, passed 6-2-2016; Ord. passed - - ; Ord. passed 6-29-2023; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-4-2025, passed 10-2-2025) Penalty, see § 153.999

§ 153.109 RMF RESIDENTIAL MULTI-FAMILY DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Multi-family dwellings with additional requirements (see section (C) below);
- (4) Churches with a maximum sanctuary seating capacity of not greater than 500 seats. Customary accessory uses shall also be permitted. Church owned and maintained cemeteries as an accessory use are permitted;
- (5) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof;
- (6) Private residential quarters provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the two off-street spaces required for the principal dwelling;
- (7) Public and private elementary and secondary schools;
- (8) Day care centers, small group;
- (9) Customary home occupations in accordance with §153.045 of this chapter;
- (10) Family care homes;
- (11) Essential services, Class I and II;
- (12) Accessory structures in accordance with §153.057 of this chapter;
- (13) Signs in accordance with §§153.160 through 153.172 of this chapter;
- (14) Off-street parking in accordance with §§153.185 through 153.188 of this chapter ;
- (15) Publicly owned and operated outdoor recreation facility 1 acre or less in size and not containing a swimming pool; and
- (16) Public parks and recreation facilities.

(B) *Yard regulations.*

- (1) *Minimum lot size.*
 - (a) Single-family dwelling: 8,000 square feet.
 - (b) Two-family dwellings: 12,000 square feet.
 - (c) Multi-family dwellings: minimum site size shall be 25,000 square feet but gross density shall not exceed 6 units per acre.
 - (d) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof: none.
 - (e) Private residential quarters: no additional lot size beyond that required for the principal dwelling.
 - (f) Essential services: none.
- (2) *Minimum front yard setback (as measured from the edge of the street right-of-way line):*
 - (a) All residential uses: 30 feet.
 - (b) Cemeteries and essential services, Class I and II: 20 feet.
 - (c) All other uses: 40 feet.

(3) *Minimum side yard setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

- (a) Single- and two-family dwellings: 10 feet.
- (b) Multi-family dwellings: 12 feet.
- (c) Public and private elementary and secondary schools: 20 feet.
- (d) Church: 20 feet.
- (e) All other uses: 15 feet.

(4) *Minimum rear yard setback.* All uses: 25 feet.

(5) *Maximum building height.* All uses: 40 feet, except as provided in § 153.054 of this chapter.

(6) *Minimum lot width (as measured at the required front yard setback).*

- (a) Single-family dwelling: 70 feet at front yard setback; 35 feet at street right-of-way.
- (b) Two-family dwelling: 80 feet at front yard setback; 35 feet at street right-of-way.
- (c) Multi-family developments: 100 feet at the street right-of-way.
- (d) All other uses: 100 feet.

(C) *Additional requirements for multi-family dwellings.*

(1) Screening, as provided in § 153.046 of this chapter shall be required for multi-family developments where abutting properties zoned or used for single- or two-family residential use.

(2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(3) Off-street parking, as provided in §153.185.

(D) *Other requirements (if applicable).*

(1) Water Supply Watershed Overlay District, as provided in §153.121.

(Prior UDO, § 7.5) (Ord. passed - - ; Ord. passed 6-29-2023; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-1-2025, passed 4-3-2025; Ord. ZTA-4-2025, passed 10-2-2025) Penalty, see § 153.999

§ 153.110 R-O RESIDENTIAL OFFICE DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

- (1) Single-family homes;
- (2) Two-family dwellings;
- (3) Office buildings containing 5,000 square feet or less of gross floor area;
- (4) Churches including customary accessory uses. Church owned and maintained cemeteries as an accessory use are permitted;
- (5) Public and private elementary and secondary schools and/or schools district administrative offices;
- (6) Family care homes;
- (7) Customary home occupations in accordance with §153.045 of this chapter;
- (8) Day care center, small group;
- (9) Private residential quarters, provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the 2 off-street parking spaces required for the principal dwelling;
- (10) Public safety stations;
- (11) Barber shop/beauty shop; and
- (12) Farmers market (small scale);
- (13) Essential services, Class I and II;
- (14) Accessory structures in accordance with §153.057 of this chapter;
- (15) Signs in accordance with §§ 153.160 through 153.172 of this chapter;
- (16) Off-street parking in accordance with §§153.185 through 153.188 of this chapter;
- (17) Publicly owned and operated outdoor recreation facility 1 acres or less in size and not containing a swimming pool;

and

(18) Public parks and recreation facilities.

(B) *Yard regulations.*

(1) *Minimum lot size.*

- (a) Single-family dwelling: 8,000 square feet.
- (b) Two-family dwellings: 12,000 square feet.
- (c) Private residential quarters: no additional lot size beyond that required for the principal dwelling.
- (d) Essential services: none.
- (e) All other principal uses: 1 acre.
- (f) Churches: 20,000 square feet.
- (g) Office buildings: 9,000 square feet.

(2) *Minimum front setback (as measured from the edge of the street right-of-way line).*

(a) All uses: 30 feet.

(3) *Minimum side yard setback (an additional 10 feet shall be provided on all side yards which abut a public street).*

- (a) Single- and two-family dwellings: 10 feet.
- (b) Public and private elementary and secondary schools: 20 feet.
- (c) Churches: 20 feet.
- (d) All other uses: 15 feet.

(4) *Minimum rear yard setback.* All uses: 25 feet.

(5) *Minimum lot width (as measured at the required front setback); at least 35 feet of lot width measured at the street right-of-way line shall be required except as noted.*

- (a) Churches, schools: 100 feet with at least 50 feet at the street right-of-way line.
- (b) Two-family dwellings: 80 feet.
- (c) Churches and schools: 120 feet with at least 50 feet at the street right-of-way line.
- (d) All other uses: 70 feet.

(6) *Maximum building height.* All uses: 40 feet, except as provided in § 153.054 of this chapter.

(C) *Screening and landscaping.*

- (1) Screening when required by § 153.046(A) of this chapter shall be installed pursuant to §153.046 of this chapter.
- (2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.6) (Ord. ZTA-5-2009, passed 11-5-2009; Ord. ZTA-6-2009, passed 1-7-2010; Ord. passed - -; Ord. O-5-23, passed 4-6-2023; Ord. passed 6-29-2023; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-1-2025, passed 4-3-2025; Ord. ZTA-4-2025, passed 10-2-2025) Penalty, see § 153.999

§ 153.111 O-I OFFICE INSTITUTIONAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.256.

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Office buildings;
- (4) Public and private elementary and secondary schools and/or school district administrative offices;
- (5) Family care homes;
- (6) Customary home occupations in accordance with §153.045 of this chapter;
- (7) Private residential quarters, provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the two off-street parking spaces required for the principal dwelling;
- (9) Public safety stations;

- (10) Farmers market (small scale);
- (11) Accessory structures in accordance with § 153.057 of this chapter;
- (12) Signs in accordance with §§ 153.160 through 153.172 of this chapter;
- (13) Off-street parking in accordance with §§ 153.185 through 153.188 of this chapter;
- (14) Publicly owned and operated outdoor recreation facility one acre or less in size and not containing a swimming pool.
- (15) Art and photography studios (excluding adult establishments);
- (16) Bed and breakfast inns;
- (17) Cemeteries as a principal use;
- (18) Churches;
- (19) Colleges and trade schools, except truck and heavy construction equipment operating schools;
- (20) Community centers;
- (21) Copy service;
- (22) Day care centers;
- (23) Essential services, Class I and II;
- (24) Florist;
- (25) Food catering service;
- (26) Funeral homes;
- (27) Gift shop having less than 2,500 square feet gross floor area;
- (28) Hospitals;
- (29) Laboratories;
- (30) Libraries;
- (31) Museums;
- (32) Optician;
- (33) Pharmacy (less than 3,000 square feet gross floor area);
- (34) Recreation facilities: country clubs, privately-owned outdoor recreation facilities and publicly-owned outdoor recreation facilities greater than 1 acre; provided that go-cart tracks, other outdoor vehicular racing facilities, water slides, outdoor facilities open after 10:00 p.m., and facilities using outdoor audio loudspeaker systems shall not be permitted;
- (35) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof;
- (36) Rest homes, nursing care facilities and continuing care communities;
- (37) Health centers;
- (38) Hospitals including but not limited to university/teaching hospitals and physical rehabilitation hospitals;
- (39) Medical clinics ;
- (40) Personal health clinics; and
- (41) Public parks and recreation facilities.

(B) *Uses subject to prescribed standards.*

- (1) Financial institutions provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;
- (2) Post office provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046.

(C) *Yard regulations.*

- (1) *Minimum lot size.*
 - (a) Single-family dwelling: 8,000 square feet.

(b) Two-family dwellings: 12,000 square feet.

(c) All other uses: none.

(2) *Minimum lot width (as measured at the required front setback).*

(a) Single-family dwelling: 70 feet at front yard setback; 35 feet at street right-of-way.

(b) Two-family dwelling: 80 feet at front yard setback; 35 feet at street right-of-way.

(c) All other uses: 80 feet.

(3) *Minimum front setback (as measured from the edge of the street right-of-way).*

(a) All uses: 30 feet.

(4) *Minimum side setback.* 10 feet for all uses, except 20 feet shall be required on all corner lots and any lots that abut a Residential (R) District.

(5) *Minimum rear setback.* All residential uses: 25 feet; all other uses 20 feet.

(6) *Maximum building height.* 40 feet, except as permitted in § 153.054 of this chapter.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) of this chapter shall be installed pursuant to §153.046 of this chapter.

(2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.7) (Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-4-2025, passed 10-2-2025)

§ 153.112 N-B NEIGHBORHOOD BUSINESS DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

(1) *Retail uses (provided, however, no single retail use with greater than 5,000 square feet of gross floor area shall be permitted).*

(a) Antique store;

(b) Arts and crafts store;

(c) Bakeries (retail/nondistributor);

(d) Beauty supply stores;

(e) Bicycle store;

(f) Book and stationery store, cards, gift-wrap, boxes, sales (excluding adult establishments);

(g) Camera shop;

(h) Clock shop;

(i) Clothing store;

(j) Computer service store;

(k) Convenience store;

(l) Copy service;

(m) Curtain and drape store;

(n) Delicatessen;

(o) Dressmaking shop;

(p) Drugstore;

(q) Dry cleaning (pickup and delivery only);

(r) Dry goods shop;

(s) Florist and gift shop;

(t) Floor covering, lighting, wallpaper, paint and window covering stores;

(u) Food catering service;

(v) Food store;

(w) Furniture store;

- (x) Furrier;
- (y) Hardware store;
- (z) Hobby shop;
- (aa) Household goods shop;
- (bb) Jewelry and jewelry repair;
- (cc) Key shop;
- (dd) Linen shop;
- (ee) Luggage and leather store;
- (ff) Medical supply store;
- (gg) Music store;
- (hh) Notion and fabric store;
- (ii) Office supply and equipment shop;
- (jj) Pet store;
- (kk) Postal store;
- (ll) Publicly operated alcohol beverage control (ABC) store;
- (mm) Restaurant (excluding fast-food and drive-in restaurant);
- (nn) Second-hand shop (excluding pawn shop);
- (oo) Shoe store;
- (pp) Shoe repair shop;
- (qq) Sporting goods and trophy shop;
- (rr) Tailor and alteration shop;
- (ss) Toy store;
- (tt) Variety and department store;
- (uu) Video rental and sales shop (excluding adult establishments);
- (vv) Shopping centers, Class A provided the shopping center does not exceed 10,000 square feet in gross floor area and no single store within the shopping center shall exceed 5,000 square feet in gross floor area; and
- (ww) Office buildings containing a maximum gross floor area of 15,000 square feet or less.

(2) *Services.*

- (a) Art and photography studio (excluding adult establishments);
- (b) Automobile parking lot;
- (c) Automobile wash establishment (self-service);
- (d) Banks;
- (e) Barber shop;
- (f) Beauty shop;
- (g) Bed and breakfast inn;
- (h) Branch library;
- (l) Churches;
- (j) Commercial schools providing training in any of the arts, sciences, trades or professions, conducted entirely indoors, with up to 100 enrolled students;
- (k) Community centers and publicly owned outdoor recreation facilities;
- (l) Day care centers and small group day care centers;
- (m) Essential services, Classes I and II;
- (n) Exterminator service;

- (o) Film processing shop;
- (p) Finance company;
- (q) Fitness and tanning salon and private nonprofit primarily indoor sports and fitness and similar recreation facilities (e.g., YMCA, YWCA, Boys Clubs, Girls Clubs, Optimist and the like);
- (r) Interior decorating service;
- (s) Laundromat;
- (t) Library;
- (u) Locksmith;
- (v) Medical clinic;
- (w) Office-business, professional and public;
- (x) Opticians and optical services;
- (y) Post office;
- (z) Public safety station;
- (aa) Recycling depository station where all deposited materials are stored indoors or in closed bins; and
- (bb) Travel agency.

(3) *Other uses.*

- (a) Customary home occupations in a nonconforming residential structure in accordance with §153.045 of this chapter;
- (b) Accessory structures in accordance with § 153.057 of this chapter;
- (c) Signs in accordance with §§ 153.160 through 153.172 of this chapter; and
- (d) Off-street parking and loading in accordance with §§153.185 through 153.188 of this chapter.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) Accessory apartments in commercial structures provided all building and fire codes are met, living quarters do not exceed 30% of the total square footage of the structure and occupancy is limited to employees of the business located in the commercial structure on the premises.

(C) *Yard requirements.*

- (1) Minimum lot size: none.
- (2) Minimum lot width: 70 feet (as measured at the required front setback).
- (3) Minimum front setback: 30 feet (as measured from the edge of the street right-of-way).
- (4) Minimum side setback: ten feet, except 20 feet shall be required on all corner lots and lots which abut a Residential (R) District.
- (5) Minimum rear setback: 20 feet.
- (6) Maximum building height: 40 feet, except as permitted in § 153.054 of this chapter.

(D) *Screening and landscaping.*

- (1) Screening, when required by § 153.046(A) of this chapter, shall be installed pursuant to §153.046 of this chapter.
- (2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.8) (Ord. ZTA-2-2010, passed 6-3-2010; Ord. ZTA-2-2011, passed 7-11-2011; Ord. ZTA-4-2016, passed 7-7-2016; Ord. passed - -) Penalty, see § 153.999

§ 153.113 C-B CENTRAL BUSINESS DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

(1) *Retail uses.*

- (a) Antique store;
- (b) Appliance and appliance repair store;

- (c) Arts and crafts store;
- (d) Automobile and boat supply store;
- (e) Bakeries (retail and wholesale);
- (f) Bicycle store;
- (g) Beauty supply store;
- (h) Book and stationery store (excluding adult establishments);
- (i) Box and gift-wrap store;
- (j) Card (greeting) shop;
- (k) Camera shop and film developing service depository and/or walk-in service developing lab;
- (l) Catalog sales store;
- (m) Clock shop;
- (n) Clothing shop/department store;
- (o) Computer service store;
- (p) Convenience stores (no fuel sales);
- (q) Copy service;
- (r) Curtains, drape and other window treatments store;
- (s) Delicatessen;
- (t) Dressmaking shop;
- (u) Drugstore;
- (v) Dry cleaning (pick-up and delivery station);
- (w) Dry goods shop;
- (x) Electronics sales;
- (y) Sign printing and manufacturing, outside of the downtown fire district and with no outdoor storage and with all activities conducted indoors;
- (z) Florist and gift shop;
- (aa) Floor covering, lighting, wallpaper, paint and window covering store;
- (bb) Food store;
- (cc) Formalwear sales and rental;
- (dd) Furniture, rugs and other home furnishings store;
- (ee) Furrier;
- (ff) Hardware store (but not outdoor storage or enclosed lumber yards);
- (gg) Hobby store;
- (hh) Household goods shop;
- (ii) Jewelry and jewelry repair shop;
- (jj) Key shop;
- (kk) Linen shop;
- (ll) Luggage and leather shop;
- (mm) Medical supply sales and rental store;
- (nn) Music store including recordings of the various media, print music, sound and high fidelity equipment and supplies, and musical instruments sales and service;
- (oo) Notion and fabric store;
- (pp) Office buildings with a maximum gross floor area of 10,000 square feet;
- (qq) Office supply, stationary office equipment;

- (rr) Party rental shop;
- (ss) Pet store;
- (tt) Postal store;
- (uu) Restaurant and auxiliary food catering service;
- (vv) Second-hand shop;
- (ww) Shoe store;
- (xx) Shoe repair shop;
- (yy) Sporting goods and trophy shop;
- (zz) Tailor and alteration shop;
- (aaa) Toy store;
- (bbb) Variety and department store;
- (ccc) Video rental and sales shop (excluding adult establishments); and
- (ddd) Motorcycle sales with outdoor storage during business hours only.

(2) *Services.*

- (a) Art and photography studios (excluding adult establishments);
- (b) Automobile parking lot;
- (c) Barber shop;
- (d) Beauty shop;
- (e) Community center;
- (f) Commercial schools providing training in any of the arts, sciences, trades or professions, conducted indoors, with up to 100 enrolled students;
- (g) Dry cleaning service;
- (h) Essential services, Classes I and II;
- (i) Exterminator service;
- (j) Finance company;
- (k) Film processing service;
- (l) Fitness and tanning center (excluding adult establishments);
- (m) Interior decorating service;
- (n) Laundromat;
- (o) Library;
- (p) Museum;
- (q) Newspaper office and broadcast media offices and studios only;
- (r) Offices—business, professional, medical and public;
- (s) Opticians and optical services;
- (t) Permanent cosmetics;
- (u) Post office;
- (v) Public safety station;
- (w) Rental of party, medical, office and household items;
- (x) Sign printing and manufacturing, outside of the downtown fire district and with no outdoor storage and with all activities conducted indoors;
- (y) Signs in accordance with §§ 153.160 through 153.172 of this chapter;
- (z) Theaters, auditoriums and public or private nonprofit cultural arts facilities (performance, education, and/or exhibit) excluding adult establishments; and

(aa) Travel agency.

(3) *Other.* Accessory apartments in commercial structures provided all Building and Fire Codes are met.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) Hotel provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(2) Newspaper printing and other publishing;

(3) Parking facilities provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(4) Tavern provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046.

(5) Recreation, indoor provided that the noise level generated by this activity should not adversely impact surrounding uses.

(6) Recreation, outdoor provided that the facility is closed by 9:00 p.m., any outdoor lighting shall not shine directly into the yards/windows of residential uses and are turned off at closing, and central loudspeakers/paging systems are prohibited within 200 feet of residentially planned, zoned, or used property.

(C) *Yard requirements.*

(1) Minimum lot size: none.

(2) Minimum lot width: none.

(3) Minimum front yard setback: none.

(4) Minimum side yard setback: none except 10 feet shall be required on all corner lots and 20 feet on side yards that abut any Residential (R) District.

(5) Minimum rear yard setback: none except 20 feet shall be required on all lots whose rear yard abuts any Residential (R) District.

(6) Maximum building height: 40 feet except as permitted in §153.054 of this chapter.

(7) Off-street parking and loading: all off-street parking and loading requirements as prescribed in §§153.185 through 153.188 of this chapter shall be waived.

(8) Minimum build to lines: the fronts of all new commercial buildings shall be constructed at the minimum front and side setback lines.

(9) Where new structures are constructed adjacent to existing sidewalks, an expansion joint shall be placed between the structures and the sidewalk.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) of this chapter, shall be installed pursuant to §153.046 of this chapter.

(2) When off-street parking is provided, landscaping shall be installed, as applicable, pursuant to §153.047(B) of this chapter.

(Prior UDO, § 7.9) (Ord. ZTA-1-2013, passed 2-7-2013; Ord. ZTA-4-2016, passed 7-7-2016; Ord. ZTA-7-2016, passed 1-5-2017; Ord. passed 4-6-2017; Ord. ZTA-2-2020, passed 3-5-2020; Ord. passed - -; Ord. O-01-23, passed 1-5-2023; Ord. O-4-2024, passed 5-2-2024; Ord. O-17-2024, passed 12-5-2024) Penalty, see § 153.999

Editor's note:

Additional development standards pertaining to the CB District, see §153.074

§ 153.114 CBT CENTRAL BUSINESS TRANSITIONAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right: All uses permitted in §153.113(A) of this chapter.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) All uses subject to prescribed standards permitted in §153.113(B) of the chapter, with the exclusion of hemp/cannabis delivery.

(C) *Yard requirements.*

- (1) Minimum lot size: none.
- (2) Minimum lot width: none.
- (3) Minimum front yard setback: none.
- (4) Minimum build to lines:

(a) The fronts of all new commercial buildings shall observe a build to line of zero to 20 feet as measured from the street right-of-way boundary.

(5) Minimum side yard setback: none except ten feet shall be required on all corner lots and 20 feet on side yards that abut any Residential (R) District.

(6) Minimum rear yard setback: none except 20 feet shall be required on all lots whose rear yard abuts a Residential (R) District.

(7) Maximum building height: 40 feet except as permitted in § 153.054 of the chapter.

(8) Off-street parking and loading: all off-street parking requirements as prescribed in §§ 153.185 through 153.188 of this chapter. Where lots in this district abut Main Street, the building or the principal building in a multi-building project, shall be located between Main Street and any off-street parking facilities. Off-street loading requirements as prescribed in §§ 153.185 through 153.188 of this chapter shall be waived.

(9) Where new structures are constructed adjacent to existing sidewalks, an expansion joint shall be placed between the structures and the sidewalk.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) of this chapter shall be installed in accordance with §153.046 of this chapter. Street landscaping, as addressed in § 153.047(A) of this chapter, shall not be required in the CBT District.

(2) When off-street parking is provided, landscaping shall be installed, as applicable, pursuant to §153.047(B) of this chapter.

(Prior UDO, § 7.9A) (Ord. ZTA-7-2016, passed 1-5-2017; Ord. passed - - ; Ord. ZTA-5-2025, passed 12-4-2025) Penalty, see § 153.999

Editor's note:

Additional development standards pertaining to the CBT District, see §153.074

§ 153.115 G-B GENERAL BUSINESS DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

(1) *Retail uses.*

- (a) Antique store;
- (b) Appliance and appliance repair store;
- (c) Arts and crafts store;
- (d) Automobile and boat supply stores;
- (e) Automobile, truck, and motorcycle sales and adjoined service/repair;
- (f) Automobile service station;
- (g) Bakeries (retail);
- (h) Beauty supply stores;
- (i) Bicycle stores;
- (j) Boat sales lot;
- (k) Book and stationery store, cards, gift wrap and box sales (excluding adult establishments);
- (l) Building materials store (with no outdoor storage);
- (m) Camera shop;
- (n) Camper and recreational vehicle sales;
- (o) Catalogue sales store;
- (p) Clock shop;
- (q) Clothing store/department store;

- (r) Computer service store;
- (s) Convenience store;
- (t) Copy and offset printing shop;
- (u) Curtain and drape and other window treatments store;
- (v) Delicatessen;
- (w) Dressmaking shop;
- (x) Drugstore;
- (y) Dry cleaning plant;
- (z) Dry cleaning stores (pickup and delivery);
- (aa) Dry goods shop;
- (bb) Electric, plumbing, heating, ventilating and air conditioning supplies and equipment sales and service;
- (cc) Electronics sales;
- (dd) Farm equipment sales and repair;
- (ee) Feed and seed store;
- (ff) Florist and gift shop;
- (gg) Floor covering, lighting, wallpaper, paint and window covering stores;
- (hh) Food catering service;
- (ii) Food store, grocery store, supermarket;
- (jj) Formal wear sales and rentals;
- (kk) Furniture, rugs, and other home furnishings store;
- (ll) Furrier;
- (mm) Garden center, commercial greenhouses and horticultural nurseries;
- (nn) Hardware store (no outdoor storage);
- (oo) Hobby shop;
- (pp) Home improvements store (no outdoor storage);
- (qq) Household goods shop;
- (rr) Jewelry and jewelry shop;
- (ss) Key shop;
- (tt) Linen shop;
- (uu) Publicly operated alcohol beverage central (ABC) store;
- (vv) Luggage and leather goods store;
- (ww) Medical supply sales and retail;
- (xx) Manufactured home sales and service;
- (yy) Music, record, instruments, and sound and hi-fidelity store (sales and service);
- (zz) Notion and fabric shop;
- (aaa) Office supplies, stationary and office equipment shop;
- (bbb) Pawn shop;
- (ccc) Pet store;
- (ddd) Postal store;
- (eee) Restaurant;
- (fff) Restaurant, fast-food;
- (ggg) Second-hand shop;

(hhh) Shoe store;

(iii) Shoe repair shop;

(jjj) Smoke shop with the following prescribed standards:

1. Shall not be located within 500 feet of any K-12 public school or licensed childcare facility;

2. Shall not be located within 1,000 feet of any other smoke shop;

3. Separation is required to prevent overconcentration, which is defined as three or more of these uses existing within a 1,000-foot radius of the business. Required separation distance shall be measured as a radius from the front door of one business to the front door of the surrounding business located within or outside the city's corporate limits; and

4. Must meet all sign regulations in the UDO including but not limited to: (a) flashing signs or any signs with flashing or intermittent light or lights or reflective devices of changing degree of intensity or color are prohibited; or (b) a maximum of 10% of the wall area of any wall on the building.

(kkk) Sporting goods and trophy shop;

(lll) Tailor and alteration shop;

(mmm) Toy stores;

(nnn) Upholstery, cabinet and woodworking shop;

(ooo) Variety and department store;

(ppp) Video rental and sales shop (excluding adult establishments); and

(qqq) Shopping centers, Class A and B.

(2) *Services.*

(a) Art and photography studio (excluding adult establishments);

(b) Animal hospitals;

(c) Auction houses, indoors only (excluding livestock auctions);

(d) Assembly hall, coliseum, ballroom and the like;

(e) Automobile body shop;

(f) Automobile garage, repair and service;

(g) Automobile parking lot;

(h) Automobile wash establishment (self-service, full service or automatic);

(i) Bait and tackle shops;

(j) Banks;

(k) Barber shop;

(l) Beauty shop;

(m) Bowling alley, indoor skating rink and baseball batting range;

(n) Broadcast studios but not transmission towers (see essential services Class III);

(o) Churches;

(p) Publicly operated and/or commercial schools, providing training in any of the arts, sciences, trades or professions;

(q) Community centers;

(r) Day care centers;

(s) Electric, plumbing, heating and air conditioning services and contractors and building contractors with outdoor storage of materials;

(t) Essential services, Classes I and II;

(u) Exterminator service;

(v) Film processing service;

(w) Finance company;

(x) Financial institutions;

- (y) Private for profit fitness and tanning center and public or nonprofit sports, fitness and related recreation and education facilities (e.g., YMCA, YWCA, Boys and Girls Clubs);
- (z) Fraternal and civic clubs (excluding adult establishments);
- (aa) Funeral home;
- (bb) Golf courses (all types and miniature and/or driving range);
- (cc) Government facilities (excluding jails, prisons and similar penal institutions);
- (dd) Hotel, inn or motel;
- (ee) Interior decorator shop;
- (ff) Laundromat;
- (gg) Library;
- (hh) Locksmith;
- (ii) Medical clinics;
- (jj) Mini-warehouse;
- (kk) Motel;
- (ll) Museums;
- (mm) Newspaper printing and other publishing;
- (nn) Offices-business, professional and medical and public;
- (oo) Opticians and optical services;
- (pp) Pawn shops;
- (qq) Photo processing center;
- (rr) Photocopying and offset printing services;
- (ss) Post office;
- (tt) Public safety station;
- (uu) Recording studios;
- (vv) Recycling depository;
- (ww) Rental centers (party, medical, personal, furnishings and household items; tools and mechanized equipment; and construction and cleaning equipment, trucks, vans and moving equipment, autos and related vehicles);
- (xx) Sign shop/sign painting;
- (yy) Skating rink; indoor/outdoor; and
- (zz) Theaters, auditoriums and cultural arts facilities for the exhibition, education, and performance of cultural arts (excluding adult establishments).

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) *Retail uses.*

(a) Express fuel/mini-mart provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(b) Shopping centers, Class C provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(c) Hemp/cannabis dispensary and smoke shops, provided they:

1. Shall not be located within 500 feet of any K-12 public school or licensed childcare facility property; the separation distance shall be measured in a straight line, without regard to intervening structures, from the closest point of the property line of the proposed establishment to the closest point of the property line of the properties listed above.

2. Shall not be located within 1,000 feet of any other smoke shop or dispensary; the separation distance shall be measured in a straight line, without regard to intervening structures, from the front door of the proposed establishment to the

front door of the other establishment.

3. Must meet all sign regulations in the UDO, including but not limited to:

A. Flashing signs or any signs with flashing or intermittent light or lights or reflective devices of changing degree of intensity or color are prohibited; or

B. A maximum of 10% of the wall area of any wall on the building.

(2) *Service uses.*

(a) Office buildings containing over 50,000 square feet of gross floor area provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(b) Machining of metals shop (machine shop) not exceeding 10,000 square feet of gross floor area with no outdoor storage and with all activities conducted indoors, provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(c) Postal and parcel service processing facility provided that primary vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;

(d) Tavern provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046.

(3) *Other.* Accessory apartments in commercial structures provided all building and fire codes are met, living quarters do not exceed 30% of the total square footage of the structure and occupancy is limited to employees of the business located in the commercial structure on the premises.

(C) *Yard requirements.*

(1) Minimum lot size: none.

(2) Minimum lot width: 70 feet (as measured at the required front setback).

(3) Minimum front setback: 40 feet (as measured from the edge of the street right-of-way line).

(4) Minimum side setback: ten feet, except 20 feet shall be required on all corner lots and lots whose side yard abuts any Residential (R) District.

(5) Minimum rear setback: 20 feet, except 30 feet shall be required on all lots whose rear yard abuts any Residential (R) District.

(6) Maximum building height: 50 feet, except as permitted in § 153.054 of this chapter.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) of this chapter, shall be installed pursuant to §153.046 of this chapter.

(2) Where applicable, landscaping shall be provided in accordance with §153.047of this chapter.

(Prior UDO, § 7.10) (Ord. ZTA-2-2011, passed 7-11-2011; Ord. ZTA-4-2016, passed 7-7-2016; Ord. passed - - ; Ord. O-1-2024, passed 1-4-2024; Ord. ZTA-5-2025, passed 12-4-2025) Penalty, see § 153.999

Editor's note:

Any retail use in excess of 85,000 square feet is subject to §153.129.

§ 153.115.1 HC HIGHWAY COMMERCIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

(1) All uses as permitted in § 153.115(A) and (B) of this chapter up to 85,000 square feet. Any retail use in excess of 85,000 square feet is subject to § 153.129 *Commercial Center District.*

(2) *Retail uses.*

(a) Automobile, truck and motorcycle sales and related service and repair;

(b) Automobile wash establishment;

(c) Express fuel/mini-mart;

(d) Shopping center;

(e) Building materials, hardware and related sales with outdoor storage, and outdoor storage of building materials by contractors;

- (f) Flea markets;
- (g) Garden center, commercial greenhouse and horticultural nursery;
- (h) Restaurant; and
- (i) Tavern.

(3) *Service uses.*

- (a) Assembly halls, coliseums, ballrooms and similar uses;
- (b) Bowling alleys and skating rinks;
- (c) Office buildings;
- (d) Essential services, Class I, II or III;
- (e) Family theme parks, carnivals, circuses, tent assemblies, and similar commercial and charitable uses;
- (f) Jails;
- (g) Hotel, motel or motor lodge;
- (h) Moving and storage services;
- (i) Machining of metals shop (machine shop);
- (j) Postal and parcel service processing facility;
- (k) Outdoor recreation, baseball hitting or golf driving ranges;
- (l) Outdoor storage of materials by contractors;
- (m) Publicly operated alcohol beverage control (ABC) store;
- (n) Road, grading, and utility contractors; and
- (o) Tattoo studio.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 *Administrator* through 153.258 *Site Plan Requirements* of this chapter and subject to the associated below prescribed standards.

(1) Adult establishments subject to § 153.130(B) *Supplementary Requirements of Certain Uses* of this chapter;

(2) Arcade or amusement center or game room subject to §153.130(B) of this chapter and approval of a license in accordance with Chapter 111 *Poolrooms and Bowling Alleys*;

(3) Accessory apartments in commercial structures provided all building and fire codes are met, living quarters do not exceed 30% of the total square footage of the structure and occupancy is limited to employees of the business located in the commercial structure on the premises;

(4) Indoor shooting range subject to § 153.130(B); and

(5) Outdoor shooting range subject to § 153.130(B).

(C) *Yard requirements.*

(1) Minimum lot size: none.

(2) Minimum lot width: 70 feet (as measured at the required front setback).

(3) Minimum front setback: 40 feet (as measured from the edge of the street right-of-way line).

(4) Minimum side setback: 10 feet, except 20 feet shall be required on all corner lots and lots whose side yard abuts any Residential (R) District.

(5) Minimum rear setback: 20 feet, except 30 feet shall be required on all lots whose rear yard abuts any Residential (R) District.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) *Screening* of this chapter, shall be installed pursuant to §153.046 of this chapter. Any outdoor storage is to be screened from abutting properties in accordance with § 153.046(A).

(2) Where applicable, landscaping shall be provided in accordance with §153.047 *Landscaping* of this chapter.

(E) Off-street parking and locating in accordance with §§153.185 *Off Street Parking Requirements* through 153.188 of this chapter.

(Ord. passed - - ; Ord. O-5-23, passed 4-6-2023; Ord. ZTA-1-2025, passed 4-3-2025)

§ 153.116 P-B PLANNED BUSINESS DISTRICT.

(A) *Permitted uses.* The following uses shall be permitted by right.

(1) All uses permitted in § 153.113(A) of this chapter provided that the uses:

- (a) Are limited to a maximum of 5,000 square feet of gross floor area;
- (b) Contain only one principal building on the lot; and
- (c) Contain no more than one principal use per principal building.

(d) The limitations in § 153.116(A)(1)(a) through (c) above shall not apply to development sites located 200 feet or more from residential land uses located in residential zoning districts.

(2) The prohibition of fuel sales for convenience stores as listed in §153.113(A) of this chapter shall not apply to the PB District;

- (3) Signs in accordance with §§ 153.160 through 153.172 of this chapter;
- (4) Off-street parking and loading in accordance with §§ 153.185 through 153.188 of this chapter;
- (5) Publicly operated alcohol beverage control (ABC) store.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) Accessory apartments in commercial structures provided all building and fire codes are met provided all building and fire codes are met, living quarters do not exceed 30% of the total square footage of the structure and occupancy is limited to employees of the business located in the commercial structure on the premises; and

(2) Tattoo studio.

(C) *Yard requirements.*

(1) Minimum lot size: none.

(2) Minimum front setback: 40 feet (as measured from the edge of the street right-of-way).

(3) Minimum lot width: 70 feet (as measured at the required front setback).

(4) Minimum side setback: 10 feet, except 20 feet shall be required on all corner lots and 30 shall be required on all lots whose side yard abuts any Residential (R) District.

(5) Minimum rear setback: 20 feet, except 30 feet shall be required on all lots whose rear yard abuts any Residential (R) District.

(6) Maximum structure height: 50 feet except as permitted in § 153.054 of this chapter.

(D) *Screening and landscaping.*

(1) Screening when required by § 153.046(A) of this chapter shall be provided in accordance with §153.046 of this chapter.

(2) Where applicable, landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.11) (Ord. ZTA-2-2011, passed 7-11-2011; Am. Ord. O-03-2017, passed 6-1-2017; Am. Ord. O-1-18, passed 3-1-2018; Am. Ord. ZTA-4-2020, passed - - ; Ord. passed - -)

Editor's note:

Any retail use in excess of 85,000 square feet is subject to §153.129.

§ 153.117 GMC GENERAL MANUFACTURING AND COMMERCIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

- (1) Manufacturing, refining, processing or assembly of goods or products;
- (2) Agriculture equipment, sales and service;
- (3) Assembly halls, coliseums and ballrooms;
- (4) Auction houses, indoors, excluding livestock;
- (5) Automobile parking lots;
- (6) Automobile painting, upholstery, repairs, reconditioning and body work;
- (7) Automobile sales;

- (8) Automobile service stations;
- (9) Automobile wash establishments;
- (10) Bail bond service;
- (11) Bookbinding shops;
- (12) Building materials and lumber sales;
- (13) Cabinet, woodworking and upholstery shops;
- (14) Commercial schools and schools providing training in any of the arts, sciences, trades and professions;
- (15) Contractors storage and equipment yards;
- (16) Convenience stores;
- (17) Domestic violence shelter;
- (18) Dry cleaning and laundry plants;
- (19) Electric, plumbing, heating ventilating and air conditioning and construction supply houses;
- (20) Essential services, Class I and II;
- (21) Farm equipment sales and service;
- (22) Financial institution;
- (23) Florist, wholesale;
- (24) Food catering service and food vending supply;
- (25) Freezer lockers;
- (26) Government facilities not otherwise listed (excluding jails, prisons and similar penal institutions);
- (27) Greenhouses and horticultural nurseries;
- (28) Ice plants;
- (29) Laboratories: dental, medical, optical and research;
- (30) Machinery repair;
- (31) Manufactured home and recreational vehicle sales and service;
- (32) Moving and storage facilities (including mini-warehouses);
- (33) Office-business, medical, optical and professional;
- (34) Passenger bus terminal;
- (35) Photo processing laboratories;
- (36) Postal and parcel service processing facility;
- (37) Post office;
- (38) Product distribution plants;
- (39) Public safety stations;
- (40) Railroad terminals and yards;
- (41) Recycling terminals and yards;
- (42) Recycling sorting facility;
- (43) Restaurants, including fast-food restaurants;
- (44) Retail: all uses permitted in § 153.113(A);
- (45) Roofing manufacturing, repair and installation facilities;
- (46) Sign painting and manufacturing shops;
- (47) Slaughterhouse/abattoir;
- (48) Tin and sheet metal shops;
- (49) Tire recapping shops;

- (50) Towers and antennas 50 feet or less in height;
- (51) Truck sales and repair;
- (52) Trucking terminals;
- (53) Union halls, fraternal and civic organization meeting facility;
- (54) Vehicular and equipment outdoor storage (as a principal use) not for retail sales where:
 - (a) The items are owned and/or operated by the owner of the lot upon which they are located; and
 - (b) The items are in operating condition or intended to be operated.
- (55) Warehouses, including mini-warehouses;
- (56) Wholesaler, jobbers, bulk warehouses;
- (57) Accessory outlet store, provided that parking for the store shall be computed separately from the principal use and reserved for those purposes.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) Tavern provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046.

(C) *Yard regulations.*

- (1) Minimum lot size: none.
- (2) Minimum lot width: 100 feet (as measured at the required front setback).
- (3) Minimum front setback: 50 feet (as measured from the edge of the street right-of-way line).
- (4) Minimum side setback: 20 feet, except 50 feet shall be required on all lots that abut a Residential (R) District.
- (5) Minimum rear setback: 30 feet, except that 50 feet shall be required on all lots which abut a Residential (R) District.

(D) *Screening and landscaping.*

(1) Screening shall be required as provided in §153.046 of this chapter. Additional screening may be required so that the use is screened from view of adjoining residential zoning districts. In the event that the nature of the topography makes the screening from distant view from residential areas impossible, then other measures such as heavy on-site landscaping shall be installed to lessen any near or distant visual impacts.

(2) Landscaping shall be provided in accordance with §153.047 of this chapter.

(Prior UDO, § 7.12) (Ord. ZTA-1-2009, passed 4-2-2009; Ord. ZTA-3-2010, passed 7-1-2010; Ord. ZTA-2-2014, passed 7-10-2014; Ord. ZTA-3-2014, passed 11-13-2014; Ord. ZTA-4-2016, passed 7-7-2016; Ord. ZTA-1-2020, passed 3-5-2020; Ord. passed - - ; Ord. O-1-2024, passed 1-4-2024; Ord. O-3-2024, passed 5-2-2024)

Editor's note:

Any retail use in excess of 85,000 square feet is subject to §153.129.

The term SIC shall refer to the Standard Industrial Classification system as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget; and unless a use is defined in this chapter, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed under the GMC District.

§ 153.117.1 GI GENERAL INDUSTRIAL DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

- (1) All uses as permitted in 153.117(A) of this chapter.
- (2) Airports and air strips/airplane sales, services and fuel and rentals;
- (3) Auctions, outdoors and/or livestock;
- (4) Churches;
- (5) Day care centers;
- (6) Essential services;
- (7) Express fuel/mini-marts;

- (8) Farmers' markets;
- (9) Fish hatcheries;
- (10) Flea markets;
- (11) Fuel oil distribution facilities;
- (12) Haunted attractions (indoor/outdoor);
- (13) Indoor shooting range subject to § 153.130(B) of this chapter;
- (14) Junkyards, automobile graveyards and scrap salvage yards;
- (15) Kennels (indoor and outdoor);
- (16) Military reserve center/national guard armory;
- (17) Mines and quarries;
- (18) Outdoor storage of vehicles and/or equipment
- (19) Paintball gaming facility subject to § 153.130(B) of this chapter;
- (20) Penal institutions;
- (21) Race tracks;
- (22) Septic tank cleaning service;
- (23) Outdoor shooting range subject to § 153.130(B) of this chapter;
- (24) Recycling station - construction and demolition material- subject to §153.130(B) of this chapter;
- (25) Restaurant; and
- (26) Tavern.

(B) *Yard regulations.*

- (1) Minimum lot size: none.
- (2) Minimum lot width: 100 feet (as measured at the required front setback).
- (3) Minimum front setback: 50 feet (as measured from the edge of the street right-of-way

line).

- (4) Minimum side setback: 20 feet, except 50 feet shall be required on all lots that abut a Residential (R) District.

(5) Minimum rear setback: 30 feet, except that 50 feet shall be required on all lots which abut a Residential (R) District.

(C) *Screening and landscaping.*

(1) Screening shall be required as provided in §153.046 of this chapter. Additional screening may be required so that the use is screened from view of adjoining residential zoning districts. In the event that the nature of the topography makes the screening from distant view from residential areas impossible, then other measures such as heavy on-site landscaping shall be installed to lessen any near or distant visual impacts.

- (2) Landscaping shall be provided in accordance with §153.047 of this chapter.

(Ord. passed - - ; Ord. O-5-23, passed 4-6-2023)

Editor's note:

Any retail use in excess of 85,000 square feet is subject to §153.129.

§ 153.118 RESERVED.

§ 153.119 MHO MANUFACTURED HOME OVERLAY DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right.

- (1) All uses permitted in the underlying general zoning district; and
- (2) Manufactured homes, Class A.

(B) *Uses subject to prescribed standards.* The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.

(1) All uses subject to prescribed standards in the underlying general zoning district.

(C) *Yard regulations.* All yard regulations shall be the same as required for the underlying general zoning district. Manufactured homes, Class A shall meet the same requirement as for a single-family dwelling.

(D) *Screening and landscaping.* All screening and landscaping requirements shall be the same as those required for the underlying general zoning district. Manufactured homes, Class A, shall be treated the same as a single-family dwelling for the purposes of screening and landscaping regulations.

(Prior UDO, § 7.18) (Ord. passed - -) Penalty, see § 153.999

§ 153.120 SH SPECIAL HIGHWAY OVERLAY DISTRICT.

(A) *Zoning areas.*

(1) These districts are located in areas adjacent or in proximity to the Special Highways (existing or proposed) listed below. Each SH overlay shall be drawn on the zoning map. The regulations contained in this chapter shall be supplemental to those found in the underlying zoning district, except as herein noted; and

(2) U.S. Highway 321. Limited access four-lane divided highway under construction at the time this chapter is adopted.

(B) *Permitted uses.* Uses in the SH District shall be limited to those permitted and uses subject to prescribed standards listed in the underlying general zoning district. In no case, however, shall any of the following uses be allowed to take place on any lot which is located in the SH District.

(1) Manufacture of:

- (a) Tires and inner tubes (SIC Group #301);
- (b) Asphalt paving and roofing materials (SIC Group #295);
- (c) Secondary smelting processes (SIC Group #334)
- (d) Pulp, paper, and paperboard mills (SIC Group #261, 262, 263);
- (e) Flour, other milled grain, and feed and pet foods (SIC #2041, 2047, 2048);
- (f) Meat packing and poultry dressing (SIC #2011, 2015); and
- (g) Lumber mills and sawmills (SIC #2421) and lumber/timber storage yards.

(2) Livestock feed lot and sales facilities;

(3) Contractors' storage yards;

(4) Unenclosed scrap and salvage metal storage and recycling facilities;

(5) Automobile wrecking and salvage yards;

(6) Quarries;

(7) Coal sales and storage yards;

(8) Fuel oil distribution facilities;

(9) Auction sales, indoors and outdoors;

(10) Flea markets;

(11) Manufactured home sales lots;

(12) Tire recapping shops;

(13) Truck terminals;

(14) Radio, television or microwave transmission towers exceeding 300 feet in height;

(15) Sanitary landfills;

(16) Roofing repair and installation facilities;

(17) Mobile home (manufactured home) parks; and

(18) Adult establishments.

(C) *Maximum building height.*

(1) None for nonresidential uses.

(2) Residential uses shall observe the maximum building height for the underlying zoning district.

(3) This shall have the effect of nullifying the underlying zoning district maximum height regulations for all

nonresidential uses in the SH District.

(D) *Yard requirements* (

(1) Minimum front yard setback: In no case shall any building be set back less than 50 feet from the right-of-way of the Special Highway.

(2) Minimum side yard setback: 50 feet shall be required if the side yard lies adjacent to the right-of-way of a Special Highway.

(3) Minimum rear yard setback: 50 feet shall be required if the rear yard lies adjacent to the right-of-way of a Special Highway.

(E) *Usage of yard and setback areas (for all uses other than one- and two-family residential uses).*

(1) Boundary fences, gates, security stations, flagpoles, outdoor sculptures, fountains and similar works of art and on-premises ground mounted identification signs are permitted in any required setback area which adjoins a Special Highway right-of-way.

(2) Off-street parking and/or loading areas shall not be allowed within any portion of any yard that lies within 50 feet from the edge of a Special Highway right-of-way line.

(3) Outdoor storage and/or display, accessory structures and uses and the dispensing of goods and services are permitted in any side or rear yard (other than one which abuts a Special Highway right-of-way), provided however, the dispensing automotive fuels and related products are allowed in front yards without screening. Any outdoor storage located on the lot shall be screened from the view of any adjoining lot or roadway and the Special Highway. The screening may be located anywhere on the lot so long as the outdoor storage is materially screened. The screening shall generally be in conformance with § 153.046 of this chapter with the following exceptions:

(a) The screening shall consist of natural plantings only; and

(b) The screening shall be in place and shall effectively screen the outdoor storage prior to the certificate of occupancy being issued.

(4) The Administrator may partially waive the requirements for the screening in cases where he or she determines that due to topography the screening would be impossible to install, would be unusually and unreasonably burdensome upon the developer, or would serve no screening or buffering purpose; provided however, that in making the waiver the spirit and intent of this section are met.

(F) *Signs.* Each nonresidential use shall be permitted all identification signs as allowed in §§ 153.160 through 153.172 of this chapter for the underlying general zoning district except as follows.

(1) Any nonresidential use on a separate tract of land is permitted one ground mounted identification sign between the principal building and the right-of-way of the Special Highway. The sign shall be no closer than 25 feet from the edge of right-of-way of the Special Highway and shall be limited to a height of ten feet and a sign face area of 100 square feet. If a street lies between the principal building and the Special Highway and that street provides the main access (i.e., street that fronts the use) to the use, then the sign shall be installed in lieu of the identification sign allowed pursuant to §§ 153.160 through 153.172 of this chapter. In all other cases the sign is permitted in addition to all other signs permitted pursuant to §§ 153.160 through 153.172 of this chapter for the underlying general zoning district.

(2) In lieu of allowing one ground mounted identification sign between the principal building and the right-of-way of the special highway, the developer shall have the option to increase the size of one freestanding sign on the property by 100 square feet. This bonus shall only be available to Class C shopping centers with four or more tenants. If this option is chosen, only one freestanding sign will be allowed on the property.

(G) *Landscaping.*

(1) In order to provide for a visually appealing landscape as viewed by the motorist from the adjoining Special Highway, the first 50 feet of the yard lying between the Special Highway and the principal structure shall be landscaped or left as natural wooded buffer (for all uses except for single-family and two-family residential uses). Within this buffer area, all deciduous and coniferous trees three inches caliper or larger, and all dogwoods, rebuds and American hollies four feet high or larger shall be considered of protected size. The protective buffer shall be left in a natural state to the greatest extent possible. One plant unit shall be required for every 40 feet or portion of 40 feet of lineal frontage. A plant unit shall be composed, at a minimum, of one of the following combinations of plants as listed below:

(a) A combination of existing trees of protected size which will be retained, and which total more than 48 inches caliper;

(b) A combination of both existing trees of protected size and newly planted trees that would total more than 48 inches caliper;

(c) Four large maturing deciduous trees and six small maturing trees;

(d) Six large maturing evergreen trees and six small maturing trees;

(e) Four large deciduous trees and four large evergreen trees;

- (f) Two large deciduous trees, four large evergreen trees and four small maturing trees;
- (g) Four large deciduous trees, two large evergreen trees, and two small maturing trees; or
- (h) 14 small trees.

(2) The arrangement and location of landscaping in the Special Highway buffer shall be designed in a random spacing, not in a straight line, to give the appearance of a naturalized setting and shall be part of the landscape plan submitted for site plan review. The Administrator shall have the authority to waive, modify, or alter the requirements of this section on a case-by-case basis where due to unusual topography, elevation, or location of a piece of property the strict adherence of these requirements would serve no meaningful purpose. Any decision rendered by the Administrator shall in no way conflict with the spirit and intent of this section and the city's desire to provide landscaping along a Special Highway.

(H) *Ingress and egress points.*

(1) Direct access onto a Special Highway shall not be permitted. In addition, no access shall be allowed onto a ramp connecting the Special Highway with an intersecting road. No 2 points of ingress and egress (as measured at their closest distance) on any lot shall be closer than 300 feet apart. If a lot has less than 300 feet of frontage on a road which may be directly accessed, no more than 1 point of ingress and egress (no more than 1 driveway) shall be allowed on the same road for each lot, or per principal use if the principal use is located on more than 1 lot. Provided however, any retail use engaged significantly in the sale of automotive fuels to the public using pump islands shall be permitted 1 additional access point along its total frontage (total frontage includes the total for all streets on which the use fronts) provided the access point is no closer than 36 feet from any other access point. Group projects such as shopping centers and office parks shall be deemed to be a single principal use. No more than 2 separate points of ingress and egress per lot shall be allowed per road front except under the following conditions:

- (a) The lot is 5 acres or greater in area; and
- (b) The development is reviewed under the conditional district process.

(2) Under these conditions, more than 2 points of ingress and egress per road front per lot may be allowed.

(3) Wherever possible, no portion of any point of ingress and egress shall be located closer than 200 feet from the centerline intersection of any 2 roads. Whenever this distance is not possible due to the lot dimensions, the drive shall be located as far as possible from the intersection.

(4) Each driveway access shall be at least 24 feet in width but not greater than 36 feet in width.

(5) It is the intent of this division to supersede the requirements of §153.186 of this chapter.

(Prior UDO, § 7.19) (Ord. ZTA-5-2016, passed 9-1-2016; Ord. passed - -) Penalty, see § 153.999

§ 153.121 WSW WATER SUPPLY WATERSHED OVERLAY DISTRICT.

(A) *Definitions.*

(1) *General definitions.*

AGRICULTURAL USE. The use of waters for stock watering, irrigation, and other farm purposes.

BALANCE OF WATERSHED (BW). The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The **BALANCE OF WATERSHED** is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

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

BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The **BUFFER** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPON AREA. Include that portion of a development project that is covered by impervious or partially impervious (does not allow water to infiltrate from surface to subsurface) cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), and the like. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

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

COMMON PLAN OF DEVELOPMENT. Site where multiple separate and distinct development activities may be taking

place at different times or different schedules but governed by a single development plan regardless of ownership of parcels.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The **CRITICAL AREA** is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CUSTOMARY HOME OCCUPATIONS. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25% of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, and the like.

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

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one or more persons.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of August 1, 2024 based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
2. Having an outstanding valid building permit as authorized by G.S. § 160D-102, or
3. Having an approved site specific or phased development plan as authorized by G.S. § 160D-102.

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this section, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this section.

FAMILY. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a **FAMILY** or **FAMILIES**.

FAMILY SUBDIVISION. A division of a tract of land:

1. To convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or
2. To divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Ch. 130A, Art. 9. For the purpose of this section this term does not include composting facilities.

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

MAJOR VARIANCE. A variance that is not a **MINOR VARIANCE** as defined in this section.

MINOR VARIANCE. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to 5% of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to 10%, of any management requirement under the low density option. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of the built-upon area proposed to encroach with the vegetated setback divided by the total area of the vegetated setback within the project.

NONCONFORMING LOT OF RECORD. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

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

PLAT. A map or plan of a parcel of land which is to be, or has been subdivided.

PROTECTED AREA. The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the **PROTECTED AREA** are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within ten miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

QUALIFIED INDIVIDUAL. A person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the North Carolina Division of Water Resources at North Carolina State University.

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

RESIDUALS. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility is permitted under the authority of the Environmental Management Commission.

SINGLE-FAMILY RESIDENTIAL. Any development where:

1. No building contains more than one dwelling unit,
2. Every dwelling unit is on a separate lot, and
3. No lot contains more than one dwelling unit.

STORMWATER CONTROL MEASURE (SCM). A permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

STREET (ROAD). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having a permanent location on the land.

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

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations authorized by this section:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this section;
2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
3. The public acquisition by purchase of strips of land for the widening or opening of streets;
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this section;
5. The division of a tract into plots or lots used as a cemetery.
6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. Ch. 29.

SURFACE WATERS. All waters of the state as defined in G.S. § 143-212 except underground waters.

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

VARIANCE. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this section.

VESTED RIGHT. The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the G.S. § 160D-108 for more information.

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

WATERSHED. The entire land area contributing surface drainage to a specific point (e.g., the water supply intake.) or alternatively, the geographic region within which water drains to a particular river, stream, or body of water.

WATERSHED ADMINISTRATOR. An official or designated person of the City of Lincolnton responsible for administration and enforcement of this section.

(2) *Word interpretation.* For the purpose of this section, certain words shall be interpreted as follows:

- (a) Words in the present tense include the future tense.
- (b) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- (c) The word **PERSON** includes a firm, association, corporation, trust, and company as well as an individual.
- (d) The word **STRUCTURE** shall include the word **BUILDING**.
- (e) The word **LOT** shall include the words, **PLOT**, **PARCEL**, or **TRACT**.
- (f) The word **SHALL** is always mandatory and not merely directory.
- (g) The word **WILL** is always mandatory and not merely directory.

(B) *Authority and general regulations.*

(1) *Authority and enactment.* The Legislature of the State of North Carolina has, in G.S. Ch. 160A, Art. 8, § 174, General Ordinance Making Power; and in G.S. Ch. 143, Art. 21, Water and Air Resources, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. In addition, G.S. § 160D-926 refers specifically to water supply watershed management. The governing board of the City of Lincolnton ordains and enacts into law the following as the Water Supply Watershed Protection Ordinance of the City of Lincolnton.¹

(2) *Jurisdiction.* The provisions of this section shall apply within the areas designated as a Water Supply Watershed by the North Carolina Environmental Management Commission and shall be defined and established on a Water Supply Watershed protection map of the City of Lincolnton, North Carolina which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this section. Ord. O-16-2024 shall be permanently kept on file in the City of Lincolnton.²

(3) *Exceptions to applicability.*

(a) Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this section amend, modify, or restrict any provisions of the city's code of ordinances; however, the adoption of this section shall and does amend any and all ordinances, resolutions, and regulations in effect in the city at the time of the adoption of this section that may be construed to impair or reduce the effectiveness of this section or to conflict with any of its provisions.

(b) It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(c) Existing development, as defined in this section, is not subject to the requirements of this section.

(d) Expansions to existing development must meet the requirements of this section, except single-family residential development unless the expansion is part of common plan of development. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations. Where there is a net increase of built-upon area, only the area of net increase is subject to this section. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only areas of the net increase shall be subject to this section.

(e) If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this section if it is developed for single-family residential purposes. Local governments may require the combination of contiguous nonconforming lots of record owned by the same party to establish a lot or lots that meet requirements in division (C) below.

(f) Any lot or parcel created as part of a family subdivision after August 1, 2024 shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. If a local government does not enforce subdivision regulations, then that local government may or may not allow the exemption for family subdivisions.

(g) Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.³

(4) *Repeal of existing watershed ordinance.* Ord. O-16-2024 in part carries forward by re-enactment, some of the watershed ordinance of the city (adopted by the Lincolnton City Council on August 1, 2024), and it is not the intention to

repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the watershed ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this section, but shall be prosecuted to their finality the same as if this section had not been adopted; and any and all violations of the watershed protection ordinance existing prior to Ord. O-16-2024, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this section shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

(5) *Criminal penalties.*⁴ Any person violating any provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. § 14-4. The maximum fine for each offense shall not exceed \$500. Each day that the violation continues shall constitute a separate offense.

(6) *Remedies.*

(a) If any subdivision, development and/or land use is found to be in violation of this section, the city governing board may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100 per day, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the North Carolina Environmental Management Commission may assess civil penalties in accordance with G.S. § 143-215.6A. Each day that the violation continues shall constitute a separate offense.

(b) If the Watershed Administrator finds that any of the provisions of this section are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this section to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

(7) *Severability.* Should any section or provision of this section be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this section as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

(8) *Effective date.* This section shall take effect on August 1, 2024.⁴

(C) *Subdivision regulations.*

(1) *General provisions.*

(a) No subdivision plat of land within the Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would conflict with this division (C).

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

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

(d) All subdivisions of land within the jurisdiction of the city after the August 1, 2024 shall require a plat to be prepared, approved,⁵ and recorded pursuant to this section.⁵

(2) *Subdivision application and review procedures.*

(a) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this section and may be recorded provided the Watershed Administrator initials the vicinity map. Subdivisions within a WS-IV watershed are subject to the provisions of this section only when an erosion and sedimentation plan is required under the provisions of state law or an approved local program unless another stormwater program applies. Local government should always be aware that other post-construction requirements may apply even when water supply watershed protection requirements do not. Subdivisions within the designated watershed area shall comply with the provisions of this division (C) and all other state and local requirements that may apply.

(b) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, 2 copies of the plat, a description of the proposed method of providing storm waterstorm water drainage, and supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board (see Appendix A to Ord. O-16-2024).

(c) The Watershed Administrator shall review the completed application and shall either approve, approve conditionally, or disapprove each application. The Watershed Administrator shall take final action within 45 days of

submission of the application. The Watershed Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. The public agencies may include but are not limited to, the following:

1. The NCDOT district highway engineer with regard to proposed streets and highways.
2. The director of the Health Department with regard to the proposed private water systems or sewer systems normally approved by the Health Department.
3. The state Division of Water Resources with regard to proposed sewer systems normally approved by the Division.
4. The state Division of Energy, Mineral, and Land Resources with regard to engineered stormwater controls or storm water management in general.
5. The county for subdivisions located in the Extraterritorial Jurisdiction (ETJ) of a municipality.
6. Local government entities responsible for proposed sewer and/or water systems.
7. Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

(d) If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Watershed Administrator

NOTICE: This property is located within a Water Supply Watershed - development restrictions may apply.

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

(f) As a condition for approval, all subdivision plats shall comply with the requirements for recording of the County Register of Deeds.

(g) The plat shall be recorded within 21 days of approval. The subdivider shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five working days.

(3) *Subdivision standards and required improvements.*

(a) All lots shall provide adequate building space in accordance with the development standards contained in division (D) below. Lots smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with division (D).

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

(c) *Storm water drainage facilities.* The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters, incorporates stormwater control measures to minimize water quality impacts, and meets any local requirements.

(d) *Erosion and sedimentation control.* The application shall, where required, be accompanied by the Sedimentation and Erosion Control Plan approval by the [local agency administering a Sedimentation and Erosion Control Ordinance approved by the North Carolina Division of Land Quality] [North Carolina Division of Land Quality] Lincoln County Natural Resources Division or the North Carolina Division of Land Quality Energy, Mineral, and Land Resources (where applicable).

(e) *Roads constructed in critical areas and watershed vegetated conveyance areas* Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

(4) *Construction procedures.*

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

(b) No building or other permits shall be issued for the erection of a structure on any lot not on record as of August 1, 2024 until all requirements of this section have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

(5) *Penalties for transferring lots in unapproved subdivisions.* Any person who, being the owner or agent of the owner of

Nonpoint source pollution ^k	Yes							
Animal operations ^l	Yes							

Notes:

a Permitted pursuant to 15A NCAC 02B .0104

b Except non-process industrial discharges are allowed

c Only allowed if specified in 15A NCAC 02B .0104

d Not allowed if activity(ies) has/have an adverse impact on human health

e Where no other practical alternative exists

f In WS-I watersheds and Critical Areas of WS-II, WS-III, and WS-IV watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10 foot vegetated setback or equivalent control as determined by SWCC along all perennial waters indicated on the most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies

g Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

h See density requirements in 15A NCAC 02B .0624

i See different allowed and not allowed in this table

j See the following WS-I note

k NPS pollution shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use

l Deemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217

(3) *Watershed Areas – density and built-upon limits.*

(a) *Project density.* The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development^(a)		High Density Development^(a)
		Single-family Detached Residential	Non-residential and All Other Residential	All types
		Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development^(a)		High Density Development^(a)
		Single-family Detached Residential	Non-residential and All Other Residential	All types
WS-I	Not Applicable: Watershed shall remain undeveloped except for the following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of the WS-I water. Built-upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.			
WS-II	Critical Area	1 dwelling unit (du) per 2 acres or 1 du per 80,000 square foot lot excluding roadway right-of-way or 6% built-upon area	6% built-upon area	6 to 24% built-upon area
	Balance of Watershed	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
WS-III	Critical Area	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area

	Balance of Watershed	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
WS-IV	Critical Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
	Protected Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon; or 3 dus per acre or 36% built-upon area without curb and gutter street system	24% built-upon area; or 36% built-upon area without curb and gutter street system	24 to 70% built-upon area
WS-V	Not Applicable			

(a) 2021-House Bill 218 – NCGS 143-214.5 (d3) Local government must allow applicant to exceed allowable density if all of the following apply:

- (1) The property was developed prior to the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction under subsection (d2) of this section.
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, state, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with the local water supply watershed protection program requirements.

(b) *Calculation of project density.* The following requirements shall apply to the calculation of project density:

1. Project density shall be calculated as the total built-upon area divided by the total project area;
2. A project with “existing development,” as that term is defined in 15A NCAC 02B .0621, may use the calculation method in division (D)(3)(b)1. above or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area;
3. Expansions to existing development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d);
4. Where there is a net increase of built-upon area, only the area of net increase shall be subject to 15A NCAC 02B .0624;
5. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to 15A NCAC 02B .0624;
6. Total project area shall exclude the following:
 - A. Areas below the Normal High Water Line (NHWL); and
 - B. Areas defined as “coastal wetlands” pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
7. Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low-density areas based on one or more of the following criteria:
 - A. Natural drainage area boundaries;
 - B. Variations in land use throughout the project; or
 - C. Construction phasing.

(c) *Low density projects.* In addition to complying with the project density requirements of division (D)(3)(a) above, low-density projects shall comply with the following:

1. *Vegetated conveyances.* Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this division (D)(3)(c)1.:

A. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

B. The conveyance shall be designed so that it does not erode during the peak flow from the ten-year storm event as demonstrated by engineering calculations.

2. *Curb outlet systems.* In lieu of vegetated conveyances, low-density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

A. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the ten-year storm and at a non-erosive velocity;

B. The longitudinal slope of the swale or vegetated area shall not exceed 5% except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

C. The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;

D. The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);

E. The minimum length of the swale or vegetated area shall be 100 feet; and

F. Low-density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in divisions (D)(3)(c)(2)(a) through (e) above.

(d) *High density projects.* In addition to complying with the project density requirements of division (D)(3), high-density projects shall comply with the following:

1. Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;

2. For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;

3. Stormwater runoff from off-site areas and "existing development," as that term is defined in 15A NCAC 02B .0621, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in the sizing of on-site SCMs;

4. SCMs shall meet the relevant MDC set forth in 15A NCAC 02H .1050 through .1062; and

5. Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the ten-year storm event as shown by engineering calculations.

(e) *Options for implementing project density.* Local governments shall have the following options in place of or in addition to the requirements of division (D)(3)(a) above, as appropriate:

1. Local governments may allow only low-density development in their water supply watershed areas in accordance with this section.

2. Local governments may regulate low-density single-family detached residential development using the minimum lot size requirements, dwelling unit per acre requirements, built-upon area percentages, or some combination of these.

3. *10/70 option.* Outside of WS-I Watersheds and the Critical Areas of WS-II, WS-III, and WS-IV watersheds, local governments may regulate new development under the "10/70 option" in accordance with the following requirements:

A. A maximum of 10% of the land area of a water supply watershed outside of the Critical Area and within a local government's planning jurisdiction may be developed with new development projects and expansions of existing development of up to 70% built-upon area.

B. In water supply watersheds classified on or before August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on July 1, 1993. In water supply watersheds classified after August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on the date the water supply watershed classification became effective. The acreage within the Critical Area shall not be counted towards the allowable 10/70 option acreage;

C. Projects that are covered under the 10/70 option shall comply with the low-density requirements set forth in division (D)(3)(c) above unless the local government allows high-density development, in which case the local government may require these projects to comply with the high-density requirements set forth in division (D)(3)(d) above;

D. The maximum built-upon area allowed on any given new development project shall be 70%;

E. A local government having jurisdiction within a designated water supply watershed may transfer, in whole or in part, its right to the 10/70 land area to another local government within the same water supply watershed upon submittal of a joint resolution and approval by the Commission; and

F. When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the Critical Area in calculating the acreage allowed under this provision.

4. New development shall meet the development requirements on a project-by-project basis except local governments may submit ordinances that use density or built-upon area criteria averaged throughout the local government's watershed jurisdiction instead of on a project-by-project basis within the watershed. Prior to approval of the ordinance, the local government shall demonstrate to the Commission that the provisions as averaged meet or exceed the statewide minimum requirements and that a mechanism exists to ensure the planned distribution of development potential throughout the local government's jurisdiction within the watershed.

5. Local governments may administer oversight of future development activities in single-family detached residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built-upon area, as long as the SCM is sized to capture and treat runoff from 1) all pervious and built-upon surfaces shown on the development plan and 2) any off-site drainage from pervious and built-upon surfaces, and when an additional safety factor of 15% of built-upon area of the project site is figured in.

(4) *Density averaging.*

(a) An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

1. The properties are within the same water supply watershed. If one of the properties is located in the Critical Area of the watershed, the Critical Area property shall not be developed beyond the applicable density requirements for its classification.

2. Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.

3. Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.

4. Built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

5. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.

6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as a common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

7. Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

8. A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have a record of how the watershed regulations were applied to the properties.

(5) *Cluster development.* Cluster development is allowed in all Watershed Areas (except WS-I) under the following conditions:

(a) Minimum lot sizes do not apply to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in division (D)(3)(c). Density or built-upon area for the project shall not exceed that allowed for the Critical Area, balance of watershed or protected area, whichever applies.

(b) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

(c) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.

(d) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(e) Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

(6) *Vegetated setbacks required.*

(a) A minimum 100-foot vegetative setback is required for all new development activities that exceed the low-density option; otherwise, a minimum 30-foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(b) Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

(c) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs, and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(7) *Application of regulations.*

(a) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(b) No area required for the purpose of complying with the provisions of this section shall be included in the area required for another building.

(c) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in division (C)(6) above.

(d) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(8) *Rules governing the interpretation of watershed area boundaries.* Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

(a) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be the boundaries.

(b) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be the boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the city as evidence that one or more properties along these boundaries do not lie within the watershed area.

(c) Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map. The Environmental Management Commission adopted this provision with the intention of locating built-upon surface area in the least environmentally sensitive area of the project.

(d) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(e) Where other uncertainty exists, the Watershed Administrator shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

(9) *Existing development.* Existing development as defined in this section, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this section, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations. Please see division (C)(3)(b) Calculation of Project Density. This section deals with all existing developments as defined in the EMC rules. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of this section.

(a) *Uses of land.* This category consists of uses existing at the time of adoption of this section where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

1. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
2. Such use of land shall be changed only to an allowed use.
3. When such use ceases for a period of at least one year, it shall not be reestablished.

(b) *Reconstruction of buildings or built-upon areas.* Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

1. Repair or reconstruction is initiated within 12 months and completed within two years of such damage.
2. The total amount of space devoted to the built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(10) *Watershed protection permit.*

(a) Except where single-family residence is constructed on a lot deeded prior to effective date of this section (from 1995 ordinance) or for single-family residential redevelopment, (even if there is net increase in built-upon area or if stormwater controls are not equal to that of previous single-family residential development), no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of this section.

(b) Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form (see Appendix A to Ord. O-16-2024) and supporting documentation deemed necessary by the Watershed Administrator.

(c) Prior to issuance of a watershed protection permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this section.

(d) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.

(11) *Building permit required.* No permit required under the North Carolina State Building Code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued.

(12) *Watershed protection occupancy permit.*

(a) The Watershed Administrator shall issue a watershed protection occupancy permit certifying that all requirements of this section have been met prior to the occupancy or use of a building hereafter erected, altered, or moved and/or prior to the change of use of any building or land.

(b) A watershed protection occupancy permit, either for the whole or part of a building, shall be applied for coincident with the application for a watershed protection permit and shall be issued or denied within ten business days after the erection or structural alterations of the building. The applicant should notify the Watershed Administrator and request the issued WSPOP when building is complete.

(c) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a watershed protection occupancy permit certifying that all requirements of this section have been met coincident with the watershed protection permit.

(d) If the watershed protection occupancy permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for the denial.

(e) No building or structure that has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a watershed protection occupancy permit.

(E) *Public health regulations.*

(1) *Public health, in general.* No activity, situation, structure, or land use shall be allowed within the watershed which that poses a threat to water quality and the public health, safety, and welfare.

(2) *Abatement.*

(a) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(b) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

(c) Where the Watershed Review Board finds a threat to water quality and the public health, safety, and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

(F) *Administration, enforcement and appeals.*⁷

(1) *Watershed Administrator and duties thereof.* The city shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this section as follows:

(a) The Watershed Administrator shall issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(b) The Watershed Administrator shall serve as clerk to the Watershed Review Board.

(c) The Watershed Administrator is granted the authority to administer and enforce the provisions of this section, exercising in the fulfillment of his or her responsibility the full police power of the city. The Watershed Administrator, or his or her duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him or her by this section.

(d) The Watershed Administrator shall keep records of all amendments to the local water supply watershed protection ordinance (this section) and shall provide copies of all amendments upon adoption to the Stormwater Branch of the Division

of Energy, Mineral, and Land Resources. For additional information, refer to commentary under division (C) above.

(e) The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of 10% of the non-critical area of WS-II, WS-III, and, WS-IV watersheds may be developed with new development at a maximum of 70% built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).

(f) The Watershed Administrator shall keep a record of variances to the local water supply watershed protection ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(g) The Watershed Administrator is responsible for ensuring that stormwater control measures are inspected at least once a year and shall keep a record of SCM inspections.

(2) *Appeal from the Watershed Administrator.*

(a) Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

(b) An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty 30 calendar days from the date the order, interpretation, decision, or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him or her, that by reason of facts stated in the certificate of approval for recording, a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

(d) The Board shall set a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

(3) *Changes and amendments to the watershed protection ordinance (this section)*

(a) The City Council may, on its own motion or own petition, after public notice and hearing, amend, supplement, change, or modify the watershed regulations and restrictions as described herein.

(b) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within 45 days after submission of the proposal to the Chairman of the Watershed Review Board, the City Council may proceed as though a favorable report had been received.

(c) Under no circumstances shall the City Council adopt such amendments, supplements, or changes that would cause this ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. All amendments must be filed with the North Carolina Division of Energy, Mineral and Land Resources.

(4) *Public notice and hearing required.* Before adopting or amending this section, the City Council shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten nor more than 25 days before the date for the hearing.

(5) *Establishment of Watershed Review Board.*

(a) There shall be and hereby is created the Watershed Review Board (or equivalent quasi-judicial body City of Lincolnton Board of Adjustment) consisting of five members appointed by the City Council.

1. (Option 1). [Town.] Board members shall be appointed for three-year terms and may be reappointed.

(b) Two alternate members shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three-year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member.

1. (Option 1). [Town.] The town shall appoint two alternate members.

(6) *Rules of Conduct for Watershed Review Board members.* Members of the Board may be removed by the City Council for cause, including violation of the rules stated below:

(a) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

(b) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case

will: 1) cause him or her or his or her spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or she or his or her spouse owns a 10% or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his or her immediate family (i.e., parent, spouse, or child). The intent is to prohibit members of the Board from acting in situations where they have a conflict of interest in a manner similar to the prohibition in G.S. § 14-234(c)(1).

(c) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, or its secretary prior to the hearing.

(d) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.

(e) Members of the Board shall give notice to the chairman at least 48 hours prior to the hearing of any potential conflict of interest which he or she has in a particular case before the Board.

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

(7) *Powers and duties of the Watershed Review Board.*

(a) *Administrative review.* The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this section.

(b) *Variances.* This section outlines the procedures for local governments to use in approving minor variances. Major variances may be granted for certain projects; however, the major variance must be reviewed by and receive approval from the Environmental Management Commission prior to the local government issuing the watershed protection permit. Procedures for local government review of major variance requests and submission of a recommendation to the Commission are also included. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this section as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this section will result in practical difficulties or unnecessary hardship, so that the spirit of this section shall be observed, public safety and welfare secured, and substantial justice done. In addition, the [county][town] shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

1. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

A. A site plan, drawn to a scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate the north point, name, and address of the person who prepared the plan, the date of the original drawing, and an accurate record of any later revisions.

B. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

C. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

2. Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

A. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the section. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(i) If he or she complies with the provisions of this section, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this section that will make possible the reasonable use of his or her property.

(ii) The hardship results from the application of this section to the property rather than from other factors such as deed restrictions or other hardships.

(iii) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(iv) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this section, or who purchases the property after August 1, 2024, and then comes to the Board for relief.

(v) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread.

If other properties are equally subject to the hardship created by the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

B. The variance is in harmony with the general purpose and intent of this section and preserves its spirit.

C. By granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

3. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration, or use of property is granted, such construction, alteration, or use shall be in accordance with the approved site plan.

4. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

5. A variance issued in accordance with this section shall be considered a watershed protection permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.

6. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- A. The variance application;
- B. The hearing notices;
- C. The evidence presented;
- D. Motions, offers of proof, objections to evidence, and rulings on them;
- E. Proposed findings and exceptions;
- F. The proposed decision, including all conditions proposed to be added to the permit.

7. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

A. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

B. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(c) Subdivision approval. See division (B) above.

(d) Public health. See division (D) above.

(e) Approval of all development greater than the low-density option. See Appendix C attached to Ord. O-16-2024.

(8) *Appeals from the Watershed Review Board.* Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

(9) *Footnotes.*

¹ House Bill 124, enacted in 1991, provides that watershed regulations may be adopted by a local government pursuant to its “general police power,” to its power to adopt a land subdivision ordinance, to its zoning power, or to some combination of these powers. The model ordinance, since it has been established as a free-standing ordinance, cites the general police power statutes as its authority along with the watershed statutes. Local governments must choose which authority they wish to use and should not cite all legislative authorities because each authority has its own corresponding jurisdictional implications. Local governments should decide whether or not they intend to adopt a free-standing ordinance, or as an alternative, separate (or amendments to) zoning and subdivision ordinances. Whichever method is chosen, the appropriate authorities should be cited in this section and elsewhere in the ordinance whenever needed. Coordination between the jurisdictions is very important. A county may enforce the watershed protection regulations for a municipality within that county if a resolution is passed by both the county and municipal governing boards.

² Statutory authority for this section is derived from G.S.Ch. [153A][160A], Art. [6][8], §§ [121][174], [140][193] and Ch. 143-214.5.

³ This section states the watershed protection ordinance will not affect existing ordinances or agreements between parties unless those ordinances or agreements are less restrictive than the watershed protection ordinance. In those situations, the watershed protection ordinance will take precedence.

⁴ Please note that the prohibition on criminal penalties for certain ordinance violations in SL 2021 -138, Part XIII is not clear regarding ordinances that may have multiple sources of authority. Water quality protection rules are primarily drawn from Chapter 143, so one could interpret this rule to allow criminal penalties for violations of water supply watershed regulations. Again, however, it is unclear exactly how and whether SL 2021 -138 applies to water supply watershed protection ordinances.

The latest date on which an ordinance shall become effective is as follows:

- by July 1, 1993: Affected municipalities with a population of 5,000 or greater
- by October 1, 1993: Affected municipalities with a population of less than 5,000
- by January 1, 1994: Affected counties.

⁵ Statutory authority for this section is derived from G.S. Ch. [153A][160A], Art. [6][8], §§ [121][174], [140][193] and Ch. 143-214.5

⁶ Statutory authority for this section is derived from G.S. Ch. [153A][160A], Art. [6][8], §§ [121][174], [140][193] and Ch. 143-214.5. This article contains development regulations for each of the watershed classifications. Watersheds designated WS-V require no local government regulatory program. Local governments will only need to include the regulations corresponding to the classifications assigned to watersheds in their jurisdiction. For WS-II, WS-III and WS-IV watershed areas, the EMC rules provide for single family residential development to be controlled either by limiting built-upon area or by limiting density (dwelling units per acre). Those involved in drafting the model ordinance felt that most local units of government would find it easier to enforce single family residential requirements through density controls rather than limiting built-upon area. All other residential and non-residential development is controlled by regulating the amount of built-upon area as required by the EMC rules.

(Ord. O-16-2024, passed 8-1-2024)

§ 153.122 HISTORIC OVERLAY HO DISTRICT.

(A) *Purpose.* The Historic Overlay District, hereinafter referred to as the District, is one of the most valued and important assets of Lincoln. It is established for the purpose of protecting and conserving the heritage of the city, county and state; for the purpose of safeguarding the character and heritage of the District by preserving the District as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of the District for the education, pleasure and enrichment of residents of the district and the city, county and state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of the city and the residents of the District.

(B) *Historic District establishment.*

(1) The Historic Overlay District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the city. The boundaries of the Historic Overlay District are as shown on the official zoning map.

(2) The requirements of the (HO) Historic Overlay District shall be additional to other zoning district requirements and when in conflict with other zoning district requirements, shall prevail over other requirements of any zoning district or portions thereof which are within the designated (HO) District.

(C) *Permitted uses.* The Historic Overlay District contains several zoning classifications. All uses permitted in any district, whether by right or as a use subject to prescribed standards, are allowed in the Historic District according to the procedures established for the uses.

(D) *Required conformance to dimensional regulations; exceptions.*

(1) Structures within the Historic Overlay District shall observe the dimensional and other regulations of this chapter,

except as follows:

(a) No structure or part thereof shall extend nearer to or be required to be set back further from the front lot line than the average distance of the setbacks of the nearest principal buildings within 100 feet on each side of the building and fronting on the same side of the street;

(b) Height (reserved);

(c) Side yard (reserved); and

(d) Rear (reserved).

(2) It is the intent of this section to supersede, within the Historic Overlay District, the dimensional regulations of the basic districts applying to the property.

(E) *Authentic restoration or reconstruction.*

(1) *Permitted subject to approval of Historic District Commission and Board of Adjustment, although not complying with dimensional regulations.* Where it is found by the Historic District Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the Historic District, the activity may be approved by the Board of Adjustment, following approval by the Historic District Commission.

(2) *Approval subject to conditions.* The Board of Adjustment, in approaching the authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, so that the public health, safety and general welfare shall be protected.

(3) *Approval, limitation on.*

(a) The Board of Adjustment shall not be authorized, in action undertaken by this section, to approve a use of property that is not a use permitted by right or for which a conditional district has been approved by the City Council.

(b) In addition to any other conditions the Board of Adjustment may make regarding the authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other public way shall be the responsibility of the owner, his or her heirs and assigns. The owner's restoration, reconstruction, or maintenance of any item within the area shall constitute the owner's agreement to protect and hold the city blameless against any and all liability, cost, damage, or expense suffered by the city as a result of or growing out of the restoration, reconstruction, or maintenance thereof. The items, so approved, may be lawfully restored, reconstructed, or maintained.

(c) The Board of Adjustment shall not have the power to grant permission for the construction of any structure which would project over a public street (paved roadway) and nothing in this section shall be construed to grant the authority to the Board of Adjustment.

(F) *Parking waiver.*

(1) Where the Historic District Commission, in considering an application for a certificate of appropriateness, shall find that the number of off-street parking spaces required by the zoning regulations for a building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the District, it shall recommend to the Board of Adjustment a waiver, in part or in whole, of the off-street parking requirements.

(2) The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

(a) The Board finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and

(b) Will not constitute a threat to the public safety.

(G) *Historic District Commission recommendations on conditional district rezoning applications.* All use applications within the Historic Overlay District shall be reviewed by the Historic District Commission at this next regular meeting after the application has been submitted but in no case longer than 31 days following the submission of the application, in accord with the requirements of this chapter. The Historic District Commission shall forward its comments and recommendations within seven days prior to the public hearing on the conditional district rezoning application as set forth in § 153.316 of this chapter. The recommendations shall be submitted to the City Council along with other documents related to the conditional district rezoning permit application.

(H) *Certificate of appropriateness.*

(1) *Required.*

(a) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of advertising sign shall be erected, altered, restored, moved or demolished within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic District Commission except as provided for in division (P) below. For the purpose of this section **EXTERIOR FEATURES** shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, landscaping and natural features, the size and scale of the building and the type and style of all windows, doors,

light fixtures, signs and other appurtenant fixtures. Provided, however, a certificate of appropriateness shall not be required when the only change in exterior appearance is the painting of existing painted surfaces regardless of the color of paint to be applied.

(b) A certificate of appropriateness must be issued by the Commission prior to the issuance of either a zoning or building permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this section. A certificate of appropriateness shall be required whether or not a building permit is required. Any building permit, zoning permit or other permit not issued in conformity with this section shall be invalid.

(c) The city and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the city or public utility companies.

(2) *Required procedures.*

(a) *Application submitted to Administrator.* An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the Administrator. An application for a certificate of appropriateness shall be considered by the Historic District Commission at its next regular meeting, but in no case longer than 31 days following the submission of the application, provided it has been filed, complete in form and content, at least seven calendar days before the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting.

(b) *Contents of application.* The Commission shall, by uniform rule in its Rules of Procedure, require information as is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be deemed complete until all required information has been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

(c) *Notification of Historic District Commission.* Upon receipt of an application, the Administrator shall notify the Historic District Commission at least four calendar days before its regularly scheduled or specially called meeting.

(d) *Notification of affected property owners.* Prior to issuance or denial of a certificate of appropriateness, the Commission shall take the action as may reasonably be necessary to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and the owners an opportunity to be heard.

(e) *Public hearing.* In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

(f) *Commission action on application.* The Commission shall take action on the application and in doing so shall apply the review criteria, contained in division (l) below of this section. The Commission's action on the application shall be approval, approval with modifications, or disapproval. Prior to final action on an application, the Commission, using the guidelines in division (l) below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the District. No member or alternate member shall vote on any matter concerning an application for a certificate of appropriateness (COA) unless that member or alternate shall have been present during the hearing and deliberations concerning the application.

(g) *Reasons for Commission's actions to appear in minutes.* The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications or denial.

(h) *Time limits.* If the Commission fails to take final action upon any application within 60 days after the completed application is submitted to the Administrator, the application shall be deemed to be approved. The 60-day period may be extended through mutual written agreement between the Commission and the applicant. The extension may be no longer than 30 days and may be renewed.

(i) *Submission of new application.* If the Commission determines that a certificate of appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving; unless a period of one year has elapsed since the denial and in that case the same application may be resubmitted.

(l) *Review criteria.*

(1) *Intent.*

(a) It is the intention of these regulations to ensure, insofar as possible, that buildings or structures in the Historic Overlay District shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction, the Commission may encourage contemporary design that is harmonious with the character of the District.

(b) In granting a certificate of appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of the change or additions upon other structures in the vicinity.

(2) *Exterior form and appearance.* The Commission in reviewing applications for a certificate of appropriateness shall consider the following criteria, when relevant. These criteria shall serve as guidelines to determine whether the construction or alteration as proposed in the application for certificate of appropriateness is compatible to those properties within the HO-

Historic Overlay District:

- (a) Lot coverage, defined as the percentage of lot area covered by primary structures;
 - (b) Setback, defined in § 153.031 of this chapter;
 - (c) Building or structure height, the maximum height of all new buildings permitted in the Historic Overlay District shall be 35 feet unless the Historic District Commission authorizes a height above 35 feet. However, the authorized height shall not exceed 10% of the average height of existing adjacent buildings. Chimneys, steeples, spires, cupolas and the like, not intended for human occupancy, shall be reviewed on an individual basis and shall be subject to the requirements stipulated by the Historic District Commission certificate of appropriateness for that particular project;
 - (d) Spacing of buildings, defined as the distance between adjacent buildings, i.e., the recurrent relationship of building masses to the spaces between them;
 - (e) Exterior building materials, the predominant material shall be brick, stone, stucco, wood siding or the other material that shall be compatible to those properties within the Historic Overlay District;
 - (f) Proportion, shape, positioning, location, pattern and sizes of any elements of windows and other openings;
 - (g) Surface textures, the predominant texture may be smooth (stucco) or wrought (brick) or horizontal wood siding, or other texture as shall be compatible to those properties within the Historic Overlay District;
 - (h) Roof, shapes, forms and materials;
 - (i) Use of local or regional architectural traditions;
 - (j) General form and proportions of buildings and structures, and relationship of any additions to the main structure;
 - (k) Expression of architectural detailing, such as lintels, cornices, brick bond pattern, and foundation materials;
 - (l) Orientation of the building to the street;
 - (m) Scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of buildings and structures;
 - (n) Ratio of height to width of the total building façade;
 - (o) Effect of trees and other landscape elements;
 - (p) Appurtenant fixtures and other features such as lighting;
 - (q) Structural condition and soundness;
 - (r) Walls: physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building façades, or combination of these;
 - (s) Color: the predominant color may be that of a natural material or a painted one and shall be compatible to those properties within the Historic Overlay District, as used in this section "compatibility" shall also include original colors of structure, colors which the structure had at any time during which the style(s) of the structure were a prominent style for new construction, or any color schemes generally representative of the original or modified architectural style(s) of the structure and the neighborhood as determined by historical research;
 - (t) Ground covers, plants and other organic materials and paving, paving block and bricks, and other the materials;
and
 - (u) Maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement.
- (3) *Interior arrangement not considered.* The Historic District Commission shall not consider interior arrangement.
- (J) *Certain changes not prohibited.*
- (1) Nothing in this section of this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Building Inspector or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition.
 - (2) Nothing in this section of this chapter shall be construed to prevent a property that is not prohibited by other law.
 - (3) Nothing in this section of this chapter shall be construed to prevent:
 - (a) The maintenance; or
 - (b) In the event of an emergency, the immediate restoration of any existing ground utility structure without approval of the Historic District Commission.
- (K) *Delay in demolition of buildings within Historic District.* An application for a certificate of appropriateness authorizing the demolition of a building, structure or site within the Historic Overlay District may not be denied. However, the effective

date of a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property by virtue of the delay. During the period the Historic District Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the Historic District Commission finds that a building or site has no particular significance or value toward maintaining the character of the district, it shall waive all or part of the period and authorize earlier demolition or removal.

(L) *Review of application by Commission.* As part of its review procedure, the Commission may view the premises and may seek the advice of the State of North Carolina Department of Cultural Resources or other expert advice as it may deem necessary under the circumstances.

(M) *Appeal of decision.*

(1) An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals:

- (a) May be taken by an aggrieved party;
- (b) Shall be taken within times prescribed by the Historic District Commission by general rule; and
- (c) Shall be in the nature of certiorari.

(2) Any appeal from the Board of Adjustment's decision in any case shall be made in accordance with §153.281(B) of this chapter.

(N) *Compliance.*

(1) Compliance with the terms of the certificate of appropriateness shall be enforced by the Administrator. Failure to comply with a certificate of appropriateness shall be a violation of the zoning regulations. The discontinuance of work or the lack of progress toward achieving compliance with a certificate of appropriateness for a period of one year shall be deemed as a failure to comply with a certificate of appropriateness. The certificate of appropriateness shall be effective for 12 months from the date of issuance by the Zoning Officer. If all necessary work or progress has not been completed within 60 days of the end of the certificate's time limit, the applicant may apply for an extension from the Historic District Commission. The application must be made 30 days prior to the end of the certificate's time limit.

(2) Nothing contained in this chapter shall prohibit, impair, or limit in any way the power of the city to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic District in violation of the provisions of this chapter. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(O) *Unsafe or dangerous conditions.* The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the Building Inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the Historic Overlay District.

(P) *Review and approval of minor works.*

(1) The Administrator shall have the authority to issue a certificate of appropriateness if an application or inquiry falls under one of the following categories of minor works:

- (a) Storm windows (providing color matches window trim);
- (b) Normal size television and radio antennas (citizen band and ham operators shall require a certificate of appropriateness issued by the Historic District Commission);
- (c) Roof and basement ventilators; and
- (d) Window air conditioning units, outdoor portions of single or two-family residential central air conditioning or heating units.

(2) If the Administrator does not issue a certificate of appropriateness, he or she shall advise the applicant to make a formal application to the Historic District Commission. The Administrator is not required to issue any certificate of appropriateness and may at his or her discretion refer any matter to the Historic District Commission. The Historic District Commission may deny no application for a certificate of appropriateness without formal action.

(Prior UDO, § 7.23) (Ord. passed - -)

§ 153.123 PRD PLANNED RESIDENTIAL DEVELOPMENT DISTRICT.

(A) A request for rezoning to the PRD district may be approved by the City Council subject to §§153.315 and 153.316 and only after having first been reviewed by the Planning Board.

(B) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. (Note: Prior to submission of the site plan and application, and prior to any disturbance of any land or vegetation it is recommended that the applicant consult with the Administrator or his or her designee in order for the

applicant to be briefed on the requirements of this chapter and that consideration be given to natural features of the site.)

(C) *Purpose and intent.*

(1) Planned residential developments (PRDs) may consist of either single-family dwellings, duplexes or multi-family dwellings or a mixture of the housing types. A variety of dwelling types and physical arrangements may be permitted such as single-family detached houses, lot-line houses, village houses, twin houses, duplexes, patio houses, atrium houses, townhouses, other cluster arrangements or other multi-family arrangements such as storied or stacked dwelling units allowing a maximum of up to three units stacked vertically over top of each other. These dwelling unit types are defined in § 153.031 of this chapter.

(2) The purpose for special regulations for planned residential developments is to promote variety, innovation and flexibility in development by allowing certain variations in lot sizes, dwelling unit types and/or design requirements the intended purpose of which is to:

- (a) Permit a creative approach to the development of residential land;
- (b) Accomplish a more desirable environment than would be possible through the strict application of minimum requirements of this chapter;
- (c) Provide for an efficient use of land;
- (d) Enhance the appearance of neighborhoods through preservation of natural features;
- (e) Provide for recreational areas and open space; and
- (f) Provide an opportunity for new approaches to living environment and provide an environment of stable character compatible with surrounding residential areas.

(3) In keeping with the purpose of these regulations, planned residential developments are always established through the conditional district process subject to the procedures set forth in §§ 153.315 through 153.316 of this chapter.

(D) *Project requirements.* The following minimum requirements shall be applicable to planned residential developments.

(1) *Minimum project site size.* Two acres.

(2) *Maximum density.*

(a) Density shall be calculated on the basis of gross site area (project street, public or private, are included in gross site area) and fractions shall be rounded to the nearest whole number.

(b) Allowed density in the PRD is up to 14 units per acre.

(3) *Dwelling unit types.* Allowed dwelling unit types for PRDs for each applicable zone are as follows:

<i>Dwelling Unit</i>	<i>R-25</i>	<i>R-10</i>	<i>R-8</i>	<i>RMF</i>	<i>RO</i>
<i>Dwelling Unit</i>	<i>R-25</i>	<i>R-10</i>	<i>R-8</i>	<i>RMF</i>	<i>RO</i>
Single-family detached houses	Yes	Yes	Yes	Yes	Yes
Lot-line houses	Yes	Yes	Yes	Yes	Yes
Village houses	Yes	Yes	Yes	Yes	Yes
Patio houses	Yes	Yes	Yes	Yes	Yes
Twin houses	Yes	No	Yes	Yes	Yes
Duplexes	Yes	No	Yes	Yes	Yes
Townhouses	Yes	No	Yes	Yes	Yes
Atrium houses	Yes	No	Yes	Yes	Yes
Multi-family and other developments	Yes	No	Yes	Yes	Yes

(4) *Public water and sewer.* Public water and sewer must be provided to the site.

(5) *Minimum front yard setback or setback from any dedicated street.* Fifty feet at project boundary.

(6) *Minimum side yard setback at project boundary.* Thirty feet (except on corner lots where 50 feet shall be provided.)

(7) *Minimum rear yard setback at project boundary.* Thirty feet.

(8) *Minimum lot width (as measured at required front yard setback).* One hundred feet. In no case shall the front lot width at the street right-of-way line be less than 50 feet.

(9) *Maximum building height.* Forty-eight feet.

(10) *Minimum unobstructed open space.* Fifty percent. (As used in this section the term **UNOBSTRUCTED OPEN**

SPACE shall mean all land of the gross site area (including street rights-of-way to be dedicated), which is not covered by buildings or other structures. Off-street parking areas and drives are counted as unobstructed open space but are not counted as improved common open space.)

(11) *Parking.*

(a) Where parking is provided by private drives for individual dwelling units, space shall be provided for parking at least one and one-half cars at each dwelling unit.

(b) Where common parking areas are used at least one and one-half parking spaces shall be provided for each one-bedroom unit, one and three-quarters for each two bedroom dwelling unit and two for each three or more bedroom dwelling unit. However, where dwellings are designed specifically for elderly and/or handicapped persons the minimum parking requirements shall be one and one-fourth parking spaces per dwelling unit.

(12) *Ground entrance.* At least one ground entrance to every dwelling shall be located within 100 feet of the parking area within the development designated to serve that dwelling.

(13) *Private streets.* Private streets within the development shall be so designed and constructed to carry vehicular traffic from public streets to parking or service areas within the development. All private streets shall meet the following requirements.

(a) Private streets must have a minimum right-of-way width of 30 feet, exclusive of parking bay areas, and have a minimum pavement width of 20 feet, measured from edge of pavement to edge of pavement. Additional widths will be required where parallel parking is to be provided.

(b) Angled parking areas directly adjoining private streets will be permitted on one side of the street only at any point along the street (i.e., double loaded parking is not permitted along private streets.) the combined length of parking areas along private streets may not exceed 50% of the length of the adjoining roadway. The parking areas may be alternated from one side of the street to the other. All other angled parking areas must be clearly separated from the private street by at least a barrier island.

(c) The edge of pavement of any private street shall be no closer than 20 feet to any multi-family principal building. However, private streets may be within ten feet of accessory buildings.

(14) *Multi-family units.* In projects where multi-family units (dwelling units where more than two units are attached) are proposed there shall be an area or areas of improved common open space. The area or areas in combination shall be at least 10,000 square feet in area or 500 square feet in area per multi-family dwelling unit, whichever is greater. (As used in this section the term **IMPROVED COMMON OPEN SPACE** shall mean land and/or water areas within the site designated for development, exclusive of lands occupied by streets, street rights-of-way or off-street parking, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and to be inclusive of all undeveloped, onsite, side yard areas that are adjacent to multi-family residential buildings that are maintained by the property owner, or areas which have been improved with recreational areas and amenities such as but not limited to playgrounds, ballfields, tennis courts, nature trails, gardens, swimming pools, clubhouses and the like.)

(15) *Screening.*

(a) Screening shall be required at the following locations:

1. Along major thoroughfares (as shown on the city's thoroughfare plan), but the screen shall not hinder sight distance where project streets or entrances intersect with thoroughfares;
2. Along a property line or a street bounding the project where the property line or street separates multi-family housing areas within the project and existing single-family residential areas outside the project; and
3. Along a property line or a street bounding the project where the property line or street separates the project from any areas zoned or used for nonresidential purposes.

(b) The screening shall materially screen the project from the view of the adjoining project from the view of the adjoining property, and in the case of divisions (D)(15)(a)1. and 3. immediately above, the adjoining property from the view of the project. The screening shall otherwise be in compliance with § 153.046 of this chapter.

(c) In cases where screening is required by this chapter and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the City Council is hereby empowered to accept the existing features as meeting the general screening requirements. The decision shall be based on the spirit and intent of this section. The vacancy or non-use of adjacent property shall not negate the necessity for installation of screening. If at any time after the existing features are accepted, the features are altered so as to render them inadequate as screening as described in this section, to achieve the required screen, the developer shall be required to make the necessary improvements to achieve the required screen. The following additional requirements apply to multi-family projects.

(16) *Additional requirements for multi-family projects.* The following additional requirements apply to multi-family projects.

(a) No principal residential building side (front, rear, left or right) shall be located closer than ten feet to the edge of

pavement of any private street or off-street parking area within the development.

(b) Off-street parking areas and all internal streets shall provide safe and convenient access for firefighting and refuse collection vehicles and other service and delivery vehicles.

(c) The arrangement of buildings shall not create long alleyways between the rear of residential buildings on the site.

(d) The front entrance to any residential building shall not directly face the rear of any other residential building.

(e) For provisions regarding stacking of dwelling units, see division (C)(1) above.

(f) No exterior wall of a building shall run unarticulated for a horizontal distance of more than 40 feet.

(g) No multi-family principal building shall be located closer than 25 feet to any other principal building within the development.

(h) All walls of greater than 200 square feet shall have at least six square feet of window area per 200 square feet of total wall area, however, this requirement shall not apply to walls facing alleyways.

(17) *Phases.* Each phase of a multi-phased project shall be able to stand as an independent project unless the initial phase constructed is designed in a manner which will support the entire development upon completion of the initial phase. As used in this section, the term **PHASE** shall refer to that portion of the project for which the applicant requests a conditional district rezoning. At no point in the development of a multi-phase project shall the density of residential development in a completed phase of the project area exceed the maximum density established approved for the project.

(E) *Density bonus.*

(1) A density bonus of up to 40% over the basic density normally allowed may be approved by the City Council when considering the request for the conditional district. The density bonus must be based upon the amount of unobstructed open space greater than the minimum 50% and the amount of land area to be used for improved common open space.

(2) Both the unobstructed open space test and the improved common open space test must be met in accordance with the schedule below in order for a project to be considered for the respective density bonus. All improved common open space not covered by buildings or structures shall also be deemed unobstructed open space. The bonuses listed on the schedule shall be maximum bonuses and the City Council, at its discretion may grant a smaller bonus.

(3) Application for the density bonus must accompany the request for the application for a conditional district. Bodies of water shall constitute no more than 25% of the unobstructed open space nor more than 50% of the improved common open space used for calculating the maximum allowable density bonus.

(4) The density bonus schedule shall be as follows:

Maximum % of Site (Gross Land Area) to Be Unobstructed Open Space	Minimum % of Site (Gross Land Area) to Be Improved Open Space	Allowable Density Bonus (% Increase in Units per Acre)
51% to 55%	12%	8%
56% to 60%	14%	16%
61% to 65%	16%	24%
66% to 70%	18%*	32%
Over 70%	20%	40%

* Minimum improved open space shall be 20% when units over units are developed in a PRD project.

(F) *Application requirements and review procedures.* Planned residential developments are established through the conditional district process outlined in §§ 153.315 and 153.316 and the site plan submission process outlined in §153.127 of this chapter.

(Ord. passed - -)

§ 153.124 PUD PLANNED UNIT DEVELOPMENT DISTRICT.

(A) A request for rezoning to the PUD district may be approved by the City Council subject to §§153.315 and 153.316 and only after having first been reviewed by the Planning Board.

(B) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. (Note: Prior to submission of the site plan and application, and prior to any disturbance of any land or vegetation it is recommended that the applicant consult with the Administrator or his or her designee in order for the applicant to be briefed on the requirements of this chapter and that consideration be given to natural features of the site.) Prior to the formal submission of the site plan and application the applicant is encouraged to submit a preliminary sketch plan for review by the Administrator.

(C) *Purpose.*

(1) The purpose of this section is to establish requirements and review procedures for mixed-use projects that may include a full range of housing types and compatible commercial and institutional uses. In order to encourage high-quality design and innovative arrangements of buildings and open space uses throughout the project site, these regulations provide for substantial flexibility from conventional use and dimensional requirements of standard zoning districts.

(2) In keeping with the purpose of these regulations, planned unit developments are always established through the conditional district process subject to the procedures set forth in §§ 153.315 through 153.316 of this chapter.

(D) *Project requirements.* The following minimum requirements shall be applicable to mixed use planned unit developments.

(1) *Minimum project size.* Five acres.

(2) *Maximum density/intensity.*

(a) For residential portions of the project the maximum densities shall be those listed in §153.123(D) of this chapter. The density bonuses in accordance with § 153.123(E) of this chapter shall likewise be applicable.

(b) Except as provided in § 153.120(E), SH Overlay District, or § 153.121, WSW Water Supply Watershed District, for nonresidential portions of the project the maximum floor area ratio (FAR) and maximum impervious surface ratio (ISR) shall be:

<i>Use Type</i>	<i>FAR</i>	<i>ISR</i>
Office use	.35	.50
Commercial/retail	.35	.75
Industrial/wholesale/trucking/warehousing	.25	.50

(3) *Uses allowed within the project.* All uses listed as either permitted or conditional in the zoning district in which the project is proposed. Residential dwelling unit types are allowed in accordance with § 153.123(D)(3) of this chapter.

(4) *Residential areas.* Unless otherwise specified in this section, residential portions of planned unit developments shall meet all requirements of § 153.123(D) of this chapter.

(5) *Nonresidential areas.* Nonresidential portions of planned unit developments shall meet the following requirements.

(a) *Public water and sewer.* Public water and sewer must be provided to the site.

(b) *Minimum front yard setback or setback from any dedicated street.* Fifty feet at project boundary.

(c) *Minimum side yard setback at project boundary.* Thirty feet (except on corner lots where 50 feet shall be provided).

(d) *Minimum rear yard setback at project boundary.* Thirty feet.

(e) *Minimum lot width (as measured at required front yard setback).* One hundred feet. In no case shall the front lot width at the street right-of-way line be less than 50 feet.

(f) *Maximum building height.* Forty feet.

(g) *Off-street parking and loading.* Off-street parking and loading areas shall conform to all minimum requirements for each use as set forth in §§ 153.185 through 153.188 of this chapter. Off-street parking areas shall be separated from interior streets within the project. No parking space shall be located on, along or otherwise be directly accessed by an interior street. All off-street loading areas (for loading and unloading of goods) shall be located in the rear of buildings except that the areas may be located at building sides when screened from view at the front of the building.

(h) *Private streets.* Private streets within the development shall be so designed and constructed to carry vehicular traffic from public streets to parking or service areas within the development. All private streets shall, at a minimum, meet the following requirements:

1. *Minimum pavement widths, back of curb to back of curb.*

a. *Local access street.* Thirty-two feet.

b. *Collector street.* Forty feet.

2. The edge of pavement of any private street shall be no closer than 40 feet to any building except that a street may be located within 20 feet of an accessory building and except that this requirement shall not apply to passenger and goods loading and unloading drives and facilities.

3. All streets and parking areas shall be paved and bordered by a standard 24-inch concrete curb and gutter. Storm drainage shall be installed in accordance with the standards required by the city.

(i) *Screening.* Screening shall be required at the following locations:

1. Along major thoroughfares (as shown on the city's thoroughfare plan), but the screen shall not hinder sight distance where project streets or entrances intersect with thoroughfares;
2. Within the project, along the boundaries between areas planned for nonresidential uses, and areas planned for residential uses. The screening shall be located on the nonresidential side of the boundary. Private recreation areas associated with residential uses shall not be required to be screened from residential uses;
3. Along a property line or a street bounding the project where the property line or street separates the project from any areas zoned or used for residential purposes;
4. The screening shall materially screen the project from the view of the adjoining property, and from the view of residential areas within the project. The screening shall otherwise be in compliance with § 153.046 of this chapter; and
5. In cases where screening is required by this chapter and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the City Council is hereby empowered to accept the existing features as meeting the general screening requirements. The decision shall be based on the spirit and intent of this section. The vacancy or non-use of adjacent property shall not negate the necessity for installation of screening. If at any time after the existing features are altered so as to render them inadequate for screening, as described in this section to achieve the required screen, the developer shall be required to make the necessary improvements to achieve the required screen.

(j) *Paved facilities.* Except for pedestrian walkways and pedestrian courts and paved facilities specifically designed and designated for passenger or goods loading and unloading no paved facilities (streets, drives or parking areas) shall be located closer than 20 feet from the front or rear of any building or ten feet from the side of any building.

(k) *Off-street parking areas.* Off-street parking areas and all internal streets shall provide safe and convenient access for firefighting and refuse collection vehicles and service and delivery vehicles.

(l) *Front entrances.* The front entrance to any principal building shall not directly face the designated goods loading area of any other principal building, unless there is a separation of at least 150 feet between the building and sufficient landscaping to materially screen the loading area from view from the front of the opposing building.

(m) *Location of principal buildings.* No principal building shall be located closer than 70 feet to any other principal building within the development.

(n) *Phases.* Each phase of a multi-phased project shall be able to stand as an independent project. As used in this section, the term **PHASE** shall refer to that portion of the project for which the applicant is seeking a conditional district rezoning.

(E) *Application requirements and review procedures.* Planned unit developments are established through the conditional district process outlined in §§ 153.315 and 153.316 and the site plan submission process outlined in §153.127 of this chapter.

(Ord. passed - -)

§ 153.125 TND TRADITIONAL NEIGHBORHOOD DEVELOPMENTS.

(A) A request for rezoning to the TND district may be approved by the City Council subject to §§153.315 and 153.316 and only after having first been reviewed by the Planning Board. A traditional neighborhood development (TND) is a type of planned unit development (PUD) that contains both residential and nonresidential uses. A TND is a conditional district and is a development that substantially meets the guiding principles of traditional neighborhood development design as set forth in this section. TNDs, by their very nature, are built in a more urban, compact configuration. Accordingly, many of the setback, bulk and off-street parking requirements, requirements dealing with accessory dwelling units, and the one principal use per lot requirement that may otherwise be prescribed are hereby either relaxed or waived. Similarly, many of the subdivision standard requirements found in § 153.395 of this chapter are also waived.

(B) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. (Note: Prior to submission of the site plan and application, and prior to any disturbance of any land or vegetation it is recommended that the applicant consult with the Administrator or his or her designee in order for the applicant to be briefed on the requirements of this chapter and that consideration be given to natural features of the site.)

(C) *Purpose and intent.* The purpose and intent of this section is to set forth guiding principles for traditional neighborhood development design and to allow relief to some of the PRD/PUD district standards in §§ 153.123 and 153.124 when the developments are found to substantially meet the guiding principles of this section.

(D) *Guiding principles.* For organizational purposes, the guiding principles have been divided into six categories; however, most principles relate to multiple categories. A TND must substantially meet each of these principles. Where the development application does not meet a particular principle, the applicant shall submit written justification substantiating why that principle cannot be met, unless the principle is described as optional. The guiding principles are as follows.

(1) *Public realm principles.*

(a) The central element of traditional neighborhood design is the emphasis and weight given to the public realm (the streets and plazas, and the public open spaces such as parks, playgrounds, greens and natural areas, together with semi-public spaces which frame the public realm and provide transition between public and entirely private spaces).

(b) TNDs feature well-designed public spaces, special emphasis on public and cultural buildings, and special design treatment for vista terminations.

(c) A sense of enclosure is maintained along the public street through an appropriate ratio between the height of building fronts and the distance between buildings on opposite sides of the street. Where the street frontage consists of single story buildings or open space, street trees can be a substitute for front building walls to maintain this sense of enclosure.

(d) Nonresidential buildings are set at or very near the sidewalk. In most situations, the same is true for attached housing. Single-family homes have relatively shallow setbacks, typically one-fourth to one-third the lot width. Encroachments are allowed for porches, steps, bay windows and balconies.

(e) The public realm shall be appropriately landscaped. Unless good landscape design would otherwise dictate, each street shall be provided with an orderly regimen of street trees of substantial nursery stock, which will grow quickly to provide a street canopy. Planting strips wide enough to accommodate street trees typically separate sidewalks from street roadways. See division (D)(2)(f) below.

(f) Single-family home lots in TNDs are typically smaller and narrower than in conventional subdivisions. A substantial amount of land area savings from reduced lot sizes is dedicated toward common areas.

(g) 1. Narrower lots necessitate alternative treatment of certain fixtures that can diminish the aesthetic quality of the public realm. A system of rear access lanes (alleys) can provide garage access at the rear of the lot. This is especially preferred for lots less than 50 feet in width. When built to a 16-foot standard with a 24-foot right-of-way, the alley can also serve as an appropriate location for electric, gas, cable television and telephone equipment as well as access for garbage pickup and mail delivery. On lots at least 50 feet wide, alternate, less preferred methods of garage access include (in descending order of preference):

- a. A front driveway accessing a garage behind the house or near the back of the lot;
- b. Turning the garage so that it does not face the front (provided the garage is flush with or set behind the front building line);
- c. Setting the garage at least 20 feet behind the front of the house; or
- d. Providing special architectural treatment to the house to visually de-emphasize a garage at the front.

2. Where alleys are not available, other measures shall be taken to hide utility equipment; however, fire hydrants are always located on the fronting street, ideally situated on planting strip bulb-outs at intersections.

(h) TNDs are designed so that there are linkages between the private realm and the public realm while protecting private spaces. Single-family detached homes typically have front porches large enough for sitting (with a six- to eight-foot minimum depth), and attached dwellings typically have sitting porches or front stoops. Always for single homes served by alleys, and where feasible and designed appropriately for town homes, private spaces are protected at the rear using privacy devices according to the development guidelines. The bottom floor of any dwelling whose sidewalk-facing wall is within five feet of the sidewalk shall be elevated sufficiently above the sidewalk to provide additional privacy inside the dwelling.

(i) TNDs are designed to feature vista terminations at multiple locations. Vistas can terminate to important buildings, parks and greens, civic features in a "town" or "village" center, a carefully sited dwelling, a curve in the road, natural green edge, distant objects and scenery, and other features as appropriate. Entry into the community usually uses an important vista termination to provide a sense of place arrival.

(j) Utility wiring shall be underground and decorative street lighting fixtures are encouraged, but not mandated.

(2) *Transportation system principles.*

(a) TNDs always have a connecting web of streets, typically provided by a grid or modified grid street pattern. The street system is organized in a comprehensible network hierarchy that forms an orderly discernable neighborhood structure.

(b) Cul-de-sacs shall be avoided unless natural site or site boundary conditions require them. In those situations, special street design features such as street eyebrows and cul-de-sac loops are encouraged instead of standard ball-end cul-de-sacs.

(c) Curved as well as straight streets are allowed; however, each must contribute to the connecting web. Where possible, curved streets maintain the same cardinal orientation. Long blocks shall be avoided with the average block length in a TND being no greater than 600 feet; the average block perimeter shall be 1,800 feet.

(d) While the sense of enclosure described in division (D)(1)(c) above will help to reduce traffic speeds, additional design measures will be needed to slow traffic. Examples of the measures include the features as bulbing out the curb line at intersections, traffic circles or roundabouts, streets no wider than necessary to provide adequate access, design for and encouragement of on-street parking, and safe but unconventional street geometrics. The internal streets shall be designed to feel safe driving at a speed no more than 25 mph. Note: Street requirements of § 153.395 of this title are waived in TNDs.

(e) 1. Back-to-back street widths within a TND are as follows.

<i>Width</i>	<i>Street</i>
<i>Width</i>	<i>Street</i>
34-38 feet	A main street in a TND with marked parking on both sides
32-34 feet	Secondary streets with marked parking on both sides
27-29 feet	Other through streets with marked parking on one side
24-26 feet	Standard streets with unmarked parking allowed to stagger from side to side
20-24 feet	Low density local streets with unmarked parking on one side
20 feet	One-way streets with parking on one side
16 feet	Public residential alleys with commercial alleys typically being 24 feet

2. Where possible, streets are encouraged to narrow to 22 to 24 feet at intersections and at mid-block cross walks. Curve radii at intersections shall be ten to 20 feet, depending on street function. Standard vertical curb is preferred, and it is required on all residential streets without driveways (auto access is provided via a rear alley) and all commercial streets. NOTE: One-way streets, although allowed, are strongly discouraged.

(f) TNDs shall always be designed to be walkable and pedestrian-friendly communities in the fullest sense. They shall contain sidewalks on both sides of the street and, in addition, may contain a network of off-road walking and bike trails. Sidewalks are well separated from the roadway with planting strips that are planted with indigenous, mostly deciduous shade trees (on commercial streets sidewalks may extend to the curb with street trees planted in grates or other sufficiently sized planting space). Planting strips shall be a minimum of six feet in width, but may be reduced to no less than four feet in width in situations that are both unusual and difficult. Sidewalks shall be a minimum of four feet in width on residential streets, with wider widths on commercial streets.

(g) TNDs always have multiple points of ingress and egress from collector and arterial roads. The street system shall also flow seamlessly to adjoining neighborhoods, both existing or planned in the future.

(h) TNDs are never gated communities.

(i) Off-street parking lots should generally not front along a public street. On-street parking shall be provided throughout the development and particularly so on streets with commercial buildings and/or attached housing. Where additional parking is needed, it is usually provided behind buildings in the interior of the block. The calculation of parking needs for nonresidential uses will always take into consideration available on-street parking. Parking lots shall include shade trees and no space in a parking lot shall be further than 60 feet from the trunk of a large tree. Each large tree shall be planted in a planting area sized and shaped to enable healthy growth. Pedestrian access from interior block parking area is best provided via a mid-block passageway to the street front. This passageway can also be used for other activities such as front entrances for small shops, access to second floor apartments, outdoor dining, outdoor vendors and outdoor display of plants, flowers and other appropriate items for sale.

(3) *Mixed use principles.*

(a) TNDs shall contain a significant mixture of principal uses (both residential and nonresidential).

(b) TNDs shall also contain a mixture of residential types.

(c) TNDs should be designed to offer housing at a variety of affordability levels. Allowing garage apartments and granny flats at the rear of single home lots, in accordance with the development's private guidelines (whether rented or not) is encouraged. These innovative (but historically traditional) housing forms help to accommodate family situations and promote income diversity within the TND.

(d) Live-work units (shop or office at the street level and residence at the second level) and upper-story apartments over ground-floor businesses are encouraged.

(e) In TNDs, denser housing and live-work units are typically located closer to the neighborhood center with a transition outward to less dense housing such as detached single-family homes. This principle should not be construed to discourage the careful blending of housing types as this transition occurs.

(f) Schools and churches are encouraged to locate within a TND as is the provision of pedestrian and bicycle routes to connect to the facilities inside or outside the TND.

(g) Where buildings are on both sides of the street, similar building types should face each other to the greatest degree possible. Single-family detached houses, townhouses, live-work units, apartment buildings and store buildings are examples of building types.

(h) TNDs are expected to provide some on-site and/or adjacent to site employment opportunities. This can include employment in the services and stores within the TND, live-work units (the owner dwelling over his or her shop or office), or larger employment centers such as office buildings.

(4) *Architectural principles.*

(a) The architectural style within a TND shall respond to the surrounding fabric of buildings and spaces and to local traditions. The principle that structures should be seamlessly linked to their surroundings (within the TND) transcends the issue of style.

(b) Any principal building within a TND shall exhibit principles of human and pedestrian scale and shall contribute appropriately to the pedestrian life of the street. Front yard setbacks and the amount of off-street parking located in a front yard shall be minimal.

(c) Architecture within a TND shall reflect styles that are complimentary of each other. Private development controls shall assure a variety styles or sub-styles that serve to compliment each other while providing for overall consistency and reflection of the principles of traditional neighborhood design.

(d) Commercial buildings shall typically take on a "shop front" type appearance and shall be joined by common walls. The buildings shall be set with the front and entrance at the sidewalk along the street. The buildings shall typically be two or more stories high. (Typically, uses on upper floors or occupied by residential and offices uses. However, the city may allow "low-impact" retail uses such as bookstores, restaurants, music stores and the like to occupy a second story.) Commercial buildings shall not face intersecting streets with blank walls.

(e) Building articulation and setback encroachments for porches, stoops, steps, bay windows, bay windows and awnings, balconies and other features that form the transition between the public and private realms are encouraged.

(f) Corner-lot homes should face the front door to the larger street (unless the street is a thoroughfare), except for an end-unit townhouse or row house, which may turn the corner with its front (unless the side street is an alley). Fronting a townhouse on both the primary street and the intersecting street with two doors and/or wrap-around porch is encouraged.

(5) *Neighborhood center principles.*

(a) TNDs shall have at least one defined neighborhood center. Neighborhood centers typically feature uses such as shops and services, live-work units, attached dwellings, apartments over businesses, a formal open space such as a village square or green, or public/civic buildings (church, community building/center and post office are examples).

(b) Automobile oriented uses are typically not found in a neighborhood center and drive-through facilities are strongly discouraged (with exceptions made for bank drive-through windows.)

(c) A public gathering space such as a plaza, green or square is usually present along with one or more focal features in or near this public space such as a clock tower, fountain, monument, bandstand and/or public art which serve to terminate vistas and define the community.

(d) The TND neighborhood center is ideally located near the geographic center of the development; however, it may also identify itself jointly with a thoroughfare bordering the TND (and therefore, be located near this major road or be linked to this road with an entrance street) in order that businesses within the center may more easily attract patrons from outside the development. This can serve to improve chances for economic success of the TND center. Ideally, the neighborhood center is no farther than one-fourth mile radius of most dwellings; however, a neighborhood center that is within 2,400 feet of 80% of the dwellings in the TND is acceptable in order to allow the center to identify itself jointly with an adjoining thoroughfare.

(e) Development form in the center typically reflects the traditional Main Street or town square vernacular of Lincolnton as described in division (B)(5)(d) above and parking is provided in accordance with division (B)(2)(b) above.

(f) Other civic uses are encouraged, including schools and day care centers; however, the uses shall take on design features and lot sizes in keeping with traditional principles and a walkable community. Office employment may occur at the TND center or along major roads adjoining the TND.

(g) At least one site, prominent in its location, should be reserved at or near the neighborhood center, for an important community or civic building such as a community center, church, school, amenity center (club house and recreation facility) or community hall.

(6) *Open space and natural site characteristic principles.*

(a) A TND shall always have one or more public open space areas such as greens, village squares, parks and playgrounds. They may also have substantial amounts of natural or semi-natural open spaces that typically feature more informal amenities such as walking/bicycling trails and picnic areas.

(b) There is always a significant civic space such as a town square, green, commons or plaza in a neighborhood center within the TND.

(c) Small parks or greens shall be distributed throughout the TND, usually within 1,000 feet walking distance of any dwelling within the TND.

(d) Pre-existing or natural water features should be retained and made a community asset.

(e) Major tree stands shall be incorporated into public open spaces, wherever feasible.

(f) The neighborhood design shall adapt itself, as much as possible, to the existing topography to minimize the amount of grading necessary to achieve a viable street network.

(g) Parks, plazas and commons shall be equipped with proper furnishings and shade trees to encourage outdoor

sitting, human interaction and people watching; while some common areas should be grassed and left open (except for street trees) to encourage the types of leisure/recreational activities that require open areas.

(E) *TND design standards.*

(1) The TND shall have a minimum area of ten acres and shall be served by public water and sewer.

(2) The TND may contain the following types of residential dwelling units:

(a) Single-family detached dwelling units;

(b) Lot-line houses;

(c) Village houses;

(d) Patio houses;

(e) Twin houses;

(f) Townhouses;

(g) Atrium houses;

(h) Multi-family developments; and

(i) Dwellings located on the second story (or higher) over ground floor commercial uses.

(3) The TND can contain the following types of nonresidential uses: all permitted uses and uses subject to prescribed standards allowed in the N-B Neighborhood Business Zoning District.

(4) Where TND commercial uses adjoin residential uses outside the TND, or when TND non-single family residential uses adjoin single-family residential uses outside the TND, screening in accordance with § 153.046 shall be provided on the adjoining portion of the TND. Otherwise, screening for a TND shall not generally be required. Notwithstanding, the City Council may require screening in any other situation along the boundary of a TND or inside a TND as a condition for approval wherever it deems appropriate for the protection of adjoining properties or to establish necessary transition.

(5) Where parking is provided by private drives for individual dwelling units, space shall be provided for parking at least two cars at each dwelling unit. This requirement may be reduced to one car per dwelling where on-street parking is designed into the street system.

(6) Except for rear access alleys, driveways and parking drives/aisles, private streets are not allowed in TNDs.

(7) Off-street parking areas and all internal streets shall provide safe and convenient access for emergency service and refuse collection vehicles and other service and delivery vehicles.

(8) Any TND containing 50 or more dwelling units shall have at least one point of ingress and egress onto a major or minor thoroughfare as depicted on the most up-to-date version of the city's thoroughfare plan.

(9) The initiation of the nonresidential phase of a TND may follow at any time after the initiation of construction of at least 25% of the non-multi-family (i.e., detached) residential dwelling units.

(10) Nonresidential buildings shall observe setbacks of 30 feet minimum along any external project boundary that is not a street and a minimum of zero feet where a street right-of-way is the external boundary.

(11) TNDs shall follow the same procedures for approval through the conditional district rezoning process as set forth in §§ 153.315 and 153.316 except that the following additional requirements will be required in the site plan submission.

(a) Typical building front elevations representing the various building types proposed within the development shall be submitted for approval.

(b) Cross-section drawings of typical street areas from building profile to opposing building profile. A typical profile for each building type is needed.

(c) A copy of draft or model private building and lot design controls proposed for the TND shall be submitted for approval. This document will be referenced in the approval action. Actual final design controls to be used can be approved in the formal plan submission.

(F) *Application requirements and review procedures.* Traditional neighborhood developments are established through the conditional district process outlined in §§ 153.315 and 153.316 and the site plan submission process outlined in § 153.127 of this chapter.

(Ord. passed - -)

§ 153.126 TID TRANSITIONAL INFILL DEVELOPMENTS.

(A) *Application requirements and review procedures.* A request for rezoning to the TID district must be approved by the City Council, subject to § 153.127.

(B) *Purpose and intent.* A transitional infill development (TID) is an innovative, high- density residential project planned on

smaller, under-utilized parcels of land within an existing urban or developed area. Its purpose is to revitalize communities, combat urban sprawl, and create a sustainable, walkable, and connected residential environment.

(C) *Dwelling types.*

- (1) Single-family detached houses.
- (2) Lot-line houses.
- (3) Village houses.
- (4) Patio houses.
- (5) Twin houses.
- (6) Duplexes.
- (7) Townhouses.
- (8) Atrium houses.
- (9) Multi-family developments.

(D) *Project requirements.*

- (1) *Minimum project site size.* Less than two acres.
- (2) *Minimum density.* At least three units.
- (3) *Utilities.* Public water and sewer must be provided to the site.
- (4) *Maximum building height.* Thirty-five feet, unless otherwise restricted.
- (5) *Project boundary setbacks.*

(a) *Minimum front yard setback or setback from any dedicated street.* The front yard setback for all principal structures facing an existing public street shall be equal to (and not exceed) the average of all front setbacks for all principal structures located on the same side of the same street within 300 feet of any portion of the tract upon which the TID is to be constructed.

1. Notwithstanding, balconies, stoops, stairs, open porches, bay windows, and awnings shall be allowed to encroach up to five feet within the required front yard setback.

2. For all internal streets within the TID, there shall be no required front yard setbacks.

(b) *Minimum side yard setback at project boundary.* Five feet.

(c) *Minimum rear yard setback at project boundary.* Twenty feet.

(E) *Design standards.*

- (1) Single-family detached homes typically have front porches large enough for sitting (with a six-foot minimum depth).
- (2) Attached dwellings typically have sitting porches or front stoops.

(3) The bottom floor of any dwelling whose sidewalk-facing wall is within five feet of the sidewalk shall be elevated sufficiently above the sidewalk to provide additional privacy inside the dwelling. Must be shown with elevations.

(4) Front-loaded garages of any structure shall not be placed side by side and shall be recessed a minimum of five feet from the street-side façade.

(5) Architecture should reflect styles that complement each other. Developers should ensure a mixture of styles or sub-styles that work together to create overall consistency.

(6) Patios, covered patios, and fences should be covered in the HOA with a plan for uniformity.

(F) *Streets and sidewalks.* Refer to § 153.395.

(1) Must be private and are required to meet any applicable requirements, including but not limited to Fire Code and NCDOT Standards.

(2) Sidewalks are required on both sides of the street and, in addition, may contain a network of off-road walking and bike trails.

(3) Sidewalks shall be a minimum of four feet in width on private streets, with wider widths on public streets.

(G) *Alleys.*

(1) A system of rear access lanes (alleys) can provide garage access at the rear of the lot. This is especially preferred for lots less than 50 feet in width.

(2) Always for single homes served by alleys, and where feasible and designed appropriately for town homes, private spaces are protected at the rear using approved privacy devices.

(3) Where alleys are not available, other measures shall be taken to hide utility equipment; however, fire hydrants are always located on the fronting street, ideally situated on planting strip bulb-outs at intersections.

(H) *Screening and landscaping.*

(1) Screening will be required between TID districts and other residential or commercial districts and/or uses. Screening requirements are based on the location and physical characteristics of the property per § 153.046.

(2) Landscaping requirements per § 153.047.

(I) *Parking.*

(1) Off-street parking should follow the off-street parking schedule, §153.185(K). Off-street parking lots should generally not front along a public street.

(2) On-street parking can be provided throughout the development, particularly on streets with attached housing. Where additional parking is needed, it is usually provided behind buildings in the interior of the block.

(3) Where parking is provided by private drives for individual dwelling units, space shall be provided for parking at least two cars at each dwelling unit. This requirement may be reduced to one car per dwelling where on-street parking is designed into the street system.

(J) *Common open space.*

(1) Innovative use of green spaces is strongly encouraged, such as community gardens, green roofs and walls, or decorative and functional rain gardens.

(2) Where space allows, amenity areas should be provided. Examples include pocket parks, linear parks, small playgrounds, fire pits, and walking trails.

(K) *Additional requirements.* Any additional applicable sections as required by the UDO.

(Ord. passed - - ; Ord. O-5-22, passed 6-30-2022; Ord. ZTA-4-2025, passed 10-2-2025)

§ 153.127 APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND WATERSHED OVERLAY CLUSTER DEVELOPMENTS.

All planned developments are established through the conditional district rezoning process. The conditional district rezoning application and review procedures, therefore, serve as the primary procedures for review of planned developments. There are, however, additional submissions required for planned developments and 1 additional step in the review procedure (sketch plan review by the Administrator). A separate fee, as established by the City Council, must also be submitted for planned developments. The purpose of this section is to set forth the special application and review procedure for planned developments.

(A) *Sketch plan submission.* Prior to formal submission of the full planned development plan, the subdivider shall submit 3 paper copies and a digital version of the sketch plan for the proposed planned development to the Administrator along with a completed application by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule. The sketch plan shall be prepared by a registered architect, engineer, or land surveyor licensed and registered by the appropriate state board. At a minimum, the sketch plan shall contain or be accompanied by the following:

(1) A sketch vicinity map including north arrow showing the location of the planned development in relation to neighboring tracts, subdivisions, roads and waterways;

(2) The boundaries of the tract and the portion of the tract proposed to be in the planned development;

(3) The total acreage of the planned development;

(4) Locations of any existing public streets or utilities and rights-of-way of the facilities;

(5) The existing and proposed uses of the land within the planned development and the existing uses of land adjoining it;

(6) General locations of existing natural features of the site, such as wooded areas, water features, and significant topographic features;

(7) The proposed street layout with approximate pavement and right-of-way width;

(8) Existing property lines and approximate (sketch) locations of proposed property lines within the development showing all proposed lots or other divisions of land;

(9) Sketch of conceptual building locations;

(10) The name, address, and telephone number of the owner;

(11) The name, if any, of the proposed planned development;

(12) Streets and lots of adjacent developed or platted properties; and

(13) The zoning classification of the tract and of adjacent properties.

(B) *Sketch plan review procedures.*

(1) The Administrator and Technical Review Committee shall review the sketch plan for general compliance with the requirements of this chapter and other applicable ordinances.

(2) The Administrator shall advise the applicant or his or her authorized agent of the regulations pertaining to the proposed planned development and the procedures to be followed in the preparation and submission of the formal application. One copy of the sketch plan shall be retained as a part of the record of the Administrator with another copy being returned to the applicant or his or her authorized agent along with any comments made by the Administrator.

(C) *Formal plan submission.* Following the Administrator's review and submission of comments on the sketch plan the applicant may submit his or her formal application for the planned development and application for conditional district rezoning. The formal application must be submitted to the Administrator or his or her designee, by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule. Timing of the submission and waivers of submission deadlines shall in all respect conform to the requirements set forth in § 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* of this chapter.

(1) The formal plan shall contain all of the information set forth in §153.316 of this chapter, and in addition, shall contain or be accompanied by the following information:

(a) Title block containing development name, name of owner, date or dates plan was prepared, a scale drawing in feet per inch listed in words or figures, north arrow, the name of the applicant;

(b) A sketch vicinity map with north arrow showing the relationship between the proposed planned development and surrounding area;

(c) The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects and professional engineers responsible for the planned development;

(d) The registration numbers and seals of the professional engineers, land surveyors and/or architects;

(e) Locations of proposed property lines and proposed divisions of land within the development;

(f) The names of owners of adjoining properties;

(g) For all proposed public streets and private streets proposed within or adjoining the development the following information:

1. Rights-of-way, location and dimensions;

2. Pavement widths;

3. Approximate grades;

4. Design engineering data for all corners and curves;

5. Typical street cross-sections; and

6. Road names and whether to be public or private.

(h) The location and dimensions of existing and proposed utilities;

(i) Location of any proposed recreation or facilities and other areas designated as, and meeting the requirement of, improved common open space as set forth in § 153.123(D)(14) *PRD District, Project Requirements, Multi-Family Units* of this chapter (area in square feet of each area shall be provided);

(j) The future users and ownership (dedicated or reservation for public use to a governmental body, for owners' use to duly constituted homeowner's association, or for tenants' use and remaining in developer's ownership) of recreation and open space lands;

(k) Location and proposed use of any existing wooded areas within the development site;

(l) Existing and proposed topography at minimum 2-foot elevation intervals;

(m) Marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds, and any other natural features affecting the site;

(n) Average calculations for the entire planned development, for each proposed division of land within the development, for each phase of the development, and by general land use within each phase; and

(o) The name and location of any site or buildings within the proposed development or within any contiguous property that is listed on the U.S. Department of Interior's National Register of Historic Places, or is designated as a local historic property by the county, or is within the HO-Historic Overlay Zone as set forth in this chapter.

(2) The Planning Board and City Council shall review the application in accordance with the procedures set forth in §§

153.315 Amendments to Text and Map and 153.316 Additional Provisions Pertaining to Conditional Zoning Amendments of this chapter.

(3) Upon completion of the project (or each phase thereof) a complete set of "as-built" drawings shall be furnished to the city.

(D) *Planned developments in Water Supply Watershed Overlay District; cluster developments.*

(1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in § 153.121 *WSW Water Supply Overlay District* of this chapter. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or the protected area, whichever applies.

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

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

(Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025)

§ 153.128 MHP MANUFACTURED HOME PARK DISTRICT.

(A) A request for rezoning to the MHP district may be approved by the City Council subject to §§153.315 and 153.316 and only after having first been reviewed by the Planning Board.

(B) (1) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. (Note: Prior to submission of the site plan and application, and prior to any disturbance of any land or vegetation it is recommended that the applicant consult with the Administrator or his or her designee in order for the applicant to be briefed on the requirements of this chapter and that consideration be given to natural features of the site.) Prior to the formal submission of the site plan and application the applicant is encouraged to submit a preliminary sketch plan for review by the Administrator.

(2) The formal site plan and application shall, as a minimum, include the following items:

(a) The name of the manufactured home park, the names and addresses of the owner(s) and the designer of the park, date, approximate north arrow and scale, and the boundary line survey of the tract with accurate linear and angular dimensions drawn to scale by a registered surveyor or engineer. A sketch vicinity map with north arrow shall be included showing the relationship between the proposed manufactured home park and the surrounding area;

(b) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, known gravesite areas, water mains, sewers, culverts, drainpipes and any utility easements, both on the land to be developed as a manufactured home park and on land immediately adjoining. The names of adjoining subdivisions and the names of owners of all adjoining parcels of land shall be noted;

(c) The names, proposed location and approximate dimensions of proposed streets, entrances, exits, walkways, easements, recreation areas, parking areas, parks and other spaces, reservations, manufactured home spaces (with area calculations and proposed space numbers shown) and building lines (with setback distances shown). See division (C) (3) below for staking requirements where individual septic tanks will be used. For all proposed internal streets within the manufactured home park the following information shall be provided:

1. Rights-of-way, location and dimensions;
2. Pavement widths;
3. Approximate grades;
4. Design engineering data for all corners and curves;
5. Typical street cross sections; and
6. Road names and whether to be public or private.

(d) Plans of proposed utility layouts (sewer lines, water lines, hydrants, storm drainage and the like) showing feasible connections to existing and proposed utility systems; plan for electric lighting; and the location and number of trash dumpsters and mail boxes;

(e) Proposed screening, including wall, fences or planting areas as well as treatment of any existing natural features;

(f) Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps;

(g) Proposed number and location of signs including both park identification signs and space identification numbers;

(h) Proposed phasing, if any, and approximate completion time of the project;

(i) The above divisions (A)(2)(a) through (h) shall be submitted on a plan drawn to a scale of one inch equals 50 feet

or one inch equals 100 feet on sheet(s) not exceeding 24 inches by 36 inches. Twenty copies shall be submitted. Additional copies may be required by the Administrator if outside agency review is deemed appropriate;

(j) A management plan describing at a minimum how the common facilities will be maintained and how the park will be maintained in accordance with division (C)(27) of this section;

(3) The Administrator shall present any properly completed site plan and application to the Planning Board for review at the next meeting. If individual septic tanks are to be used or if review of the plan is to include outside agencies additional time for review prior to consideration by the Planning Board may be needed. The additional time shall be determined by the Administrator.

(4) The Planning Board shall have a maximum of 45 days from the date at which it met to review the application to submit its recommendation to the City Council. If a recommendation is not made during the 45-day period, the application shall be forwarded to the City Council without a recommendation from the Planning Board.

(5) When dealing with the application review process, it may be desirable to request additional information in order to evaluate the project and its relationship to the surrounding area. Therefore, the Administrator, Planning Board and/or City Council may request needed additional information as they deem necessary that the applicant must furnish within seven days of the request.

(6) Once the Planning Board has considered the proposal and forwarded its recommendation to the City Council, the City Council shall then review and take action on the application.

(7) Upon completion of the project (or each phase thereof) a complete set of "as-built" drawings shall be furnished to the city.

(C) *Standards.* This section sets forth the standards required for all new manufactured home parks and expansions of existing manufactured home/manufactured home/trailer parks.

(1) *Occupancy.*

(a) There must be at least five improved manufactured home spaces at first occupancy.

(b) No manufactured home space shall be occupied, nor certificate of compliance issued unless the requirements of this chapter have been met.

(2) *Minimum park area.* All manufactured home parks shall have a gross land area of at least three acres.

(3) *Space sizes and staking.*

(a) All manufactured homes within the park shall be located in designated manufactured home spaces.

(b) Minimum space sizes shall be as follows:

1. Where a well and septic tank are on the same space: 20,000 square feet;

2. Where one of either public or community water service or public or community sewer service are provided to each space: 15,000 square feet;

3. Where both public or community water and sewer services are provided to each space: 5,000 square feet;

4. The above space sizes are to be deemed the minimum size requirements and may be increased due to requirements for placement of well and septic tank systems (such as soil conditions and separation distances), the topography of the land or other factors. The applicant shall indicate on the application the specific number of bedrooms per manufactured home for which the septic tank system should be evaluated; and

5. Where individual septic tanks will be used, each manufactured home space shall have all corners marked during the application review and construction phase of the project. Failure to have each space clearly identified will slow the review process.

(4) *Suitability of land for spaces.*

(a) Each manufactured home space shall be located on ground not located within the 100-year floodplain as established by maps published by the Federal Emergency Management Agency.

(b) No manufactured home shall be placed on land having excessive slope or other characteristics making the land unsuitable for placement of manufactured homes.

(c) Each manufactured home space shall be graded so as to prevent any water from ponding or accumulating on the space.

(5) *Space widths.*

(a) Each manufactured home space shall be at least 30 feet in width at the interior street line and 45 feet in width at the front yard setback line.

(b) The interior street line is a line 11 feet away from the edge of pavement and running parallel thereto.

(c) Exception may be made to the minimum width at the street for panhandle spaces, however all setbacks must be met and no portion of the panhandle may be used for measuring setbacks.

(6) *Setbacks.*

(a) Minimum front, side and rear yards shall be provided as follows for each space.

(b) Where a required screening area as provided in §153.046 of this chapter lies between the manufactured home space and the property line or street right-of-way (a street other than an interior manufactured home park street), the setback shall be measured from the edge of the screen nearest the manufactured home):

1. The minimum setback for any structure within a manufactured home park from a publicly maintained street right-of-way line or from any property line shall be 40 feet.

2. Otherwise, all manufactured home spaces shall have the following minimum setbacks (unless otherwise specified):

- a. Front setback (from interior streets): 20 feet (Note: division (15)(c)1. below);
- b. Side setback: Ten feet minimum on one side, but both side yards must total to a combined 30 feet; and
- c. Rear setback: 15 feet.

(7) *Location of accessory structures and common structures.*

(a) Structures accessory to a particular manufactured home shall be located only on the lot containing that manufactured home.

(b) All structures shall be:

1. Residential in character;
2. Be located only in the side or rear yards;
3. Be no closer than five feet from the manufactured home space boundary and no closer than then ten feet from any manufactured home; and
4. If located in the rear yard the structure(s) shall occupy no more than 30% of the area of the rear yard. Provided however, for carports not exceeding two car spaces the only requirements shall be that the structures observe the same front yard setback as required for the manufactured home and that the structures be located no closer than five feet from any property line. Accessory structures of benefit to all residents of the manufactured home park shall be permitted within the park. The structures (i.e., community pools, club houses and the like) shall be located at least 20 feet from any interior street line and 30 feet from any manufactured homes located within the park.

(8) *Manufactured home standards.* No manufactured home shall be placed in a manufactured home park unless it meets the standards of either Class A manufactured home or Class B manufactured home as defined in § 153.031 of this chapter.

(9) *Stand, underpinning and tie-down.*

(a) The location of each manufactured home stand must be at an elevation, distance and angle in relation to the adjacent access drive so that placement and removal of the manufactured home is practical by means of customary moving equipment.

(b) All manufactured homes shall have continuous brick, cinder block, concrete block, stucco, stone or other masonry-type underpinning or other non-reflective skirting specifically manufactured for manufactured homes or pressure treated wood (but plain standard surface pressure treated plywood is not acceptable), unpierced except for required ventilation and an access door.

(c) The underpinning or skirting shall be installed under all elements of the manufactured home.

(d) Each manufactured home in the park shall conform to North Carolina Department of Insurance Standards for the tie down requirements.

(10) *Steps and patios.*

(a) All manufactured homes within the park shall be equipped with two sets of steps.

(b) All manufactured home spaces shall contain a manufactured home patio. The patio shall be constructed of four-inch thick concrete and shall be at least 64 square feet in area and shall be located at the front entrance to each manufactured home.

(c) In lieu of concrete patios, raised decks constructed of pressure treated wood and in accordance with the North Carolina Building Code and at least 64 square feet in area may be permitted.

(11) *Space numbers.*

(a) Each manufactured home space shall have a space number.

(b) Numerals shall be at least three and one-half inches in height and shall be placed on a post or stand made of durable material between 18 and 24 inches above the ground and placed near each space driveway at least four feet but not greater than 15 feet from the nearest edge of pavement of the interior street.

(c) The number shall be set at a location as to clearly indicate the space to which it is assigned.

(12) *Public road frontage of park.* All manufactured home parks shall have a minimum public road frontage of 50 feet on at least one street.

(13) *Ingress and egress.*

(a) Each manufactured home park shall have direct access onto a public road.

(b) Manufactured home parks shall not be located on through lots unless the park is designed in a manner that does not encourage motorists from using the park as a means of traveling from one public street to another.

(c) Parks having less than 40 spaces shall have at least one designated area that contains both an entrance and an exit to the park.

(d) Parks having 40 or more spaces shall have one additional separate designated area with both an entrance and an exit to the park for each 40 or more spaces or fraction thereof.

(14) *Park identification signs.*

(a) All manufactured home parks shall have at least one ground mounted park identification sign but shall not have more than one park identification sign per public street from entrance.

(b) Park identification signs shall not exceed 36 square feet in sign face area nor five feet in height.

(c) Each manufactured home park shall have a name and the name of the park shall be shown on the identification sign.

(15) *Interior street, drainage and markings.*

(a) No structure within a manufactured home park shall have direct access to a public street.

(b) Access to all manufactured homes and accessory structures within the manufactured home park shall be made using internal streets. All internal streets within a manufactured home park shall be privately owned and maintained. All streets shall be paved to a minimum width of 20 feet.

(c) Specific construction standards for internal streets are as follows:

1. A base course of at least four inches of compacted crushed stone must be applied for the entire required paved width of drives;

2. A surface course of at least one and one-half inches of plant mixed asphalt or Class A bituminous surface must be applied for the entire required paved width of drives in conformance with the State Department of Transportation specifications for subdivision roads;

3. Permanent street names shall be assigned to all internal streets. Street names shall not be similar in name to any existing streets in the Lincoln planning and zoning jurisdiction or postal zone. Permanent street name signs shall also be installed at street intersections within the park;

4. Permanent traffic control signs shall be installed within the park. The signs shall include at a minimum the following:

a. Stop sign(s) where park streets access public roads;

b. Stop sign(s) at the intersection of interior streets, (it is recommended that all four-way intersections be controlled by four-way stop signs);

c. "No parking" signs along interior streets at intervals sufficient to be readable except where streets have been paved to a width of at least 30 feet;

d. One way streets shall be marked as at appropriate intervals and "do not enter" signs shall be posted where streets become one way or where streets intersect with one-way streets; and

e. See division (15)(c)7. below.

5. Each street shall have a graded and grassed shoulder on both sides and grassed (or stabilized with stone rip rap) drainage ditch on either side. The width and slopes of the shoulder and drainage ditch shall meet the minimum construction standards of the State Department of Transportation (NCDOT), Division of Highways for Subdivision Road. Where terrain will not permit a drainage ditch, a continuous slope of one foot of vertical distance for each three feet of horizontal distance, following a six feet in width, will be permitted. Neither the street pavement nor the ditch/shoulder area shall be within any required area of a manufactured home space or required manufactured home setbacks. Where drive accesses cross the ditch, a pipe of at least 12 inches in diameter shall be placed under the drive along the course of the ditch. In lieu of non-curb and gutter streets the developer may provide curb and gutter streets; but the streets, together with all storm drainage appurtenances, shall meet all the minimum construction standards for subdivision roads of the State Department of

Transportation, Division of Highways.

6. The manufactured home park must be designed and graded in a manner as to allow for the adequate runoff of stormwater. Storm drains must be provided with sufficient inlets located at points of surface water accumulation to adequately intercept the flow of surface stormwaters.

7. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.

8. All dead-end internal streets that provide access to three or more manufactured home spaces shall be provided with a permanent turn-around. All turn-arounds shall have a minimum paved surface diameter of 70 feet.

9. Streets and roads within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at an angle of less than 60 degrees. Where streets intersect with a state maintained road, the design standards of NCDOT shall apply.

10. Maintenance of all internal streets, signage and all drainage facilities shall be the responsibility of the owner of the manufactured home park. The street shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water during rainy periods, excessive washing of drainage ditches, and other associated problems which would impede or cause hazards to motor vehicles.

(16) *Parking.*

(a) At least two off-street parking spaces with not less than four inches of crushed stone or other suitable material (such as asphalt paving or bituminous surface treatment (BST) paving) on a well-compacted sub-base shall be provided for each manufactured home space. Required parking spaces may be located in the required front or side yards of the manufactured home space. Parking spaces shall be located outside the roadway, shoulder or drainage ditches. One or more separate common visitor parking areas may be located within the park but shall not be located within any manufactured home space, roadway, shoulder, drainage ditch or required buffer or open space recreation areas.

(b) Utility lots designated for the storage of campers, boats, vacant manufactured homes and the like, may be located within the manufactured home park in designated areas. All vacant manufactured homes not then intended for occupancy shall be located in the lot(s). A maximum of one vacant manufactured home per ten manufactured home spaces may be stored on the lot(s). All lots shall meet all screening requirements in accordance with § 153.046 of this chapter.

(17) *Trash facilities.*

(a) At least one covered garbage or trash container with a minimum capacity of 24 gallons, but not exceeding a capacity of 32 gallons shall be provided for each manufactured home. Containers shall be placed on racks and the racks shall be located within the manufactured home park at a point that is readily accessible for collection. All refuse must be placed in refuse containers and it shall be the responsibility of the park operator to provide sufficient container capacity to meet the needs of each household. In lieu of cans and racks, covered roll-out trash/garbage containers may be provided. In lieu of requiring individual garbage and trash containers for each manufactured home, trash dumpsters may be installed in convenient locations, but not on any individual manufactured home space. If dumpsters are provided, each dumpster shall be located at least 50 feet from any property line or public street right-of-way and at least 40 feet from any manufactured home. All dumpsters shall be materially screened from any adjacent manufactured home in the park. It shall be the responsibility of the manufactured home park owner or operator to pick up trash from the containers or dumpsters at least once per week.

(b) The owner or operator shall also be responsible for hauling and disposing of trash in accordance with all county and state regulations. The burning of refuse within the manufactured home park is not permitted.

(c) In lieu of the owner providing refuse pickup, the owner may request that, if the manufactured home park is located in the city limits, the city provide pickup by use of standard city roll- out containers. However, in that case the city may require street construction standards in excess of those set forth in division (O) above in terms of stone base and pavement thickness, pavement widths and street design/alignment in order that city refuse trucks can be accommodated.

(18) *Lighting.*

(a) Manufactured home parks that contain over five manufactured home spaces or contain more than one internal street shall contain streetlights throughout the manufactured home park.

(b) Lights shall be located at all internal street intersections, at the intersection of any internal street and a public street and elsewhere in the park at a maximum of 300 feet intervals.

(19) *Electric, telephone and cable television utilities.*

(a) Each manufactured home space shall have individual electric and telephone service connections provided. All electric, telephone and cable television, and other utility lines shall be placed underground.

(b) Each manufactured home must have an individual metered connection to an electric supply and must have an approved fuse disconnect box at the metered location. All wires from meter to manufactured home must be buried underground cable in conformance with the North Carolina Electrical Code.

(20) *Mailboxes.* Spaces within the manufactured home park shall be provided for cluster mailboxes. Cluster mailboxes,

approved by the United States Postal Service, shall be located at convenient places within the park. Individually owned and located mailboxes shall not be allowed. All cluster mailboxes shall be located within the manufactured home park and shall not front directly on any public road nor be located within any designated manufactured home space. At least one mailbox per manufactured home space shall be provided and the residents of the manufactured home occupying that space shall be provided with a key to open and close the corresponding mailbox. At least one separate parking space shall be provided adjacent to each cluster mailbox for each 25 boxes in the cluster.

(21) *Administrative office.* One manufactured home may be used solely as an administrative office within the park or an administrative office may be located in a manufactured home that is used as a residence by the resident manager. An administrative office is not required.

(22) *Water service.*

(a) An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park. Where a municipal or county water supply is available, connection shall be made thereto and its supply used exclusively.

(b) When municipal or county water supply is not available, adequate water supply shall be developed and its supply used exclusively, in accordance with the standards of the state and the County Health Department. Any water supply must be capable of providing 300 gallons of water per day per manufactured home space.

(c) Each space shall be provided a minimum three-fourths inch size copper or PVC water service line.

(23) *Sewage facilities.*

(a) 1. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the North Carolina Department of Health and Environment and the County Health Department shall be provided. Individual septic tank systems are permissible in accordance with the requirement of the County Health Department's Sewage Disposal Regulations. There shall be no more than one manufactured home connected to an individual septic tank.

2. Each manufactured home space shall be provided with at least a three-inch PVC or ABS, Schedule 40 or equivalent sewer riser.

3. A concrete apron shall be installed around all sewer connection pipes for support and protection. The sewer riser pipe shall be located on each space so that the sewer connection is located a distance of at least 100 feet or greater from any ground water supply.

4. All materials used for sewer connections shall be semi-rigid, corrosion resistant, nonabsorbent and durable. The inner surface shall be smooth.

5. A clean-out shall be provided at each space. Surface drainage shall be diverted away from the sewer connection. The sewer connection shall extend at least four inches above ground elevation.

(b) 1. Community sewage disposal systems (commonly referred to as package plants), as permitted by the state, shall be an acceptable method of disposal of residential sewage for manufactured home parks within the jurisdiction of this chapter when connection to a publicly owned and maintained sewer system is not possible. When connection to a publicly owned and maintained sewer system is possible, all manufactured homes within the manufactured home park shall be connected to the system. The following information must be submitted when a sewage package plant is proposed.

2. The developer shall indicate on the plans that a sewage package plant is being proposed for the manufactured home park, and show on the preliminary plan the following:

- a. Size and location of the package treatment plant;
- b. All proposed sewer lines, including:
 - i. Location and size of gravity lines;
 - ii. Location and line size of force main; and
 - iii. Location and size of pump stations.
- c. Location of discharge point into surface water stream; and
- d. All associated easements and rights-of-way.

(c) The developer shall provide a copy of the state permit application to the City Administrator and the County Health Department at the time of application.

(d) The developer shall submit at the time the application for a permit is submitted to the state, the following information:

1. Name of owner and licensed operator of the plant and name of the licensed firm that will operate the package plant, if different from the owner;
2. Amount of liability insurance required for operation of the system;
3. Name of owner and responsible party for the package plant; and

4. Other pertinent information.

(e) The developer shall submit the following, upon completion:

1. A set of as-built plans and drawings, certified by the project engineer for the package treatment plant and all sewer lines, pump stations and other devices used in the sewer system;
2. Operation and maintenance agreements for:
 - a. The package treatment plant; and
 - b. The sewer lines and other devices that are a part of the sewer system.
3. Copy of the executed and notarized agreement(s) for the ownership and maintenance of the package plant and sewer lines;
4. Copy of insurance liability riders, required by the state, pertaining to the operation of the package plant;
5. Copy of the approved state permit, along with any and all conditions set forth in the operating permit; and
6. A copy of other agreements and information for plans pertaining to the maintenance and operation of the sewer system.

(f) 1. The package plant shall be operated and maintained in accordance with the approved permit from the state. In addition to the operational requirements of the state permit, the owner or operator of the package plant shall maintain a daily inspection log of visits to the package plant and shall include the following:

- a. Date and time of inspection;
- b. Signature of operator making inspection; and
- c. Notation of any problem and corrective action taken.

2. A copy of this log shall be submitted monthly to the County Health Department by the tenth day of the following month. Failure to submit the log report will be deemed a violation of this chapter.

(g) Manufactured home park sewer systems using package plants as the main treatment facility should be designed to accommodate the eventual connection to a public sewer system at the time that main outfall lines are placed in areas serving the manufactured home park.

(24) *Screening.*

(a) All manufactured home parks shall be screened from all adjoining properties and public streets. Screening shall be located within the manufactured home park and shall materially screen all structures within the manufactured home park from all adjacent properties and public streets. All manufactured home setbacks shall be measured from the edge of the screened area nearest the manufactured home.

(b) Required screening shall be installed and maintained in conformance with the standards set forth in §153.046 of this chapter, provided however, no wall or fence or planted berm shall be used unless the applicant proposes the wall, fence or berm as a supplement to a planted screen installed in accordance with § 153.046(C)(1) of this chapter.

(25) *Interior landscaping.*

(a) Where manufactured home spaces share an interior rear manufactured homes space line, a row of trees shall be planted. The row shall contain a minimum of four trees per 100 linear feet.

(b) These trees may be planted within either manufactured home space within five feet of the shared rear space line. The trees shall be of the varieties as herein listed, unless other varieties are approved through the conditional district zoning process.

(c) Varieties of trees:

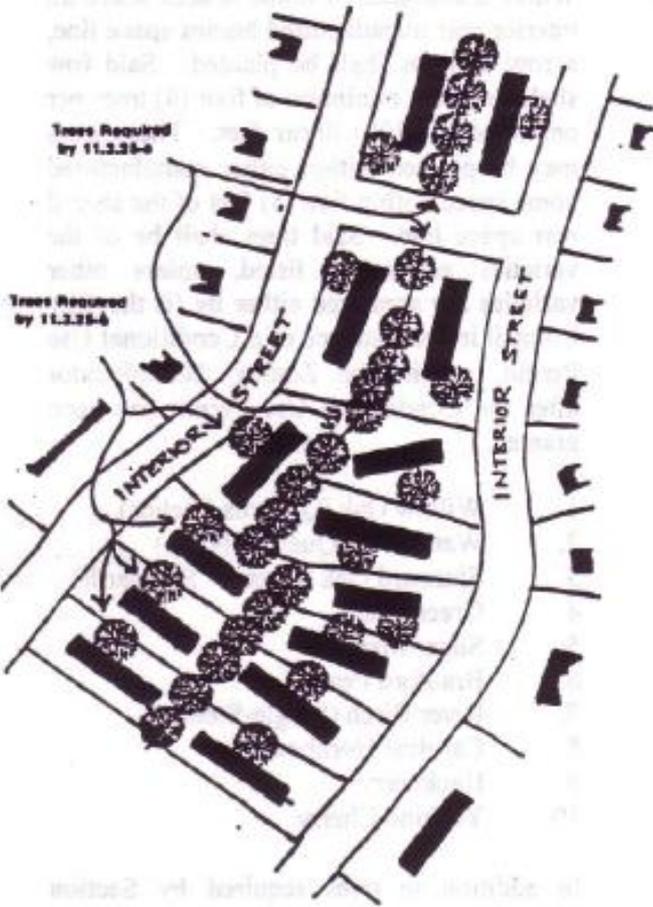
1. Willow oak (*Quercus phellos*);
2. Water oak (*Quercus nigra*);
3. Shumard oak (*Quercus shumardi*);
4. Green ash;
5. Sugar maple;
6. Bradford pear;
7. River birch (single-stemmed);
8. Carolina hornbeam;
9. Hackberry; and

10. Yoshino cherry.

(D) In addition to trees required by division (25) above, on each space there shall be provided one additional tree of the above referenced varieties (other varieties approved by either the City Council or the Administrator). The tree shall be located at least eight feet from any rear space line and outside any interior street right-of-way.

(E) Figure E below illustrates the requirements of this division. Where any existing trees can contribute to meeting these requirements, the applicant is encouraged to use them in lieu of new plant materials provided the spirit and intent of this division are met.

Figure E



(26) *Open space areas.* Open space areas are required as follows for parks having spaces smaller than 10,000 square feet.

(a) None of the following may be counted as an open space area:

- (1) Any portion of a manufactured home space;
- (2) Any parking areas or any area used as a utility lot as set forth in division (16) above;
- (3) Any required street, ditch or shoulder area, except that traffic medians and islands designated as special landscape areas may be counted as open space areas;
- (4) Any land occupied by a building, swimming pool, tennis court or other structure;
- (5) Any minimum screen area required by § 153.046(C)(1); and
- (6) Any area designated for common trash facilities.

(b) (1) Open space areas may consist only of one or more of the following provided the areas are not excluded by division (26)(a) above:

2. Buffer areas in addition to any minimum screen areas required by §153.046(C)(1);
3. Natural wooded areas;
4. Open fields or lawns;
5. Garden plots designated for exclusive use by the tenants of the manufactured home park;

- 6. Special landscaped areas; containing plant material such as traffic islands, medians and flower gardens; and
- 7. Recreation areas in addition to any minimum recreation area(s) required by division (27) below.

(c) The amount of required open space area shall be calculated as follows:

For Each Manufactured Home Space in the Following Space Size Category	Amount of Area to Be Designated for Open Space
9,000 to 9,999 sq. ft.	100 sq. ft.
8,000 to 8,999 sq. ft.	150 sq. ft.
7,000 to 7,999 sq. ft.	250 sq. ft.
6,000 to 6,999 sq. ft.	500 sq. ft.
5,000 to 5,999 sq. ft.	1,000 sq. ft.

Exception: Where the total open space area required for the manufactured home park totals less than 2,000 square feet according to the above formula, no open space area shall be required.

(d) Open space areas shall be well-maintained by the park owner to prevent the overgrowth of plant material and or other conditions that could create unsafe or unhealthy conditions for park residents or adjoining property owners.

(e) The designated open space area within a manufactured home park may consist of a single area or multiple areas.

(27) *Recreation area(s).*

(a) This division requiring designated recreation areas shall only apply to manufactured home parks having ten or more manufactured home spaces less than 9,000 square feet in size. Where the application is for an enlargement of an existing manufactured home park, the existing spaces shall be counted for determining the threshold for providing recreation areas and for determining the amount of recreation area required. In these cases, any recreation areas within the existing park shall also be counted toward meeting the requirements of this section.

(b) The total minimum area to be designated within the park as recreation areas shall be calculated according to the following formula.

For Each Manufactured Home Space in the Following Space Size Category	Amount of Area To Be Designated for Recreation
Below 5,000 sq. ft. (this applies only to expansion of existing manufactured home parks)	1,000 sq. ft.
5,000 to 6,999 sq. ft.	500 sq. ft.
7,000 to 8,999 sq. ft.	250 sq. ft.

(c) When the calculation of required recreation area according to the above formula is greater than zero but less than 10,000 square feet, the minimum area required shall be increased to 10,000 square feet.

(d) The designated recreation area(s) within a manufactured home park may consist of a single area or multiple areas, however, each manufactured home park must have at least one contiguous recreation area of at least 10,000 square feet and no area designated for recreation purposes shall be less than 1,000 square feet in size. Recreation areas may consist of, but are not limited to, adult and/or child play areas with play apparatus, picnic areas, outdoor exercise facilities, playgrounds, ballfields, shuffleboard courts, volleyball courts, tennis courts, basketball courts and swimming pools. Unimproved areas or buffer areas shall not be counted as required recreation areas. If a developer elects to provide recreation areas in excess of the amount required by this section, the excess may be counted toward the required open space area as required by division (26) above. All recreation areas shall be maintained in good condition for the intended recreation purpose at all times by the manufactured home park owner.

(28) *Maintenance.* The grounds of a manufactured home park shall be kept free of trash, litter and debris. Grounds, buildings and storage areas shall be properly maintained to prevent infestation by rodents, vermin and insects. All grounds shall have proper drainage to prevent the accumulation of water. It shall be the responsibility of the manufactured home park owner to maintain the manufactured home park in accordance with these standards at all times.

(D) All new manufactured home parks or expansions of existing manufactured home parks shall be developed in accordance with the standards of this subchapter. In certain circumstances manufactured home parks existing at the date of this chapter is adopted are required to be redeveloped and/or improved to conform in whole or in part to standards of this subchapter. Applicability of the standards of this subchapter to existing manufactured home parks are set forth in § 153.142 of this chapter.

(Ord. passed - -)

§ 153.129 CC COMMERCIAL CENTER DISTRICT.

(A) A request for rezoning to the CC district may be approved by the City Council subject to §§153.315 *Amendments to Text and Map* and 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* and only after having first been reviewed by the Planning Board.

(B) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. Prior to the formal submission of the site plan and application, the applicant must submit a preliminary sketch plan for review by the Administrator and the Technical Review Committee.

(C) *Sketch plan review procedures.* Prior to the formal submission, the subdivider shall submit three paper copies and a digital version of the sketch plan for the proposed subdivision to the Administrator along with a completed application by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule.

(1) The Administrator shall advise the applicant or his or her authorized agent of the regulations pertaining to the proposed planned development and the procedures to be followed in the preparation and submission of the formal application. One copy of the sketch plan shall be retained as a part of the record of the Administrator with another copy being returned to the applicant or his or her authorized agent along with any comments made by the Administrator.

(D) *Formal plan submission.* Following the Administrator's review and submission of comments on the sketch plan, or after 21 days following submission of the sketch plan has elapsed without the Administrator having submitted his or her comments to the applicant the applicant may submit his or her formal application for the planned development and application for conditional district rezoning. The Planning Board shall consider no application unless it has been properly completed and submitted to the Administrator, or his or her designee, by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule. Timing of the submission and waivers of submission deadlines shall in all respect conform to the requirements set forth in § 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* of this chapter. The formal plan shall contain all of the information set forth in §153.258 *Site Plan Review Requirements* of this chapter.

(E) *Permitted uses.*

(1) All uses permitted in § 153.115 *General Business District* of this chapter.

(2) *Uses subject to prescribed standards.*

(a) Any individual retail use of 85,000 or more gross floor area (GFA) subject to division (G) of this section.

(b) Any individual retail use that existed at the time of adoption of this chapter and expands by a factor of 50% or greater and as a result of the expansion, the GFA of the structure equals or exceeds 85,000 square feet GFA subject to divisions (F) and (G) of this section.

(F) *Applicability.* For purposes of this section, any retail establishment with a gross floor area of 85,000 plus square feet GFA shall be identified as a large retail establishment. The following standards shall apply to any large retail establishment. Notwithstanding, if a large retail establishment or a shopping center that contained a large retail establishment existed at the time of adoption of these regulations, the regulations contained in this section will only apply to an addition to the large retail establishment if the addition constitutes an increase in gross floor area by a factor of greater than 50% and, as a result of the expansion, the large retail expansion has a GFA of 85,000 plus square feet. The addition shall, to the greatest degree feasible and practical, be made to meet the supplemental regulations contained below.

(G) *Development standards for all large retail establishments.*

(1) (a) Principal buildings shall be substantially parallel to the public road upon which they front. For the purposes of this standard, the term **FRONT** relates to the relationship between the building plane and the street or streets and not the arrangement or orientation of the structure and its entrances on the site. When more than 1 principal building is located on site, the regulation shall apply to the principal building closest to the adjacent public road. When located on a corner lot, the building shall be parallel with the road with the greatest traffic volumes.

(b) This standard may be waived by the City Council where, due to practicalities, it would be more suitable to face the building(s) to the lesser traveled road.

(c) 1. Buildings located on outparcels within a shopping center must substantially address (i.e., be parallel to) the adjoining non-limited access highway and be readily accessed via sidewalks and/or walkways from that adjoining road.

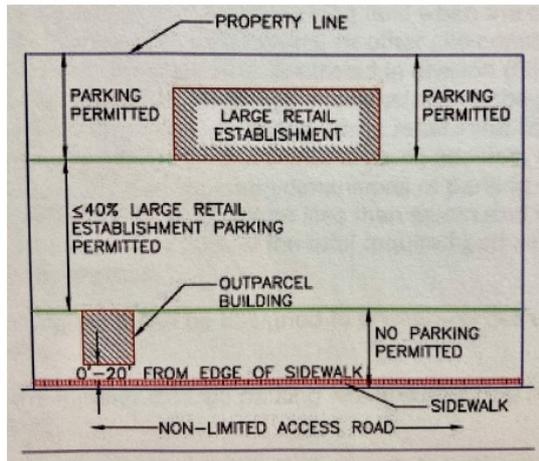
2. All buildings occupying the outparcel lots shall have their architectural fronts facing the roads and shall have a usable door providing access to pedestrians. The fronts all buildings located on outparcels shall have a setback no greater than 20 feet as measured from the edge of the adjoining sidewalk.

3. Any setback areas shall be geared for pedestrian as opposed to automobile use. No off-street parking or loading shall be allowed in this area.

4. Outdoor storage of retail goods (during daylight hours) shall be permitted, as shall outdoor seating areas.

Figure F

Figure F



(2) A sidewalk and plant strip shall be placed parallel to all public roads which the development fronts upon and where pedestrians could be reasonably expected to access the development. (For instance, if the development adjoined a limited access highway where there was no feasible means for pedestrian access, the rule could be waived.) The sidewalk and plant strip shall be constructed in accordance with § 153.395 of this chapter.

(3) Street trees shall be planted along and parallel to the public road. The trees shall be planted within 25 feet of the edge of the road right-of-way, between the right-of-way and any buildings on the lot. The number of trees to be planted shall be as prescribed in § 153.047(B). Large trees may not be planted under any utility lines. The distribution of trees shall generally be proportionate to the street frontage. While an equal interval between trees is not required, it is the intent of this chapter to not have long intervals without trees. Waivers to these regulations may be granted where the adherence of these regulations would interfere or have the potential to interfere with any utility lines.

(4) Large expanses of off-street parking readily visible from an adjoining public road are strongly discouraged. Rather, off-street parking in the interior of the development (i.e., behind building façades) or in screened portions of the side yard is recommended. Notwithstanding, upwards of 40% of the amount of off-street parking provided for the large retail establishment (or the multi-tenant development) may be located in the front yard of the large retail establishment. The remainder of the parking may be placed in the rear of the development or in screened portions of the side yard. The side-yard screening need not be in full compliance with the screening options provided in § 153.046(C), but rather shall serve as a means of significantly shielding the parking from the view of motorists and pedestrians from adjacent roads. Alternative techniques such as changes in elevation or from the street and sidewalk can be used to augment the landscaping. The location of parking may be shifted to a combination of front, side, and rear yard parking in a single parking field when the shape and/or configuration of the site, limited access locations, or other site constraints would prevent a typical configuration of the site such as is illustrated in division (G)(1) above. In order to minimize the impact of the parking field, and notwithstanding the provisions of § 153.185(K), the standard for parking for these "large retail establishments" shall be one space for each 250 square feet of gross floor area. In addition, and notwithstanding the provisions of § 153.185(F), the minimum dimensions of parking spaces in parking lots for large retail establishments shall not be less than seven and one-half feet in width nor 17 feet in length. No more than 20% of the total required parking may be built utilizing the minimum dimensions.

(5) Off-street parking lots shall be designed to encourage pedestrian mobility. This can be accomplished by:

- (a) Reducing the number of large parking lots and breaking parking into separate smaller areas of parking;
- (b) Locating parking facilities as close as possible to entrance areas into the large retail establishment; and
- (c) Other suitable alternative methods.

(6) The following regulations are designed to create visually distinct and aesthetically appealing structures. To the greatest degree feasible and practical, exterior architectural characteristics shall be designed to differentiate the structures from similar structures containing the same uses) which may be found outside the city. Accordingly, the external appearances of the front of all buildings (and including any building sides that are oriented to any public street right-of-way as required in division (G)(1) above whether located within the development or not) shall be governed as follows:

(a) Seventy-five percent plus of the area below the fascia of the building shall be comprised of: brick, brick veneer, decorative concrete block, pre-cast or field poured tilt concrete panels with texture; stone or stone veneer, flush architectural metal panels; stucco or artificial stucco; glass, wood, or wood materials, or similar decorative materials. Notwithstanding, not more than 50% of the exterior building materials shall include smooth-faced concrete block, or smooth faced tilt-up concrete panels.

(b) Façades of buildings having a horizontal length of 150 feet or greater shall have an articulated wall plane that incorporated plane projections or recesses to create an interesting and attractive architectural design which is comprised of more than flat walls with minimal features. Any wall offsets designed to meet this requirement shall have a minimum projection or recess depth of two feet and a minimum width of two feet.

(c) Rooflines should consist of one or more sloped planes. However, flat roofs may be allowed so long as they are concealed from view by a parapet. The parapet shall not be of a constant height for greater than 150 linear feet. Rooftop HVAC equipment shall be concealed by a parapet or via an enclosure consisting of materials outlined in division (G)(6)(a) above.

(d) External ground-level mechanical appurtenances and dumpsters shall be similarly screened.

(e) Those portions of any roof that is visible from a public road shall not have a shiny surface appearance similar to aluminized or galvanized metal. Notwithstanding, anodized, baked or other nonreflective roof material shall be allowed.

(f) Off-street loading docks and facilities shall not be visible from any adjoining public road located entirely outside the lot(s) containing the large retail structure (i.e., the requirement shall not apply to roads, public or private, located entirely within the development containing the large retail structure).

(g) There shall not be any overnight external (i.e., not contained within a fully or partially enclosed structure) storage of retail goods visible from any adjoining public road not located within the development.

(h) Ground floor façades that face public streets shall have arcades, clear display windows and entry areas along no less than 40% of their horizontal space.

(i) Façade colors shall be of low reflectance, subtle or neutral earth tone colors. High intensity colors, metallic colors, black or fluorescent colors are prohibited.

(7) Large retail establishments shall provide at least 1 outdoor space or site amenity to beautify the site and to enhance the vehicular and pedestrian entryways to the site and any other buildings on the site. A preferred option (although other options may be considered and approved) include a public plaza or courtyard that contains furniture items such as seating walls, benches, drinking and/or decorative fountains, clock towers and other features that are designed to external aesthetics of the site. The outdoor spaces can be located in the front yard (and, if so, can be designed to be accessed exclusively through the development rather than from the adjoining street) or in the interior portion of the development.

(8) When located on a lot fronting 2 or more streets, the primary access to the large retail establishment shall be from the more "auto-oriented street" (i.e., normally considered to be the street with the higher traffic volume). A secondary access point may be provided from the other street. The second access point may be denied when it is deemed that an undue or unsafe amount of traffic will be generated on the secondary street or if the traffic will have a negative impact on surrounding residentially developed neighborhoods.

(9) Due to the nature of large scale development, the complexity of design, the development design and review process, economic cycles and market conditions, and the time necessary to complete the necessary transactions to secure the property and commence construction, it is recognized that it is appropriate and necessary to allow for additional time for such developments to be commenced. Therefore, and notwithstanding other provisions of the Zoning Ordinance, developments that include large retail establishments may be granted a 5-year vesting under the provisions of G.S. § 160D-108 if such request is included and approved as part of the application for such development. In addition, the time limit for the issuance of a building permit shall be the same as the vesting period that is proposed and approved for the development of the site.

(H) *Reuse/compartamentalization.* As part of the conditional district rezoning review process, any large retail establishment constructed after the adoption of this chapter shall be designed to include specific elements for adaptation to multi tenant re-use. The elements may include but are not limited to the following:

(1) Compartmentalized constructions include plumbing, electrical service, heating, ventilation, and air conditioning to the extent possible per all applicable codes;

(2) Building design shall also allow for the interior subdivision of the structure into separate tenancies;

(3) Façades shall be readily adaptable to multiple entrances;

(4) Parking lot schemes shall be designed to enable users of any future tenants to readily walk from their vehicles to the storefront; and

(5) Other design elements that facilitate the multi-tenant re-use of the building.

(Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025)

§ 153.130 SUPPLEMENTARY REQUIREMENTS FOR CERTAIN USES.

(A) *Purpose.* The purpose of this section is to complement the zoning district regulations with supplementary requirements for certain uses to insure these uses are compatible with other development permitted within the districts.

(B) *Applicability.* The following supplementary requirements apply to each of the following uses in addition to the general requirements of the zoning district in which the use is located.

(1) *Arcade or amusement center or game room.*

(a) If the use is not located in a Class C Shopping Center, it will be located no closer than 300 feet from any Residential (R) District.

(b) The hours of operation will be limited to the hours between 8:00 a.m. and 12:00 a.m.

(c) An approved license in accordance with Chapter 111 of the City Code must accompany the application for a zoning permit for an arcade, amusement center or game room.

(2) *Adult establishments.*

(a) No business shall locate within 1,000 feet of any other adult establishment as measured in a straight line from property line to property line, with no considerations as to intervening structures, roads or landforms.

(b) No adult establishment shall be located within 1,000 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park or playground or residentially zoned property. The 1,000-foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads or landforms.

(c) There shall not be more than one adult establishment on the same property or in the same building, structure or portion thereof.

(d) No other principal or accessory use may occupy the same building, structure, property or portion thereof with any adult establishment.

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

(f) Wall signs as permitted in §§ 153.169(A) and 153.172(B)(1)(b) are permitted as a means for advertising adult establishments. No freestanding signs shall be permitted. No other advertisements, displays, or signs or other promotional materials shall be visible to the public from pedestrian sidewalks, walkways and vehicular areas.

(g) Maximum gross floor area of the principal building shall be 5,000 square feet.

(h) Adult establishments shall not be allowed a variance from the minimum separation requirements of this section.

(i) Adult establishments shall require approval of a license as outlined in Chapter 111 of the City Code;

(3) *Paintball gaming facility, outdoor.*

(a) Gaming areas shall be a minimum of 200 feet away from any residential structure. Screening shall be required adjacent to all residential structures.

(b) The use of tires as barriers is strictly prohibited. No outdoor storage shall be allowed.

(c) No outdoor public address system shall be allowed.

(d) The use shall be limited to operation between the hours of 9:00 a.m. and 6:00 p.m. Night activities are prohibited.

(4) *Indoor shooting ranges.*

(a) The use shall be located at least 150 feet from any existing dwelling or property holding valid building permits for a dwelling. (Measure shall be from building to building, not property line to property line.)

(b) The use shall not be located within 150 feet from the property line of a school, daycare or place of worship.

(c) The application for a rezoning or zoning permit shall include information which demonstrates what measures will be implemented so that the use will not pose a hazard off site, including guarantees that the walls will be lined with a sound absorbing material certified by an acoustical professional.

(d) The shooting range shall be the primary use and not be an accessory use to a gun store. Shooting ranges may provide repair and sales as an accessory activity.

(e) The use shall provide all parking on site. At least one space shall be provided for each shooting lane and for each employee on the shift of greatest employment.

(f) All measures shall be taken to recover any ammunition that could pose a danger to the environment.

(5) *Outdoor shooting ranges.*

(a) The use shall be located at least 150 feet from any existing dwelling or property holding valid building permits for a dwelling. (Measurement shall be from building to building, not property line to property line.)

(b) The use shall not be located within 150 feet from the property line of a school, daycare or place of worship.

(c) The application for a rezoning or zoning permit shall include information which demonstrates what measures will be implemented so that the use will not pose a hazard off site.

(d) The shooting range shall be the primary use and not be an accessory use to a gun store. Shooting ranges may provide repair and sales as an accessory activity.

(e) The use shall provide all parking on site. At least one space shall be provided for each shooting lane and for each employee on the shift of greatest employment.

(f) All measures shall be taken to recover any ammunition that could pose a danger to the environment.

(6) *Recycling station - construction and demolition material.*

(a) Not only will the use meet the minimum screening requirements of this chapter, but also additional screening will be installed, as necessitated by the visual characteristics of the particular use.

(b) All state and local environmental requirements must be met.

(c) Any residual materials that cannot be reused must be removed from the site within 30 days and placed in a permitted landfill.

(d) Days of operation shall be limited to Monday through Saturday.

(7) *Tattoo studio.* The use shall not be located within 1,000 feet from another tattoo studio.

(Ord. passed - - ; Ord. O-5-23, passed 4-6-2023)

NONCONFORMITIES

§ 153.135 PURPOSE AND APPLICABILITY.

(A) The purpose of this subchapter is to regulate and limit the continued existence of uses and structures established prior to the effective date of this chapter or any amendment subsequent thereto that do not conform to this chapter. Any nonconformity created by a change in the classification of property or the text of this chapter shall be regulated by the provisions of this subchapter. Many nonconformities may continue and in certain circumstances may make limited expansions, but the provisions of this subchapter are designed to limit or curtail substantial investment in nonconformities and to bring about eventual elimination and/or lessen the impact upon surrounding conforming uses in order to preserve the integrity of this chapter.

(B) While the intent of this subchapter prefers the eventual elimination of nonconforming uses, the City Council hereby finds that zoning in the city has generally not been successful in eliminating nonconformities, particularly viable ones, and that the public interest may be better served by allowing limited expansions of certain nonconformities whereby the impact of the nonconformity on surrounding and uses is lessened.

(Prior UDO, § 8.1)

§ 153.136 NONCONFORMING USES OTHER THAN MANUFACTURED HOME PARKS, SIGNS AND JUNK YARDS.

(A) Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this subchapter.

(B) Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming use (except as required in division (E) below of this section).

(C) A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located (either attached or detached) except pursuant to § 153.279(B) of this chapter. Any occupation of additional lands beyond the boundaries of the lot on which the nonconforming use is located is prohibited. An existing nonconforming residential use may, without hearing before the Board of Adjustment be enlarged or altered, or be permitted in the R-8 District, provided that no additional dwelling units result therefrom. Any residential enlargement or alteration shall be in compliance with all yard requirements of the structures as required in the R-8 District.

(D) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(E) If a nonconforming use is abandoned for 180 days or more, the use shall not be allowed to re-establish. All new uses in the structure shall thereafter be conforming. If the use is destroyed (i.e., received damage to an extent of more than 60% of its replacement cost at the time of destruction), it may only be allowed to re-establish in accordance with a permit issued by the Board of Adjustment as set forth in § 153.279 of this chapter.

(F) A nonconforming use may not be changed to a different nonconforming use except in accordance with a permit issued by the Board of Adjustment after having followed certain procedures and having made certain findings as set forth in § 153.279 of this chapter.

(G) Notwithstanding any other provision of this section, a nonconforming manufactured home not located in a manufactured home park may be replaced with another manufactured home in the R-25 district only and provided:

(1) The replacement manufactured home either:

(a) Meets all the minimum requirements for a Class A manufactured home; or

(b) Meets all the minimum requirements for a Class B manufactured home plus division (4) of a Class A manufactured home, as set forth in the definition located in § 153.031 of this chapter;

(2) The replacement manufactured home is placed on the lot in a manner which meets all the setback requirements of the zoning district in which it is to be located or the requirements of the R-8 District, whichever is greater;

(3) The replacement manufactured home is placed on the lot within 180 days following removal of the existing manufactured home;

(4) Upon replacement of the existing manufactured home, the property will conform to §153.051(A) of this chapter; and

(5) The property is not located in any HO-Historic Overlay District.

(Prior UDO, § 8.2) (Ord. passed 6-25-2020) Penalty, see § 153.999

§ 153.137 NONCONFORMING STRUCTURES.

(A) A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

(C) A nonconforming structure may not, under any circumstances, be enlarged or altered in a way that increases its nonconformity.

(D) *Destruction.* Rebuilt structures shall be placed in a manner most in conformance with all applicable regulations contained in this chapter. If the structure can be placed on the lot in a conforming manner, it shall.

(1) *Nonresidential.* If a nonresidential nonconforming structure is destroyed to an extent of more than 60% of its replacement cost at the time of destruction, it may be rebuilt in a nonconforming manner only if a permit for construction has been issued by the Board of Adjustment in accordance with § 153.279 of this chapter.

(2) *Residential.* A building permit for reconstruction must be secured no later than 1 year from the date of destruction of the residential structure.

(E) Should a nonconforming structure be moved for any distance on the lot of record, it shall be placed in a manner most in conformance with this chapter.

(Prior UDO, § 8.3) (Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.138 NONCONFORMING ACCESSORY STRUCTURES AND USES.

A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.

(Prior UDO, § 8.4) Penalty, see § 153.999

§ 153.139 NONCONFORMING LOTS.

(A) Except as provided in division (B) below of this chapter, in any district where a lot has been recorded with the County Office of the Register of Deeds, and is not in violation of the zoning regulations of the city prior to the effective date of this chapter, and the lot does not comply with the minimum lot area and width requirements for the zoning district in which the lot is located, the lot may be used for any use permitted in that zoning district, provided that the principal and accessory structures meet all applicable front, side and rear yard requirements for that zoning district as provided in this chapter.

(B) If 2 or more adjacent unimproved lots, neither 1 of which meet the lot width and/or area requirements of the zoning district in which they are located are of single ownership and are of record at the time of adoption of this chapter or any amendment thereto, and if these lots, in combination, met the dimensional requirements established for lot width and area, the lands involved shall be deemed to be an undivided lot. For the purpose of this chapter, the lot(s) shall be used or sold by the owner and all future assigns in a manner that is in compliance with lot, width and area requirements or as otherwise provided in this chapter.

(Prior UDO, § 8.5) Penalty, see § 153.999

§ 153.140 SCREENING AND LANDSCAPING.

In accordance with § 153.046(E) of this chapter, certain lots are required to provide screening. All the lots shall be required to install screening within 7 years after the effective date of this chapter except as provided in § 153.046(E) and except where the screening would encroach upon the required sight triangle as described in § 153.052 of this chapter. Nothing in this chapter shall require any use which is required to dedicate land used for parking for screening purposes to provide additional off-street parking and/or loading to compensate for those areas so dedicated unless an expansion of the principal use is requested. No expansion of a use can occur unless all required screening, off-street parking and loading requirements and all other requirements of this chapter have first been met.

(Prior UDO, § 8.6) Penalty, see § 153.999

§ 153.141 NONCONFORMING OFF-STREET PARKING AND/OR LOADING.

On any lot which contains a use which does not comply with the off-street parking and loading regulations contained in §§ 153.185 through 153.188 of this chapter, a certificate of occupancy shall not be issued for an external expansion of any principal building or accessory structure on the lot which would result in a need to increase the number of off-street parking and/or loading spaces required until all off-street parking and loading requirements and all other applicable requirements of

this chapter have first been met. A change in the principal use can occur, however, provided that no external expansion in the principal building occurs and also that the required number of off-street parking and loading spaces is the same or less than the former use.

(Prior UDO, § 8.7) Penalty, see § 153.999

§ 153.142 NONCONFORMING MANUFACTURED HOME (MOBILE HOME) PARKS.

(A) (1) Any manufactured home park which is not constructed in accordance with the standards set forth in §153.128(C) *Standards* of this chapter and/or is a use which is not a use permitted in the district in which it is located, shall be allowed to continue in operation for a period of 10 years following the effective date of this chapter.

(2) Thereafter, the manufactured home parks shall either:

- (a) Cease operation and all manufactured homes shall be removed;
- (b) Be reconstructed to conform to the following requirements:

1. Space dimensions and sizes shall be dictated by on-site sewage disposal standards contained in county's environmental health regulations. Otherwise no setback, minimum lot size or other dimensional requirements shall apply; and

2. No manufactured home shall be placed in a manufactured home park unless it meets the standards of either Class A manufactured home or Class B manufactured home as defined in § 153.031 *Definitions* of this chapter.

(c) The location of each manufactured home stand must be at an elevation, distance and angle in relation to the adjacent access drive so that placement and removal of the manufactured home is practical by means of customary moving equipment. All manufactured homes shall have a continuous brick, cinder block, concrete block, stucco, stone or other masonry-type underpinning or other skirting specifically manufactured for manufactured homes, or pressure treated wood (but plain standard surface pressure treated plywood is not acceptable), unpierced except for required ventilation and an access door. The underpinning and skirting shall be installed under all elements of the manufacture home. Each manufactured home in the park shall conform to the State Department of Insurance Standards for tie-down requirements. All replacement skirting in nonconforming manufactured home parks shall be of a nonreflective type;

(d) Section 153.128(C)(10) *Steps and Patios* shall apply;

(e) Each manufactured home park shall have a space number affixed either to the manufactured home or on a post or stand made of durable material. The number shall be set at a location as to clearly indicate the space to which it is assigned;

(f) Interior streets must be sufficient to carry normal traffic entering and leaving the manufactured home park;

(g) Section 153.128(C)(16) *Parking* shall apply;

(h) Section 153.128(C)(17) *Trash Facilities* shall apply;

(i) Section 153.128(C)(27) *Recreation Areas* and (28) *Maintenance* shall apply; and

(j) Where a manufactured home park is adjacent to a public street or road, street landscaping shall be required as follows:

1. The landscaping shall be provided in a designated landscaped area, which shall include, as width, at least the first 12 feet of the front yard and side yard as measured from the street right-of-way line;

2. Landscaping shall consist of, at a minimum, 4 small trees and 12 shrubs or 4 large trees per 100 linear feet of lot frontage on street right-of-way. No part of the landscaped area shall be left as bare soil; or

3. In the event that unusual topography or size of a parcel to be developed would make strict adherence to these requirements serve no meaningful purpose or would make it physically impossible to install and/or maintain the required screen, the provisions of § 153.046(D) *Relief to Screening Requirements* of this chapter shall apply.

(3) A manufactured home park that is a nonconforming use may continue after the 10-year period only if it conforms or is improved to conform to the requirements of § 153.128 of this chapter. Provided however, no manufactured home park, as long as it remains a nonconforming use, shall be allowed to occupy lands beyond the boundaries of the tract on which it was located at the time it became nonconforming except to comply with the requirements of § 153.128 of this chapter. In no case shall any nonconforming manufactured home park either nonconforming as a use or nonconforming due to the standards of this chapter be allowed an increase in the number of manufactured home spaces unless it shall first become both a conforming use and conforming to the standards of § 153.128 of this chapter.

(4) In meeting the requirements of §153.128 certain requirements in that section are waived for nonconforming manufactured home parks in bringing them into conformance with this chapter. Those requirements waived are as follows:

(a) Section 153.128 (C)(1) *Occupancy*;

(b) Section 153.128 (C)(2) *Minimum Park Area*;

(c) Section 153.128 (C)(12) *Public Road Frontage of Park*; and

(d) Section 153.128 (C)(13) *Ingress and Egress*.

(B) During the period nonconforming manufactured home parks are allowed to continue in operation as provided for in this section the following requirements shall be met:

(1) Any expansion of the manufactured home parks (this is only permitted where a manufactured home park is a conforming use) shall conform to § 153.128 (C) *Standards* of this chapter;

(2) If the park ceases operation for a period of greater than 90 days it shall only be re-established in accordance with § 153.128 (C) *Standards* of this chapter (cessation of operation occurs when either all manufactured homes have been removed or when a manufactured home park is closed by a public authority due to violation of law); and

(3) When a space vacancy occurs or when 1 manufactured home is replaced with another manufactured home, the replacement manufactured home shall meet the requirements of either Class A or Class B manufactured homes as defined in § 153.031 *Definitions* of this chapter.

(Prior UDO, § 8.8) (Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.143 NONCONFORMING SIGNS.

(A) All existing on-premises freestanding signs that exceed the maximum sign face size, sign height, maximum number of signs or spacing requirements of this chapter shall be brought into compliance with the requirements of this chapter or removed entirely, which means the entire sign and any associated equipment, within 10 years of this effective date of this chapter.

(B) When 2 or more signs are made nonconforming because of not adhering to spacing requirements, the age of permit shall determine which sign shall be removed; the sign with the oldest valid permit shall be permitted to stay.

(C) Signs not permitted in a zoning district:

(1) Advertising signs within the city extraterritorial jurisdiction shall be allowed to continue as nonresidential nonconforming structures as described in § 153.137 of this chapter.

(2) If a sign is not permitted use, but is an identification sign for a lawful nonconforming use, the sign may be used for as long as the nonconforming use is allowed to continue; except that the sign, within 10 years following the effective date of this chapter or the date the use became nonconforming due to some later amendment to this chapter, shall at a minimum meet all the requirements for the sign as specified for the next descending zone (§ 153.315(G)) permitting the use.

(D) All other nonconforming signs not provided for otherwise in this section and prohibited by §153.167 of this chapter shall be removed entirely or otherwise brought into conformance with this chapter, whichever is applicable, within 6 months of the effective date of this chapter, except that portable signs shall be removed entirely or otherwise brought into conformance with this chapter, whichever is applicable, within 1 year of the effective date of this chapter.

(Prior UDO, § 8.9) Penalty, see § 153.999

§ 153.144 EXCEPTIONS TO REQUIRED REMOVAL AFTER A SPECIFIED PERIOD OF TIME (AMORTIZATION).

(A) Nonconforming signs which contain, in lieu of any other copy, otherwise lawful, noncommercial copy that does not direct attention to a business operated for profit, or to a commodity or service for sale, provided the sign complies with the size, height, lighting, spacing and setbacks requirements of this chapter shall not be subject to the requirements of § 153.143(C).

(B) Normal maintenance of all nonconforming signs, including necessary nonstructural repairs, incidental alterations or copy alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted during the amortization period for the sign. However, no structural alteration, enlargement or extension shall be made to a nonconforming sign unless the alteration, enlargement or extension of the nonconforming features of the sign or by an order of the Administrator to ensure the safety of the structure.

(Prior UDO, § 8.10) Penalty, see § 153.999

§ 153.145 NONCONFORMING JUNKYARDS.

Any junkyard less than 1 acre in area and located in a district not permitting junkyards shall be removed entirely within 4 years from the effective date of this chapter. Any junkyard 1 acre or more in area and located in a district not permitting junkyards may remain in accordance with the provisions of this subchapter, provided however, § 153.279(B) shall not apply to junkyards. Any junkyard that does not meet the setback requirements for outdoor storage upon the effective date of this chapter shall meet the requirements within two years of the effective date. For the purpose of this section, the area of a junkyard shall be the area within the continuous external boundary formed by the limits of the ground surface covered by junk materials.

(Prior UDO, § 8.11) Penalty, see § 153.999

SIGNS

§ 153.160 GENERAL INTENT.

(A) The purpose and intent of this subchapter is to support and complement the various land uses allowed in the city and its extraterritorial area by the adoption of policies and regulations concerning the placement of signs.

(B) The City Council does hereby find and declare:

(1) The outdoor placement of signs to be a necessary means of communication to the public and a necessary accessory use of many principal uses, but, that the erection of signs should be controlled and regulated in order to:

(a) Promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in the city area; and

(b) To promote the reasonable, orderly and effective display of signs, displays and devices.

(2) It is also the intent of this chapter to prevent signs from dominating the visual appearance of the area in which they are located.

(Prior UDO, § 9.1)

§ 153.161 SIGN ILLUMINATION.

(A) The letter "N" means that the sign shall not be lighted.

(B) The letter "L" means that the sign may be illuminated.

(C) All lighted signs shall have the lighting from an internal source or directed in a manner as to illuminate only the face of the sign.

(Prior UDO, § 9.2) Penalty, see § 153.999

§ 153.162 UNSAFE SIGNS.

Any sign which is determined by the Administrator as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by the property owner unless it is repaired and made to otherwise comply with the requirements of this subchapter.

(Prior UDO, § 9.3) Penalty, see § 153.999

§ 153.163 SIGN AREA.

Sign area shall be deemed to be the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area. Only one side of a sign shall be included in the calculation.

(Prior UDO, § 9.4) Penalty, see § 153.999

§ 153.164 SIGN HEIGHT.

The height of a sign shall be measured from the highest point of a sign to the average ground surface grade immediately below it.

(Prior UDO, § 9.5) Penalty, see § 153.999

§ 153.165 PERMIT REQUIRED AND CODE COMPLIANCE.

(A) Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for the sign from the Administrator as required by these regulations.

(B) Notwithstanding the above, changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render the sign in violation of this chapter.

(C) All signs requiring a permit shall be installed in accordance with the North Carolina Building and Electrical Codes.

(Prior UDO, § 9.6) Penalty, see § 153.999

§ 153.166 SIGNS NOT REQUIRING PERMIT.

The following types of signs are exempted from permit requirements of §153.165 of this chapter and may be placed in any zoning district. The signs shall be in conformance with any applicable requirements contained in this chapter. There shall be no limit to the number of signs on any lot, except as herein prescribed. All signs (except government signs) shall be located outside a road right-of-way.

(A) Government signs;

- (B) Memorial signs, plaques or grave markers that are noncommercial in nature;
- (C) Public interest signs;
- (D) On-premises instructional signs not exceeding four square feet in area apiece;
- (E) Identification signs not exceeding three square feet in area (one only per premises);
- (F) Incidental signs;
- (G) Campaign and election signs provided that:

- (1) Each sign shall not exceed 32 square feet in area;
- (2) All signs shall be removed within seven days after the election for which they were made; and
- (3) Property owner shall be held responsible for violators.

(H) Temporary real estate signs advertising specific property for sale, lease, rent or development shall be located as follows:

(1) One sign advertising real estate "For Sale," "For Rent," "For Lease" or "For Development" not greater than ten square feet in area in all Residential (R) Districts and 64 square feet in area in nonresidential districts may be located on the property being advertised provided the sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot, then a second sign may be permitted so long as the signs are at least 400 feet apart as measured by the shortest straight line;

(2) In addition to the on-site sign(s), a maximum of three directional signs, each not exceeding two square feet in area, shall be permitted to be located off the subject premises. The message of the signs shall be limited to the name of the property or development being advertised, a directional arrow, mileage to the subject property and the type of offering;

(3) All temporary signs shall be removed within seven days after the property has been sold, rented, leased and the like; and

(4) No more than three temporary directional signs advertising a specific shopping center, planned mixed-use development, subdivision and the like may also be permitted off-site. Each sign shall be no greater than three square feet in area.

(I) Permanent subdivision identification signs not exceeding 18 square feet;

(J) Construction signs provided that:

- (1) Signs in conjunction with any single-family residential use or duplex shall not exceed ten square feet apiece;
- (2) Signs in conjunction with all other uses shall have a maximum area of 50 square feet apiece;
- (3) Only one sign per premises shall be erected;
- (4) Signs shall not be illuminated;
- (5) Signs shall only appear at the construction site; and
- (6) Signs shall be removed within seven days after the completion of the project.

(K) Temporary farm products signs provided that:

- (1) Only one sign per premises shall be erected;
- (2) The signs shall be located on the premises where the products are sold;
- (3) Signs shall not exceed 20 square feet in area; and
- (4) Signs shall be removed within seven days of the termination of sale activities.

(L) Temporary special event signs or banners for religious, charitable, civic, fraternal or similar organizations provided that:

(1) Signs shall be erected no sooner than 30 days before and removed no later than five days after the event;

(2) All signs shall be located on private property except the signs may be located within a road right-of-way subject to City Council approval or on other public property subject to approval of the governing board of the public entity owning the property; and

(3) Portable signs for that use may be allowed.

(M) Temporary paper or cardboard signs attached to the inside of windows of occupied commercial uses provided the signs do not cover more than 70% of the window area of the side of the building on which the signs are attached;

(N) Other temporary banners in nonresidential districts, provided that:

- (1) One banner per nonresidential use shall be allowed provided that each banner is located five feet from a street right-

of-way and out of the sight triangle. Banners must not be larger than 24 square feet in size;

(2) The temporary banners are not permitted in the Central Business District. Banner regulations in the Central Business are addressed in § 153.170(C) of this chapter; and

(3) No banners shall extend above the second floor level of a building.

(O) One on-premises and three off-premises yard sale signs per yard sale. All signs shall be removed within 24 hours after the yard sale has been terminated. The maximum area of each sign shall be three square feet;

(P) Directional signs provided that:

(1) The signs may only be used in conjunction with a religious, charitable, civic, fraternal and similar organization or an industrial/office park, lodging facilities or similar activity;

(2) No more than three directional sign per principal use may be erected;

(3) All directional signs shall be located at least five feet from the edge of a road right-of-way;

(4) All directional signs greater than three feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight triangle as defined in § 153.031 of this chapter;

(5) All directional signs shall not be illuminated;

(6) All directional signs shall be freestanding signs. Portable signs shall be prohibited;

(7) There shall be no greater than four directional signs on separate supports at the intersection of any two roads;

(8) More than one sign may be placed on the same supports;

(9) No two directional signs hung from separate supports shall be located within five feet of each other; and

(10) The maximum area of any directional sign shall be six square feet.

(Q) Off-premises temporary special event signs provided that:

(1) No more than four temporary signs per event may be erected;

(2) All these signs shall be located at least five feet from the edge of a street right-of-way.

(3) Any sign greater than three feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight triangle as defined in § 153.031 of this chapter;

(4) All these signs shall not be illuminated;

(5) There shall be no greater than four signs on separate supports at the intersection of any two roads;

(6) The maximum area of any temporary special event sign shall be six square feet; and

(7) Signs shall be erected no sooner than 30 days before and removed no later than five days after the event.

(Prior UDO, § 9.7) Penalty, see § 153.999

§ 153.167 PROHIBITED SIGNS.

(A) Any sign which the Administrator determines to obstruct the view of motorists, bicyclists or pedestrians using any street or walkway, approach to any street intersection or ingress to or egress from any driveway or parking area, or which obscures or interferes with the effectiveness of any traffic sign;

(B) Illuminated, highly reflective signs or spotlights which the Administrator determines to hamper the vision of motorists or bicyclists;

(C) Signs, lights, rotating disks, words and other devices that resemble traffic signals, traffic signs or emergency vehicle lights;

(D) Signs, other than government signs, which contain lights, rotating disks, words and other devices not erected by a public authority that may be erroneously construed as government signs or emergency warning signs;

(E) Any exterior sign that interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air;

(F) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on, over or across any public street or right-of-way unless authorized by the City Council or the State Department of Transportation;

(G) Any sign, other than a government sign, with visible moving parts either windblown or motorized except as provided in § 153.166(N) of this chapter;

(H) Any sign located in a way as to intentionally deny an adjoining property owner visual access to an existing sign;

(I) Flashing signs or any signs with flashing or intermittent light or lights or reflective devices of changing degree of

intensity or color. Signs with devices which produce flashing light and signs which produce scrolled messages are prohibited, however, signs which give time and temperature are permitted, provided the messages are limited to only time and/or temperature. If a time and temperature sign alternates between a time message and a temperature message it shall continuously show one message a minimum of three seconds time before switching to the other message;

- (J) Portable signs (excluding temporary signs otherwise permitted in §153.166(L) of this chapter);
- (K) Vehicular signs;
- (L) Advertising signs; and
- (M) Other signs not expressly permitted by this chapter.

(Prior UDO, § 9.8) Penalty, see § 153.999

§ 153.168 SIGNS PERMITTED IN ALL RESIDENTIAL (R) DISTRICTS.

Signs allowed without a permit are listed in §153.166 of this chapter. The following signs may be placed in districts subsequent to the issuance of a permit by the Administrator. All other signs shall be prohibited.

(A) Signs on premises of multi-family developments and manufactured home parks, planned developments and in the R-25 District essential services Class III and produce stands are regulated as follows.

- (1) *Types of sign permitted.* Identification: ground mounted only.
- (2) *Permitted number of signs.* One per premises per public street front.
- (3) *Maximum area of signs.* Twenty-six square feet.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.* Five feet.

(B) Signs on premises of day care centers, nursing home, rest homes and homes for the aged and public safety stations.

- (1) *Types of sign permitted.* Identification: ground mounted, pole or wall.
- (2) *Permitted number of signs.* One per premises.
- (3) *Maximum area of signs.* Sixteen square feet.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.*
 - (a) Ground mounted: five feet;
 - (b) Pole sign: six feet; and
 - (c) Wall sign: height lowest roof eave.

(C) Signs on premises of small ground day care centers and bed and breakfast inns are regulated as follows.

- (1) *Types of sign permitted.* Identification: ground mounted, pole or wall.
- (2) *Permitted number of signs.* One per establishment.
- (3) *Maximum area of signs.* Six square feet.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.*
 - (a) Ground mounted: five feet;
 - (b) Pole sign: six feet; and
 - (c) Wall sign: height lowest roof eave.

(D) Signs on premises of churches, schools, country clubs and publicly or privately-owned and operated outdoor recreation facilities are regulated as follows.

- (1) *Types of sign permitted.* Identification and bulletin board; ground mounted, pole or wall.
- (2) *Permitted number of signs.* 1 identification sign and 1 bulletin board.
- (3) *Maximum area of signs.* 32 square feet for the identification sign; 64 square feet for the bulletin board.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.* 5 feet.

(E) Cemeteries are regulated as follows.

- (1) *Type of sign permitted.* Identification: ground mounted only.
- (2) *Permitted number of signs.* 1 identification sign per entrance.
- (3) *Maximum area of signs.* 20 square feet.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.* 5 feet.

(F) In the R-O District, offices; and any other nonresidential uses in Residential (R) Districts not otherwise covered in this section.

- (1) *Type of sign permitted.* Identification: ground mounted, pole and wall.
- (2) *Permitted number of signs.*
 - (a) Ground mounted or pole: 1.
 - (b) Wall: no limit.
- (3) *Maximum area of signs.* 32 square feet for ground mounted, pole and wall.
- (4) *Permitted illumination.* L, N.
- (5) *Permitted height.*
 - (a) Ground mounted: 5 feet.
 - (b) Pole sign: 10 feet.

(Prior UDO, § 9.9) (Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.169 SIGNS PERMITTED IN THE OI, NB, GB, CC, HB, PB, GMC AND GI DISTRICTS.

(A) *Generally.* The following are regulations for all wall signs and freestanding signs for all uses, provided however, these regulations shall not be applicable to freestanding signs in shopping centers, business parks, office buildings and other multi-tenant developments. Regulations for these uses are found in division (B) below of this section. Signs allowed without a permit are found in § 153.166 of this chapter. All other signs shall be prohibited.

- (1) *Types of sign permitted.* Business, identification.
- (2) *Permitted number of signs.*
 - (a) Wall: no limit.
 - (b) Freestanding (pole or ground mounted): 1; provided however, no freestanding sign shall be permitted if § 153.172(C)(4) is applicable.
- (3) *Maximum area of signs.*

(a) *Wall.* A maximum of 10% of the wall area of any wall on the building. Except as provided in § 153.172(B), in no instance shall any principal use be allowed to have an aggregate wall sign area in excess of 10% of the wall area.

(b) *Freestanding.* The area of the sign shall be based upon the classification of the road upon which the principal building containing the use being identified fronts. The following schedule shall apply.

Road Classification (In Accordance with the Lincoln Thoroughfare Plan)	Maximum Sign Area (Sq. Ft.)
Major thoroughfare	64
Minor thoroughfare	64
All other streets	32

- (4) *Maximum height.*
 - (a) *Wall.* Signs shall not be allowed to extend above the parapet of the building.

(b) *Freestanding.* The height of freestanding signs shall be based upon the road on which the principal building containing the use being identified fronts. The following schedule shall apply:

Road Classification (In Accordance with the Lincoln Thoroughfare Plan)	Maximum Sign Height (Ft.)
Major thoroughfare	25
Minor thoroughfare	25
All other streets	20

(5) *Permitted illumination.* L, N.

(B) *Shopping center and other multi-tenant freestanding identification signs.*

(1) *Types of sign permitted.* Identification.

(2) *Permitted number of signs.*

(a) A shopping center or planned mixed use development either of which contains two or more nonresidential uses located in a unified building or group of buildings may have one freestanding identification sign giving the name of the development and/or the name of the businesses and other uses occupying the development.

(b) A second sign shall be permitted if the development has direct access from two or more public streets. No other on-premises freestanding signs shall be permitted.

(c) In lieu of allowing a second freestanding sign for the development, the developer shall have the option to increase the size of one freestanding sign on the property by 100% larger than what is required in division (A)(3) above. This bonus shall only be available to Class C shopping centers with four or more tenants.

(3) *Maximum area of signs.* The maximum area of freestanding identification signs shall be as indicated in division (A)(3) of this chapter.

(4) *Permitted illumination.* L, N.

(5) *Permitted height.* The maximum height of the sign(s) shall be as indicated in division (A)(4) of this chapter.

(6) *Permitted location.* If two freestanding signs are located on the same premises, the signs shall be located at a minimum distance of 100 feet from each other as measured by the shortest straight line connecting each sign. All freestanding signs shall be located behind the street right-of-way.

(Prior UDO, § 9.10) (Ord. ZTA-1-2010, passed 5-6-2010; Ord. passed - -) Penalty, see § 153.999

§ 153.170 SIGNS PERMITTED IN THE C-B CENTRAL BUSINESS DISTRICT AND THE CBT CENTRAL BUSINESS TRANSITIONAL DISTRICT.

(A) *Generally.* Except as otherwise permitted by this chapter, signs in the C-B and CBT Districts shall be limited to wall signs and canopy or awning signs. Freestanding signs are limited to ground signs and allowed only in accordance with the conditions and provisions outlined in division (F).

(B) *Wall signs.*

General Location	Specific Location	Maximum #	Maximum Area	Max. Hght.
Building walls	Any location on building wall face	N/A	10% of the wall area, not to exceed 100 sq. ft.	Not above parapet of building
Windows	First floor windows	1	20% of total window space	N/A
Windows	Upper floor windows, if different business	1	50% of window	N/A
Outside entrance to upper floors	Above or beside entrance	1	8 sq. ft. above entrance; 2 sq. ft. beside entrance	N/A
Front of building feet	For historic plaques	1	4 square feet	6

(C) *Canopy and awning signs.* A sign message on a canopy or awning shall contain only the name of the business, street address and/or the type of business, type of goods sold or services rendered.

(1) Each business is permitted up to one sign hung under a canopy or awning provided the message on the sign is perpendicular to the building and the sign is at least eight feet above the surface of the sidewalk and is no more than eight square feet in size.

(2) A business is permitted to use up to one canopy or awning sign provided that the sign message does not extend in any direction above, below or beyond the canopy or awning edge.

(D) *Temporary commercial advertising banners.* Temporary commercial advertising banners including grand opening, sale, going out of business and other similar commercial banners are permitted in the Central Business District subject to the following conditions.

(1) A temporary use permit must be secured from the Planning Department before a banner is placed upon a premises.

(2) The banners shall be placed upon a premises no longer than 12 weeks in a year. Permits may be issued in two-week increments (i.e. six permits per year) or any combination of time frames up to a continuous 12-week provided that the total time a banner shall be displayed on a single premises shall not exceed 12 weeks per year. Permit applications shall be accompanied by a to-scale rendering depicting the banner.

(3) The banners shall be professionally prepared.

(4) The banners shall be no larger than 32 square feet in size.

(5) Banners may be displayed at any location on the front façade of the premises on which it is located.

(6) A temporary use permit for a commercial advertising banner shall be issued only after the permit applicant has secured a bond payable to the city in the amount of \$50. If the banner is removed within the time frame for which it was permitted, the \$50 bond shall be refunded to the permit bearer. If the banner becomes a violation, the city shall redeem the \$50 bond.

(E) *Portable sidewalk signs.* Notwithstanding the requirements of § 95.06, Obstructions (on streets and sidewalks) and § 95.08, Placing objects on streets and sidewalks, of the code of ordinances, portable sidewalk signs (as defined in § 53.031 of this chapter) shall be permitted in the Central Business (CB) and CBT Districts provided that placement of the signs upon a street right-of-way or public property shall be approved by the City Council or its designee.

(F) *Ground signs.* Freestanding identification signs are limited to ground signs subject to the following conditions and standards:

(1) The associated business is located in a building that is set back at least ten feet from the abutting sidewalk. If sidewalk does not exist along the street frontage, the building is located at least ten feet from the back of the edge of pavement or curb.

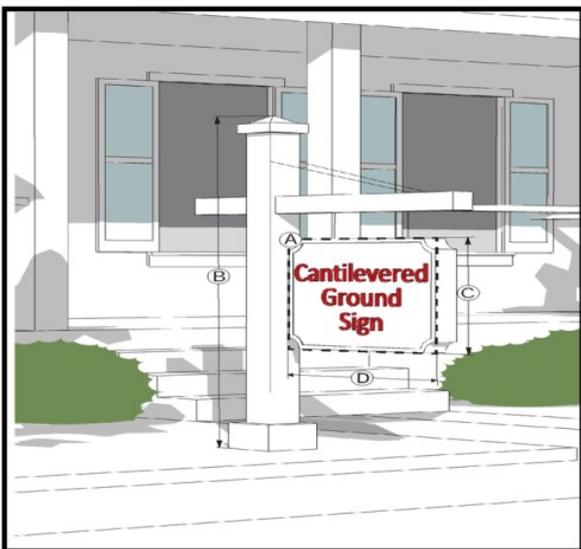
(2) The sign is to be located a minimum of five feet behind the abutting sidewalk. If sidewalk does not exist along the street frontage, the sign is to be located at least ten feet from the back of the edge of pavement or curb.

(3) The sign is to be located a minimum of five feet from any side lot line.

(4) The sign is to be located outside of any sight triangle at a street or driveway.

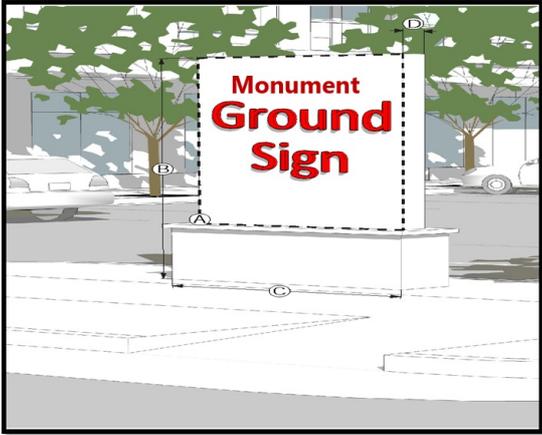
(5) The dimensions of the sign shall conform to the below:

(a) *Cantilevered ground sign/ post and panel sign.*



<i>Dimensions</i>	
Display surface (max)	9 sq. ft.
Support height (max)	10 ft.
Sign height (max)	6 ft.
Display surface height, width (max)	3 ft.

(b) *Monument ground sign.*



<i>Dimensions</i>	
Display surface (max)	8 sq. ft.
Support height (max)	8 ft.
Sign height (max)	10 ft.
Display surface height, width (max)	12 in.

(6) Area associated with the text of a building name or address is exempt from above maximum display surface calculations.

(7) The design and materials used in the construction of the sign shall be consistent with the downtown lincolnton design guidelines for freestanding signage.

(8) No freestanding sign within the CBD or CBT district shall be erected until an application for design review has been submitted to and approved by the Design Review Committee (DRC) charged with review and approval of such applications. The DRC shall be a committee comprised of City staff and appointed by the City Manager.

(a) Application approval is required prior to the issuance of a sign permit. The sign permit may be issued subject to reasonable conditions necessary to carry out the purposes of this section.

(b) An approved application for design review shall be required whether or not other permits may be required, but said approval does not obviate the necessity of procuring other permits as may be required by law; provided, however, any permit issued other than in conformity with this chapter shall be invalid.

(Prior UDO, § 9.11) (Ord. ZTA-1-2016, passed 2-4-2016; Am. Ord. O-04-19, passed 6-6-2019)) Penalty, see § 153.999

§ 153.171 SIGNS IN THE SH SPECIAL HIGHWAY OVERLAY DISTRICT.

See § 153.120(H) of this chapter.

(Prior UDO, § 9.12) Penalty, see § 153.999

§ 153.172 SPECIFICATIONS FOR SIGNS REQUIRING A PERMIT.

(A) *Generally.* The following are general specifications applicable to the various permitted signs. Additional specifications regarding size, number, location and permitted types of signs are set forth in the individual zoning districts.

(B) *Wall sign.*

(1) The maximum permitted aggregate area of wall signs per premises may be increased beyond that which is normally allowed using either (but not both) of the following methods (only division (B)(1)(b) of this section shall be allowed for business within shopping centers):

(a) If a freestanding sign is not used on the premises, the aggregate area of wall signs may be increased by 25% per

premises, provided however, no increase shall be allowed in the C-B District.

(b) In the G-B and P-B Districts the aggregate area of all wall signs per premises may be increased based on the distance the principal building is set back from the required front setback line. The increase shall be in accordance with the following table, provided however, any increase shall not allow the aggregate sign size to exceed 10% of the front wall area of the premises to which the sign is located.

<i>Principal Building Distance Setback From the Required Front Setback</i>	<i>Allowed Aggregate Area Wall Sign Area Increase</i>
0 - 49 ft.	0%
50 - 99 ft.	25%
100 - 149 ft.	50%
150 - 199 ft.	75%
200 - 249 ft.	100%
250 - 299 ft.	125%
300 - 349 ft.	150%
350 - 399 ft.	175%
400 - ft. or more	200%

(2) No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window.

(3) Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall any canopy or awning sign extend into a street right-of-way. This division shall not apply to the C-B District. For canopy and awning sign regulations for the C-B District, see § 153.170(C).

(4) A projecting sign may be substituted for part or all of the allowable wall signage per premises. A projecting sign shall not project more than four feet from a building. Except as provided in § 153.171 of this chapter, a projecting sign shall not extend into a street right-of-way.

(5) In the C-B District a projecting sign may extend over a public sidewalk by being attached to the building face, canopy or awning provided the sign is at least eight feet above the surface of the sidewalk and is no more than eight square feet in size.

(C) *Freestanding signs.*

(1) All freestanding signs shall be located behind the street right-of-way. Any sign greater than three feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight triangle as defined in § 153.031 of this chapter.

(2) The bottom of the sign face of any pole sign, which is located within five feet of the street right-of-way, shall be at least ten feet in height as measured from the grade.

(3) No freestanding sign shall be located closer than five feet to any adjacent side lot line.

(4) A freestanding sign may only be located along (and visible from) a street from which the principal building containing the use being identified is set back at least 15 feet from the right-of-way of the street. If no such area exists on the premises then no freestanding sign may be erected.

(Prior UDO, § 9.13) (Ord. ZTA-1-2016, passed 2-4-2016) Penalty, see § 153.999

§ 153.173 HOTEL AND LODGING FACILITIES SIGN PROVISIONS.

(A) *Main ID sign.*

- (1) Maximum sign area: 280 square feet.
- (2) Maximum height: 65 feet.

(B) *Secondary sign.*

- (1) Maximum sign area: 64 square feet on thoroughfares and 35 square feet on all other streets.
- (2) Maximum height: 25 feet on thoroughfares and 20 feet on all other streets.

(C) *Both main ID and secondary signs.* If both a main ID sign and a secondary sign are erected by the hotel and lodging facility, then no directional signage as allowed in § 153.166(P) would be permitted. If property is located in a Special

Highway Overlay District, a third sign could not be erected as permitted in § 153.120(H).

(Ord. ZTA-1-2010, passed 5-6-2010)

§ 153.174 ADDITIONAL PROVISION FOR CHURCH SIGNS.

(A) Signs on premises of churches are allowed in accordance with the preceding provisions related to types of signs permitted, permitted number of signs, maximum sign area, permitted illumination, maximum sign height, etc.

(B) The provisions outlined in § 153.167, Prohibited Signs, are applicable to church signs with the exception outlined below:

(1) Churches located on lots of at least ten acres in size are permitted one multi-color LED/digital changing message board. Sign messages may change but cannot flash or scroll.

(2) Such sign shall be located a minimum of 30 feet from the right-of-way of any abutting public road.

(3) This exception is not applicable in the CB and CBT zoning districts.

(Ord. O-04-2017, passed 6-1-2017)

§ 153.175 FENCE WRAPS.

In accordance with G.S. § 160D-908, fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, a sign permit may be required but the fence wrapping materials are allowed to continue to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

(Ord. passed - -)

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 153.185 OFF-STREET PARKING REQUIREMENTS.

(A) Every new use, or an enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this subchapter, except that all off-street parking requirements shall be waived within the C-B District.

(B) The number of required off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this subchapter. Parking spaces may be decreased when a change of use requires fewer spaces than provided for in the previous use.

(C) (1) A principal use that is not deficient in the number of off-street parking spaces provided may expand without having to provide additional off-street parking spaces under certain circumstances. The circumstances are:

(a) When, after the expansion, the number of off-street parking spaces provided still meets or exceeds the required minimum; and

(b) If the expansion results in the need to create no greater than 10% or ten, whichever is smaller, additional spaces. These additional spaces may be waived on a one-time basis only. The waiver may only be applied once to any individual principal use, or to any shopping center, office park or similar planned multi-tenant development.

(2) In no instance shall a reduction be allowed for the number of off-street parking spaces parking for any use which expands when, prior to the expansion, the use was deficient in the number of off-street parking spaced provided.

(D) A certificate of compliance will not be issued for any use until all applicable off-street parking and loading requirements in accordance with this chapter have been met and are in place and ready for use.

(E) All off-street parking areas shall be located as follows:

(1) Off-street parking spaces shall generally be provided on the same lot of record as the principal use. In instances where the parking cannot be reasonably provided on the same lot of record, it shall be provided on a separate lot of record, 50% or more whose area is located within 500 feet of the lot of record on which the principal use is located;

(2) (a) Cooperative provisions for off-street parking may be made by contract between owners of adjacent properties, and the contract shall be filed with the Administrator. The parking area provided on any one lot may be reduced to not less than one-half the number of parking spaces required or otherwise provided for the use occupying the lot. The end result of the cooperative parking shall be that the total number of parking spaces provided equals or exceed that which would be required or otherwise provided for each use if computed separately.

(b) Any sharing of parking spaces by uses located on different parcels shall be guaranteed by a legally binding written agreement between the owner of the parking area and the owner of any use located on a different lot and served by the parking area;

(3) No off-street parking area shall be located over an active or auxiliary septic tank field;

(4) The temporary parking or storage of manufactured homes shall be prohibited in all areas that do not permit manufactured homes or in manufactured home sales lots; and

(5) For all nonresidential uses, no off-street parking or loading areas shall be located within 12 feet of any street right-of-way line.

(F) Design standards for parking areas are as follows.

(1) Except as here in provided, each parking space shall contain a rectangular area of at least 19 feet in length and nine feet in width. Whenever parking areas consist of spaces set aside for parallel parking, the dimensions of the parking spaces shall be not less than 22 feet in length and nine feet in width. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(2) Parking area aisle widths shall meet the following minimum dimensions:

<i>Aisle Width (Ft.)</i>	<i>Parking Space Angle (in Degrees)</i>			
One-way traffic	13	13	18	24
Two-way traffic	19	21	23	24

(3) All off-street parking areas with more than 15 off-street parking spaces that are regularly used at least five days per week shall be graded, paved and surfaced with asphalt, concrete or equivalent protection against potholes and dust. Off-street parking areas that are not required to have the surfaces shall be graded and surfaced with crushed stone, gravel or other like material to provide a surface which is stable and will help reduce dust and erosion. For any off-street parking area which does not require a paved parking area surface, whenever an area abuts a paved street, the driveway leading from the street to the area (or, if there is no driveway, the portion of the parking area that opens onto the streets) shall be paved in a manner as herein provided to a distance of 15 feet back from the edge of the paved street. This requirement shall not apply to single-family or two-family residences or any other use that is required to have five or less off-street parking spaces.

(4) All off-street parking areas shall be designed so that vehicles cannot extend over roadways, drives, adjoining property, or sidewalks or bump against any wall, vegetation or other obstruction.

(5) Circulation patterns within off-street parking areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles both inside and outside the off-street parking area.

(6) Parking spaces that are required to have paved surfaces shall be appropriately demarcated with painted lines.

(7) See § 153.047 of this chapter for parking lot landscaping requirements.

(G) Permits for driveway locations on state-maintained roads shall be obtained from the State Department of Transportation.

(H) Storm drainage facilities shall be required, and shall be so designed as to protect any public right-of-way or adjacent property from damage.

(I) The requirements for off-street parking spaces shall be computed as follows:

(1) When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half or more shall require one parking space;

(2) Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use; and

(3) Off-street parking spaces designed for use by the physically handicapped shall be provided as required by the North Carolina Building Code.

(J) The following listing indicates the minimum number of off-street parking spaces required for any use developed or expanded.

(K) The following listing indicates the minimum number of off-street parking spaces required for any use developed or expanded. Parking space calculations for proposed off-street parking lots in the CBT District shall be reduced by 33% of the total amount calculated using the formulas required in this section. (The use classification is shown in bold face print and is followed by each minimum number of parking spaces required.)

<i>Use</i>	<i>Minimum Number of Parking Spaces Required</i>
Animal hospital, clinic, veterinarian or kennel	One space per 200 sq. ft. of gross floor area
Art and photo studios	One space per 300 feet of gross floor area

Auction houses	One space for each three persons in seating or standing capacity of the main auction hall
Automobile repair, paint or body shops	One space per employee during the shift of greatest employment plus four spaces per bay
Automobile sales	See Sales lots
Automobile washing and cleaning establishments	One space for each three employees, and reserve spaces equal to three times the capacity of the establishment
Banks, savings and loans and other financial institutions	One space per each 100 sq. ft. of gross floor area for the first 1,000 sq. ft. and 1 space for each 300 additional sq. ft. of gross floor area
Barber shop or beauty shop	Three spaces per barber or beautician during hours of greatest employment
Bars, nightclubs and private entertainment clubs	One space for each employee during the shift of greatest employment plus one space for each three seats
Bus station	Four spaces for each loading station, plus one space for each employee during the shift with greatest employment
Cemeteries	One space per employee during the shift of greatest employment plus parking on private internal roads with room for cars to pass parked cars on the roads
Charitable and welfare organizations	One space per employee during the shift with greatest employment plus one space for each 300 sq. ft. of gross floor area
Child advocacy center	3.3 spaces per 1,000 square feet of floor area
Churches, synagogues, other places of worship	One space per employee during the shift with greatest employment plus one space for each four seats in the sanctuary
Colleges, vocational and professional schools	One space for each three students plus one space per employee during the shift of greatest employment
Convenience store	One space for each 200 sq. ft. of gross floor area plus two spaces for each fuel nozzle
Customary home occupations	One space plus the number of spaces required for the residential use
Day care centers, nurseries, preschools and kindergartens	One space per employee during the shift of greatest employment plus one space per ten children of certification capacity
Dwellings, one-family	Two spaces for each one dwelling unit
Dwellings, two-family	Two spaces for each one dwelling unit
Dwellings, multi-family (designed specifically for elderly and/or handicapped persons)	One and one-fourth spaces per dwelling unit
Dwellings, multi-family (except those dwellings designed specifically for elderly and/or handicapped persons)	One and one-half spaces for each efficiency and one bedroom dwelling unit, two spaces for each two bedroom dwelling unit and three spaces for each three or more bedroom dwelling unit
Elementary and junior high school	One and three-fourths spaces for each room used for instruction or administration, or one space for each four seats used for assembly purposes, whichever is greater
Essential services Class III	One space per employee during shift of greatest employment plus one space for each vehicle used in the operation plus one space per 200 sq. ft. of floor area open to the public
Family care homes	One space for each three employees (total employees), plus one for each two residents

Food caterer	One space for each employee during shift of greatest employment plus one space for each vehicle used in the operation
Funeral homes	One space for each four seats in the chapel or chapels, plus two spaces for each three employees, plus one space for each vehicle used in the operation; in addition, off-street parking area shall be provided, on the site, to accommodate a minimum of 30 passenger vehicles for the purpose of forming a funeral procession; in the event that an on-site area is not available, the off-street area may be provided within 300 feet of the funeral home, as measured to the nearest property lines
Furniture and appliance stores, household equipment repair shops; showroom of a plumber, decorator, electrician or similar trade; laundry and machinery sales	One space per 800 sq. ft. of gross floor area plus one space for the largest number of employees per shift
Golf courses	One space for the largest number of employees per shift plus four spaces per hole plus one space for each vehicle used in the operation (excluding golf carts)
Hospitals	Two spaces per patient bed; not including bassinets
Interior decorator service	One space per 200 sq. ft. of gross floor area
Jails	One space per employee during the shift with greatest employment; plus one space for each eight beds, plus sufficient spaces for law enforcement vehicles and vehicles used in the jail operation
Laboratories, analytical and testing	One space per employee during the shift with greatest employment plus one space for each 800 sq. ft. of gross floor area
Libraries	One space for each 350 sq. ft. of public space, plus one space for each employee during the shift of greatest employment
Lumber or building material stores	One space per employee during the shift with greatest employment plus one space for each 300 sq. ft. of retail sales space or showroom floor area plus one space for each vehicle used in the operation (outdoor storage or lumber sheds are not counted as retail sales space)
Maintenance services operations center (janitorial, carpet cleaning, exterminator and the like)	One space per employee during shift of greatest employment during the shift with greatest employment plus one space for each vehicle used in the operation; the spaces required for employees may be reduced by 0.75 for each employee that reports to work off-site at least 75% of workdays
Manufacturing, processing or fabrication plants, offices for building trades	One space per employee during the shift with greatest employment
Medical and dental offices and clinics	One parking space for each patient treatment or examination room (or other patient treatment space), plus one space for each 50 sq. ft. of waiting room area, plus one space for each nondoctor employee during shift of greatest employment plus one space for each doctor practicing at the clinic
Military reserve center	Four spaces for each five personnel, including reservists expected to report for duty at the facility on any day of maximum use

Motels, hotels and bed and breakfast inns (the number of required off-street parking spaces for restaurants, lounges and banquet facilities located within a motel and hotel shall be computed separately)	One space for each guest room or suite plus one space for each employee on the shift of maximum employment
Museums and art galleries	One space for each 300 sq. ft. of exhibit space, plus one space for each employee during the shift of greatest employment
Nursing homes, rest homes, homes for the aged	Three spaces for each five beds
Offices, professional, business or public, (excluding medical and dental offices and clinics)	One space for each 200 sq. ft. of gross floor area
Places of public assembly not otherwise listed such as auditoriums and stadiums and not constructed pursuant to a permit authorizing the construction of a public community center, public or private school or a residential development	One space for each four seats of seating capacity
Post office	One space per employee during the shift of greatest employment plus one space for each 300 sq. ft. of gross floor area
Private residential quarters	One space per private residential quarters
Product distribution centers	One space for each employee during shift of greatest employment plus one space for each vehicle used in the operation plus one space for each 100 sq. ft. of public area (e.g., sales areas)
Public safety stations	One space for each employee during the shift of greatest employment
Radio and television stations	One space for each 300 sq. ft. of gross floor area plus one space for each four seats in viewing areas, plus one space for each vehicle used in the operation
Recreation facilities, privately owned, outdoor, such as athletic fields, swimming or tennis clubs, amusement parks, not otherwise listed and not constructed pursuant a permit authorizing the construction of come residential development	One space per 200 sq. ft. of area within enclosed buildings plus one space for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity
Recreation facilities, publicly owned, outdoor, such as fields, tennis courts, swimming pools, playgrounds, parks and the like, not otherwise listed and not constructed pursuant to a permit authorizing the construction of another use such as a school	One space per 200 sq. ft. of area within enclosed athletic buildings plus one space for three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity
Recreation facilities, indoor, not otherwise listed (e.g., gymnasium community center, physical fitness centers or clubs, pinball or video or arcade game centers and the like)	One space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion - example, tennis courts) plus one space per 200 sq. ft. of gross floor area used in a manner not susceptible to the calculation, or one space for each three seats (fixed in the largest assembly room) whichever is greatest
Restaurants (including fast food restaurants)	One space for each employee during the shift of greatest employment plus one space for each three restaurant seats, plus reservoir lane capacity equal to five spaces per drive-thru window (Note: Two drive-thru windows serving one line shall be deemed two drive-thru windows)

Retail business and consumer service outlets (except as otherwise listed in this section)	One space for each 200 sq. ft. of gross floor area
Sales lots and showrooms (automobile and mobile home)	Four spaces for each salesperson plus one space per other employee during the shift with greatest employment; these spaces shall be in addition to other spaces used to park all vehicles for sale or on display and in addition to spaces required in this section for automobile repair use classification where sales and repairs are provided by the same establishment; customer and employee parking shall be so designated and shall not be used for inventory parking except while demonstrating a vehicle to a particular customer
Senior high school	Five spaces for each room used for instruction or administration or one space for each four seats used for assembly purposes, whichever is greater; assembly purposes shall be deemed to include the capacity of either indoor or outdoor assembly, whichever is greater
Service stations	One space located away from pumps for each fuel pump nozzle plus two spaces for each service bay plus one space for each employee during the shift of greatest employment, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
Shopping centers	One space for each 200 sq. ft. of gross floor area for the first 500,000 sq. ft. plus one space per additional 300 sq. ft. above the first 500,000 sq. ft., but excluding uses other than retail business and consumer service outlets, whose off-street parking requirements are listed separately; off-street parking for these uses shall be computed separately; common pedestrian walkway areas inside enclosed shopping malls are not counted in gross floor area, however the areas occupied by sales establishments and open courts where prepared food is sold and consumed shall be counted
Theaters, indoor	One space for each employee during the shift of greatest employment plus one space for each four seats
Truck terminal, warehouses and moving/storage companies	One space per employee during the shift with greatest employment in addition to spaces to be used for vehicles used in the operation
Wholesale sales	One space per employee during shift of greatest employment plus, one space per 500 sq. ft. of office area, plus one space for each vehicle used in the operation, plus one space for each 500 sq. ft. devoted to on-premises sales such as customer self-service areas and/or showrooms and sales counters
Video tape rental shops	One space per 100 sq. ft. of gross floor area for the first 1,000 sq. ft. and one space for each additional 150 sq. ft. of gross floor area plus one space for each employee on the shift of greatest employment

Other uses not listed	The Zoning Administrator may establish a parking requirement for any application for use not listed herein on the basis of similar uses creating similar parking needs as listed in this section; the decision of the Zoning Administrator may be appealed to the Board of Adjustment
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(Prior UDO, § 10.1) (Ord. ZTA-5-2009, passed 11-5-2009; Ord. O-03-2019, passed 6-6-2019; Ord. passed - -) Penalty, see § 153.999

§ 153.186 DRIVEWAYS FOR ALL USES OTHER THAN ONE OR TWO-FAMILY RESIDENTIAL.

(A) Wherever possible no driveway shall access a public street closer than 100 feet from the right-of-way of an intersecting street. Wherever possible no drive shall access a thoroughfare at a point closer than 150 feet from the intersection of the thoroughfare with the right-of-way of another public street. Where these distances are not possible due to lot dimensions or depth, the drive shall be located as far as possible from the intersection. No more than one driveway access to a street will be permitted for each 150 feet (or fraction thereof) of frontage on the street and in no case shall any lot or tract contain greater than two driveway cuts per road frontage.

(B) Provided however, any retail use engaged significantly in the sale of automotive fuels to the public using pump islands shall be permitted one additional access point along its total frontage (total includes the total for all streets on which the use fronts) provided the access point is no closer than 36 feet from any other access point and there will be no more than two driveways for any street adjoining the property. Each driveway access shall be at least 24 feet in width but not greater than 36 feet in width.

(C) No use may access a public street where, at the point of access, the use is not a permitted use on the side of the street to which the use is accessing.

(Prior UDO, § 10.2) Penalty, see § 153.999

§ 153.187 OFF-STREET LOADING REQUIREMENTS.

(A) *Purpose.* In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in the streets, the off-street loading requirements set forth in § 153.186 will apply in all zoning districts except the C-B District. These requirements will apply to new structures and uses and to additions to existing structure and uses. (Also see § 153.185(E)(5).)

(B) *Minimum off-street loading space requirements.* The following minimum loading space requirements shall apply for the appropriate use

(1) *Office, restaurant, hotel or motel uses.*

Gross Floor Area (Sq. Ft.)	Minimum Number of Loading Spaces
0 - 5,000	None
5,001 - 49,000	1
50,000 - 99,000	2
100,000 - or more	2 plus 1 for each 100,000 sq. ft. in excess of 100,000 sq. ft.

(2) *Other commercial establishments, shopping centers or industrial uses.*

Gross Floor Area (Sq. Ft.)	Minimum Number of Loading Spaces
0 - 5,000	None
5,001 - 19,999	1
20,000 - 49,999	2
50,000 - 79,999	3

80,000 - 99,999	4
100,000 - 149,000	5
150,000 - or more	5 plus 1 for each 50,000 sq. ft. of gross floor area in excess of 150,000 sq. ft.

(C) *Design of loading spaces.*

(1) Off-street loading spaces must be designed and constructed so that all maneuvering to park and unload vehicles for loading and unloading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as not to interfere with the normal movement of vehicles and pedestrians on public rights-of-way. Where feasible, off-street loading shall be located in the rear yard.

(2) Each loading berth shall have a paved surface and be a minimum of 12 feet in width and 35 feet in length. Each berth shall also have a minimum vertical clearance of 14 feet. For any use which is required to furnish three or more loading berths, at least one of every three berths shall have a minimum width of 12 feet, minimum length of 65 feet and a minimum vertical clearance of 14 feet.

(Prior UDO, § 10.3) Penalty, see § 153.999

§ 153.188 OFF-STREET PARKING FOR NONRESIDENTIAL USES IN RESIDENTIAL ZONES.

This section applies to off-street parking in support of any principal use not specifically listed as a permitted use or use subject to prescribed standards in a Residential (R) District. Off-street parking in support of any principal use listed as permitted or subject to prescribed standards in a Residential (R) District is allowed as a customary accessory use.

(Prior UDO, § 10.4) (Ord. passed - -) Penalty, see § 153.999

ZONING ADMINISTRATION

§ 153.255 ADMINISTRATOR.

(A) *Generally.* The provisions of this subchapter shall be administered by the Administrator and any other officials designated by the City Council for the Administration of this chapter.

(B) *Zoning inspection; duties specified.* If the Administrator shall find that any of the provisions of this chapter are being violated, he or she shall cause notification, in writing, to the owner of the property upon which the violation is located, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He or she shall order discontinuances of illegal uses of land, buildings or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this chapter to ensure its compliance.

(C) *Zoning permit and other development approval.*

(1) *Generally.*

(a) These regulations govern the development and use of all land and structures in the City of Lincolnton planning jurisdiction. No building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of these regulations for the district in which it is located and other applicable regulations, except as otherwise provided by these regulations.

(b) No person shall commence or proceed with development without first securing any required development approval from the city. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable state and local laws. The city may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

(c) In accordance with G.S. § 160D-403, applications for zoning permits and other development approvals must be made by a person with a property interest in the property or a contract to purchase the property (the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner). An easement holder may also apply for development approval for such development as is authorized by the easement.

(d) No building, sign (except as otherwise indicated) or other structure shall be erected, moved or extended or enlarged or structurally altered; nor shall any building, sign or other structure be repaired exceeding \$1,000 of market value of the repairs, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Administrator has issued a zoning permit for the work or change in use, in accordance with a fee schedule established by the City Council.

(2) *Exceptions.* Provided however, except in the HO-Historic Overlay District, the following structures shall not require zoning permits:

- (a) Signs listed under § 153.166 of this chapter;
- (b) Construction of public utility lines (gas, electric, water, sewer, cable TV);

(c) Erection of a customary residential use television or FM radio reception antenna; and

(d) Rural mail boxes or roadside newspaper boxes.

(3) *Expiration of zoning permit and other development approval.*

(a) Except as provided in §§ 153.316 and 153.345 through 153.354 of this chapter or other specific applicable law or a different period is provided by a quasi-judicial development approval, any zoning permit and any other form of development approval issued in accordance with this chapter will expire one year after date of issuance if the work authorized by the zoning permit or other form of development approval has not been substantially commenced.

(b) Unless provided otherwise by this chapter or other specific applicable law or a longer period is provided by local ordinance, if after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this division shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this division shall be deemed to limit any vested rights secured under G.S. § 160D-108.

(c) Once a zoning permit or other form of development approval has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit or other required development approval has been issued.

(4) *Records.* The Zoning Officer shall maintain a record of all zoning permits on file at his or her office, and copies shall be made available on request to interested parties.

(5) *Conditions for approval.*

(a) Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement and construction set forth in the approved plans and applications.

(b) Use, arrangement or construction that materially differ from that authorized shall be deemed a violation of this chapter and shall be punishable as indicated under § 153.999 of this chapter.

(c) After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained.

(d) Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this chapter attach to and run with the land.

(Prior UDO, § 14.1) (Ord. passed - -) Penalty, see § 153.999

§ 153.256 CERTIFICATE OF COMPLIANCE.

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of compliance has been issued by the Administrator or his or her designee. Any certificate of compliance issued shall state that the structure is in compliance with the information stated on the zoning permit. A certificate of compliance shall not be issued unless the proposed use of the structure conforms to the applicable provisions of this chapter. If the certificate of compliance is denied, the Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates of compliance shall be kept on file in the office of the Administrator and copies shall be furnished, on request to all interested parties.

(Prior UDO, § 14.2) Penalty, see § 153.999

§ 153.257 DESIGNATION OF CLASS A STATUS FOR PLACEMENT OF MANUFACTURED HOMES ON INDIVIDUAL LOTS.

Prior to the issuance of a zoning permit for the placement of a Class A manufactured home on an individual lot the applicant must request a designation of Class A status from the Administrator. In determining whether the proposed manufactured home, when placed on the lot, will meet the requirements for Class A manufactured homes, the applicant shall furnish information as the Administrator may request in order to make the determination. The information may include, but shall not be limited to manufacturer's specifications and drawings, photographs, site plan and elevation drawings. Prior to issuance of a certificate of occupancy by the County Building Inspections Department, the owner shall obtain a certificate of compliance as issued by the Administrator who shall inspect the manufactured home and determine that it meets all the requirements for a Class A manufactured home.

(Prior UDO, § 14.3) Penalty, see § 153.999

§ 153.258 SITE PLAN REVIEW REQUIREMENTS.

(A) *Statement of intent.* The purpose of these requirements is to promote the orderly development of certain activities in the city and to ensure that the activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this chapter, site plans for certain uses of land shall be submitted to and reviewed by the Administrator.

(B) *Development and uses requiring a site plan.*

(1) Site plan review shall be required for all uses and development other than one- or two- family residential uses and

the accessory structures.

(2) Provided however, the Administrator may waive site plan requirements in either of the following cases when it is determined that the submission of a site plan would serve no useful purpose:

(a) Accessory structures;

(b) Any enlargement of a building by less than 33% of the existing size provided the enlargement will not result in a requirement for additional parking;

(c) A change in use where no changes are being made to the building coverage area, off-street parking area or other external site characteristics; and

(d) Review by the Staff Review Committee may not be required for new construction with a gross floor area of less than 5,000 square feet when the Administrator feels that site plan review would serve no useful purpose. Nevertheless, all site plans shall be reviewed by the Administrator as required in divisions (C) and (D) below of this section within five working days from the date of submittal.

(C) *Procedure for preparation.*

(1) Site plan or any portion thereof shall be prepared by an engineer, architect, landscape architect or land surveyor who is authorized by the state to practice as such;

(2) Site plans shall be prepared to a scale of one inch equals 50 feet or larger;

(3) A site plan may be prepared in one or more sheets to show clearly the information required by this section and to facilitate the review and approval of the site plan;

(4) All horizontal dimensions shown on the site plan shall be in feet;

(5) Decimal fractions of a foot shall be to the closest one-hundredth of a foot and all bearings shall be indicated in degrees, minutes and seconds;

(6) Every site plan shall show the name and address of the owner or developer, the north arrow, the date, the scale of the drawing and the number of sheets. In addition, it shall reserve a blank space three inches wide by five inches long for city use; and

(7) Five paper copies and one digital copy of the site plan shall be submitted to the Administrator for review. The Administrator may request additional copies for outside agency review.

(D) *Required information on site plans.* All site plans shall contain the following information:

(1) Location of the tract on an inset map at a scale of not less than one inch equal to 2,000 feet indicating the scale, the north-arrow and information such as the names and numbers of adjoining roads, streams, subdivisions or other landmarks, sufficient to clearly identify the location of the property;

(2) A boundary survey of the tract by bearings and distances certified by a licensed land surveyor or engineer;

(3) The location and dimensions of any sidewalks and curbs and gutters to be installed along public street frontages;

(4) All existing property lines; existing streets and easements, the names, numbers and widths; the location and size of existing sanitary and storm sewers, gas lines, water mains, culverts and other utilities and the easements; existing buildings; existing watercourses; and any other prominent physical features on or adjoining the tract;

(5) Existing zoning and zoning district boundaries on the tract and on adjoining properties;

(6) The present use of all adjoining properties;

(7) Existing topography with contours drawn at two-foot intervals. This requirement for topography information may be waived by the Administrator for developments smaller than one acre in size and where he or she determines that there are insufficient topography changes to make the information necessary;

(8) Proposed changes in zoning, if any;

(9) The proposed location, general use, number of floors, height and floor area for each building, and, where applicable, the number, size and type of dwelling units;

(10) All off-street loading spaces, parking and walkways indicating the type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided;

(11) All proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to city or other utility systems; all proposed gas lines and other utilities and the easements;

(12) The location, dimensions and character of construction of proposed streets, alleys, driveways and the location, type and size of vehicular entrances to the site;

(13) Proposed finished grading at two-foot intervals and/or by spot elevations. This requirement may be waived in the same manner as in division (D)(7) above;

(14) Provisions for the adequate disposition of natural and stormwater indicating location, and stormwater indicating location, sizes, types and grades of ditches, catch basins, pipes, retention facilities and connections to existing drainage systems or suitable outlet;

(15) Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction;

(16) Delineation of any flood hazard areas as shown on the city's FEMA maps;

(17) Location, type, size and height of fencing, retaining walls and screen planting where required under the provisions of this or any other city ordinance;

(18) The location of wooded areas on the property and the location of trees and wooded areas that will be retained;

(19) The location and dimensions of proposed recreation areas, open space and required amenities and improvements;

(20) The location, character, size, height and orientation of proposed signs and outdoor lighting systems; and

(21) Manufacturing, refining, processing and assembly type land uses shall provide the following additional information:

(a) Water usage information including estimated short term and long term water usage projections, total gallons per day usage, maximum gallons per minute and duration of maximum gallons per minute.

(b) Water pressure requirements to accommodate the proposed use including the requested maximum and minimum pressure needs.

(c) Water pressure requirements to accommodate fire suppression system, if applicable, including maximum and minimum pressure requested and gallons per minute draw.

(d) Wastewater discharge information including estimated short term and long term wastewater discharge projections, total maximum discharge, time and duration of discharge and average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(e) Traffic volumes generated by the existing and proposed development, including the morning peak, afternoon or evening peak and average daily traffic levels based on the latest edition of the ITE Trip Generation Manual. In the event the projected traffic volumes are likely to significantly impact the street network, a traffic impact analysis of the proposed development may be required.

1. Generally, a traffic impact analysis may be required whenever a development is expected to generate 100 or more new inbound or outbound trips during the peak hours. Even if the development does not generate the threshold level of trips, a traffic impact analysis may still be necessary under the following conditions:

- a. High traffic volumes on surrounding roads that may affect movement to and from the proposed development;
- b. High accident locations in the vicinity;
- c. Lack of existing turn lanes on the adjacent roadway at the proposed access drive(s);
- d. Inadequate sight distance at access points; or
- e. The proximity of the proposed access points to other existing drives or intersections.

2. The traffic impact analysis shall be prepared under the direct charge of and sealed by a licensed North Carolina professional engineer with expertise in traffic engineering; and

3. The traffic impact analysis shall conform with the NCDOT Policy on Street and Driveway Access to North Carolina Highways, Chapter 5 or as determined by city staff.

(E) *Compliance with other requirements.* All features and elements of the site plan shall in all respects conform to all applicable provisions and standards of the General Statutes of the state; the ordinances of the city; and the standards and requirements of the State Department of Transportation and the State Department of Health and Environment.

(F) *Procedure for processing.*

(1) The Administrator shall review all site plans submitted to him or her. The Administrator shall verify the completeness and compliance of the site plan and circulate the site plan to the relevant city, county and state agencies and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended.

(2) The reviewing agencies and officials may include, but need not be limited to:

- (a) City Director of Public Works and Utilities;
- (b) City Engineer;
- (c) City Fire Department;
- (d) City Police Department;

- (e) County Planner;
- (f) Superintendent of County Schools;
- (g) County Health and Environmental Health Departments;
- (h) State Department of Transportation;
- (i) State Department of Health and Environment; and
- (j) U.S. Soil Conservation Services, District Office.

(3) Except under abnormal circumstances, within 21 days of the receipt of the site plan the Administrator shall approve, approve subject to conditions or disapprove the site plan and notify the applicant in writing of the action taken. In cases when the site plan approval is subject to conditions or when the site plan is denied approval, the Administrator shall set forth in writing any conditions or changes that might make the site plan acceptable.

(4) An applicant may appeal any decision of the Administrator in accordance with §153.276 of this chapter.

(Prior UDO, § 14.4) (Ord. ZTA-2-2014, passed 7-10-2014; Ord. O-5-23, passed 4-6-2023) Penalty, see § 153.999

§ 153.259 [RESERVED].

§ 153.260 [RESERVED].

§ 153.261 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint stating fully the cause and basis thereof shall be filed with the Administrator who shall properly record the complaint, immediately investigate, and take action as provided by this chapter.

(Prior UDO, § 14.7)

§ 153.262 VIOLATIONS.

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this subchapter and by state law:

(A) *Development without permit.* A "development without a permit" violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of this chapter without required permits, certificates or other forms of authorization as set forth in this chapter. A "development without a permit violation" shall result in the assessment of a fee that is double the normal permit fee.

(B) *Development inconsistent with permit.* A "development inconsistent with a permit" violation means to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

(C) *Violation by act or omission.* A "violation by act or omission" means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the City Council or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

(D) *Use in violation.* A "use in violation" means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this chapter, or any other regulation made under the authority conferred thereby.

(E) *Subdivide in violation.* A "subdivide in violation" means to subdivide land in violation of this chapter or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this chapter and recorded in the Lincoln County Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this chapter.

(F) *Continue a violation.* Each day's violation of any provision of this chapter is a separate and distinct offense.

(Ord. O-5-23, passed 4-6-2023)

§ 153.263 ENFORCEMENT INTENT.

It is the intention of this chapter, unless otherwise provided, that all questions arising in connection with the enforcement of this chapter shall be presented first to the UDO administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the UDO Administrator's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law and must be filed with the City Clerk within the 30-day appeal period described in section 153.268(B). It is further the intention of this chapter that the duties of the City Council in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

(Ord. O-5-23, passed 4-6-2023)

§ 153.264 ENFORCEMENT PROCEDURES.

When the UDO Administrator (or agent of) finds a violation of this chapter or receives a complaint alleging a violation of this chapter, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

(A) *Notice of violation.* If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the UDO Administrator shall give the owner or occupant written notice, by certified or registered mail, to the last known address or by personal service or by posting notice of the violation conspicuously on the property:

- (1) That the land, building, sign, structure, or use is in violation of this chapter;
- (2) The nature of the violation, and citation of the section of this chapter violated; and
- (3) The measures necessary to remedy the violation.

(B) *Appeal.* Any owner or occupant who has received a notice of violation may appeal in writing the decision of the UDO Administrator to the Board of Adjustment, in accordance with the provisions of § 153.275, within 30 days following the date of the notice of violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the notice of violation. In the absence of an appeal, the remedies and penalties sought by the UDO Administrator in the notice of violation shall be final.

(C) *Order of corrective action.* If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this chapter, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

(D) *Failure to comply with an order.* If the owner or occupant of a property fails to comply with a notice of violation from which no appeal has been taken, or an order of corrective action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and § 153.265. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

(Ord. O-5-23, passed 4-6-2023)

§ 153.265 PENALTIES AND REMEDIES.

Any one or all of the following procedures may be used to enforce the provisions of this chapter:

(A) *Injunction.* Any violation of this chapter or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceedings pursuant to state law.

(B) *Civil penalties.* Any person who violates any provisions of this chapter shall be subject to the assessment of a civil penalty under the procedures provided in § 153.266.

(C) *Denial of permit or certificate.* The UDO Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, certificate or other authorization previously granted.

(D) *Conditional permit.* The UDO Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the City Attorney.

(E) *Revocation of permits.* In accordance with § 153.267, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(F) *Criminal penalties.* Any violation of this chapter shall be a misdemeanor or infraction as provided by G.S. § 14-4.

(G) *State and common law remedies.* In addition to other enforcement provisions contained in this chapter, the City Council may exercise any and all enforcement powers granted to it by state law or common law.

(Ord. O-5-23, passed 4-6-2023)

§ 153.266 CIVIL PENALTIES; ASSESSMENT AND PROCEDURES.

(A) *Penalties.* Any person who violates any provisions of this chapter shall be subject to assessment of the maximum civil penalty allowed by law.

(B) *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with § 153.264(A). If after receiving a notice of violation under § 153.264(A), the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the manner of a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

(C) *Responsible parties.* The owner or occupant of any land, building, structure, sign, or use of land or part thereof and

any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this chapter may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(D) *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(E) *Demand for payment.* The UDO Administrator shall make a written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

(F) *Nonpayment.* If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the general courts of justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the UDO Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to G.S. § 14-4.

(Ord. O-5-23, passed 4-6-2023)

§ 153.267 PERMIT REVOCATION.

(A) *General.* A zoning or sign permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the approved plans, the requirements of this chapter, or any additional requirements lawfully imposed by the permit-issuing board. No person may continue to make use of land or buildings in the manner authorized by any zoning or sign permit after such permit has been revoked in accordance with this section.

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

(Ord. O-5-23, passed 4-6-2023)

§ 153.268 JUDICIAL REVIEW.

(A) *Appeal to Superior Court.* Every decision of the City Council granting or denying a final decision of the Board of Adjustment shall be subject to review by the Superior Court of Lincoln County by proceedings in the nature of certiorari.

(B) *Timing of appeal.* The petition for the writ of certiorari must be filed with the Lincoln County Clerk of Court within 30 days after the later of the following occurrences:

(1) A written copy of the City Council's or Board of Adjustment's decision has been filed in the office of the UDO Administrator.

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

(3) A copy of the writ of certiorari shall be served upon the City of Lincolnton.

(Ord. O-5-23, passed 4-6-2023)

BOARD OF ADJUSTMENT

§ 153.275 POWERS, DUTIES AND PROCEDURES.

(A) *Generally.* The Board of Adjustment shall have all the powers and duties authorized by G.S. § 160D-302, and in the manner provided for in this chapter. Generally, the powers and duties shall include, but not be restricted to the following:

- (1) Hearing and deciding all appeals from decisions made by the Administrator or the Historic District Commission;
- (2) Hearing and deciding all appeals for an interpretation of these zoning regulations;
- (3) Hearing and granting variances from the provisions of this chapter;
- (4) Hearing applications to replace, change the use of or expand nonconformities; and
- (5) Hearing and granting permits for certain temporary structures and uses as set forth in §153.053 of this chapter.

(B) *Establishment of the Board of Adjustment.*

(1) A Board of Adjustment is hereby established. The Board shall consist of four regular members appointed by the City Council who reside inside the corporate limits of the city and one regular member appointed to the Board by the County Board of Commissioners as the representative of the extraterritorial jurisdiction, the extraterritorial representative being a resident of the area. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Each member shall be paid at the rate as set forth in the fee schedule per meeting attended and may be reimbursed for any expenses incurred while representing the Board.

(2) Two alternate Board of Adjustment members shall be appointed by the City Council. The members shall serve in the absence of regular Board of Adjustment members. The alternate members shall be appointed in the same manner as regular members. The alternate members, while attending any regular meeting of the Board and serving in the absence of a regular member, shall exercise all of the powers and duties of the regular member so absent.

(3) The alternate members shall reside inside the city's corporate limits and shall be appointed by the City Council. Alternate members shall be compensated in the same manner as regular members.

(Prior UDO, § 15.1) (Ord. ZTA-3-2013, passed 10-3-2013; Ord. passed - -)

§ 153.276 ADMINISTRATIVE REVIEW.

(A) The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by the Administrator or the Historic District Commission and apply the interpretation to particular fact situations. In addition, the Administrator may ask the Board of Adjustment to make an interpretation of this chapter.

(B) The Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed or make an interpretation or determination with reference to the appeal.

(C) Any person who has standing under G.S. § 160D-1402(c) or the city may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Administrator in accordance with § 153.280. The notice of appeal shall state the grounds for the appeal.

(D) The Administrator shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. In the absence of evidence to the contrary, notice by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(E) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(F) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the Administrator. Posting of signs is not required.

(G) The Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(H) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Administrator certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this chapter shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications affected by the issue being appealed.

(I) The Administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

(J) When hearing an appeal pursuant to G.S. § 160D-947(a) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. § 160D-1402(j).

(K) The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.

(Prior UDO, § 15.2) (Ord. ZTA-3-2013, passed 10-3-2013; Ord. passed - -)

§ 153.277 VARIANCES.

(A) When practical difficulties, special conditions or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this chapter relating to the construction or alteration of buildings or structures or the use of land. Waivers and modifications associated with the approval of a subdivision plat shall be subject to the provisions of § 153.378 *Waivers and Modifications*,

rather than this section.

(B) The request for a variance for a use expressly, or by inference, prohibited in the district involved, shall not be granted.

(C) The Board of Adjustment may grant a variance only after having first held a public hearing on the matter. When unnecessary hardships would result from carrying out the strict letter of these zoning regulations, the Board of Adjustment shall vary any of the provisions of the zoning regulations upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the zoning regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance, such that public safety is secured and substantial justice is achieved.

(D) The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this chapter provided the conditions are reasonably related to the variance. Violation of the conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in § 153.999 of this chapter.

(E) Unless otherwise authorized by the Board of Adjustment, any order of the Board of Adjustment in granting a variance shall expire 1 year from the date of the Board of Adjustment's decision if required permits have not been obtained within the 1-year time frame.

(F) If the variance has expired, the Zoning Administrator shall have the authority to either:

(1) Issue the permit if the Zoning Administrator determines that, based upon the Board's decision, the circumstances for the granting of the variance have not changed and no changes to the ordinance would affect that decision; or

(2) Advise the applicant to reapply for a variance to be heard by the Board of Adjustment.

(Prior UDO, § 15.3) (Ord. ZTA-3-2013, passed 10-3-2013; Ord. passed - - ; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.278 RELIEF TO DIMENSIONAL REGULATIONS FOR AUTHENTIC RESTORATION OR RECONSTRUCTION OF OFF-STREET PARKING REQUIREMENTS IN AN HO HISTORIC OVERLAY DISTRICT.

See §§ 153.122(E) and 153.122(F) of this chapter.

(Prior UDO, § 15.4) (Ord. ZTA-3-2013, passed 10-3-2013)

§ 153.279 NONCONFORMITIES.

(A) The Board of Adjustment shall hear and decide appeals from any land owner:

- (1) To make a change in use of a nonconforming use;
- (2) To replace a nonconforming use or structure which has been destroyed;
- (3) To make a change in location of a nonconforming use of land; or
- (4) For a special exception to allow an expansion of a nonconforming use.

(B) The Board of Adjustment may only grant a change in nonconforming use, replacement of a nonconforming use which has been destroyed, or change in location of a nonconforming use of land after having first held a public hearing and having determined that:

(1) (a) The change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation;

(b) The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and

(2) The decision to grant the change will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

(C) The Board of Adjustment, in granting the changes, may prescribe appropriate conditions and safeguards in conformity with this chapter in order to conform with divisions (B)(1) and (B)(2) above. Violation of the conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this chapter

and shall be punishable as prescribed in § 153.999 of this chapter.

(D) The Board of Adjustment may grant a special exception for the expansion of a nonresidential nonconforming use or enlargement of a structure housing the nonconforming use only after having first held a public hearing and having determined each of the following in the affirmative:

- (1) The nonconforming use will not occupy any additional lands beyond the boundaries of the lot on which the nonconforming use was located as of the date the use became nonconforming. The lot boundaries used to determine this were those existing at the time the use became nonconforming;
- (2) The enlargement of any structure(s) or construction of additional structure(s) housing the nonconforming use will not result in a cumulative increase in total square footage of the building(s) greater than 50% of the total building square footage involved with the nonconforming use at the time of the first application for expansion pursuant to this section, or, a cumulative total increase of 1,000 square feet greater than that existing at the time of first application for the expansion, whichever is greater;
- (3) If a change in use is involved, findings in the affirmative have been made pursuant to division (B) above of this chapter;
- (4) The application does not involve any increase of size or height of any signage;
- (5) There will be no odors, light emission (other than that equivalent to street lighting and/or lighting from any signage normally allowed in the N-B District), noises, vibrations or interference in radio or television detectable from the property boundary without instruments;
- (6) In consort with the expansion, the entire nonconforming use will be screened on all sides in accordance with § 153.046(C) of this chapter. Walls or fences will be permitted only as necessary to reach the required height or opacity and where the structures are used they shall be accompanied by as much planted materials as feasible. Where the nature of the nonconforming use requires substantial street exposure along a major street part or the Board of Adjustment may waive all of the screening along the street. If the screening is waived, four street trees per 100 linear feet of street frontage shall be provided in lieu of the screening;
- (7) Adequate provision and arrangement has been made or will be made concerning the following, where applicable:
 - (a) Access roads or entrance or exit drives with respect to matters such as automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and other emergency;
 - (b) Off-street parking and loading areas where required and refuse and other service areas with respect to the impact upon the consideration in division (D)(7)(a) immediately above and the economic, noise, glare, odor and other impacts on adjoining properties and properties in the general neighborhood; and
 - (c) Utilities, water, sewerage, schools, fire and police protection, and other necessary public and private services and facilities with respect to its location, availability and compatibility.
- (8) The use has been and will remain to be maintained in a manner that does not create a nuisance to neighboring properties;
- (9) The use will not materially endanger the public health or safety if allowed to expand as proposed and developed according to plan;
- (10) The proposed expansion together with mitigation plans (such as screening) would be at least equally suitable and appropriate for the lot(s) on which it is located as the existing situation;
- (11) The proposed expansion, together with the mitigating measures would have a no more harmful effect than the existing situation on the properties surrounding the lot(s) in questions;
- (12) The use is not a nonconforming use subject to removal after a given period of time (i.e., amortization); and
- (13) These uses include certain manufactured home parks, certain junkyards and certain signs.

(E) The Board of Adjustment, in granting an expansion pursuant to division (D) above may prescribe appropriate conditions and safeguards in conformity with this chapter in order to conform to division (D) above. Violation of the conditions and safeguards when made a part of the terms upon which the expansion was granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in § 153.999 of this chapter.

(Prior UDO, § 15.5) (Ord. ZTA-3-2013, passed 10-3-2013) Penalty, see § 153.999

§ 153.280 APPLICATION PROCEDURE.

The following regulations apply to all applications submitted to the Board of Adjustment.

(A) Before a petition for an administrative appeal, interpretation, variance, relief under § 153.278 or for any permissions under §§ 153.053 or 153.279 shall be heard and a public hearing conducted by the Board of Adjustment, a completed application shall be submitted to the Administrator along with a fee in accordance with fee schedule established by the City Council. The fee shall be waived for any petition initiated by the Administrator or other official of the city who initiates a request on behalf of the city. A map clearly identifying the subject property and all contiguous pieces of properties shall

accompany the application. In addition, the applicant shall provide a list of names and addresses of the owners of the properties, obtained from the most recent official tax records.

(B) The Board of Adjustment shall hold a public hearing on an application no later than 60 days after the completed application has been filed with the Administrator. The Board of Adjustment shall decide on the matter that was presented at the public hearing within 31 days of the close of the public hearing. The decision of the Board of Adjustment shall be in writing and signed by the chair or other duly authorized member of the Board. The decision is effective upon filing the written decision with the clerk to the Board. The decision shall be sent by first class mail to the applicant, property owner and to any person who has submitted written request for a copy, prior to the date the decision becomes effective by the Administrator within five working days after the Board of Adjustment has made a determination on the application. The Administrator shall certify that proper notice has been made.

(C) The city shall give notice of all public hearings. The notice shall become a part of the record of the proceedings of the Board of Adjustment. Notice shall be given in the following manner.

(1) The city shall send notices by first class mail to the applicant, to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to owners of all contiguous pieces of property at least ten working days, but not more than 25 days, prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice.

(2) Notice shall also be posted by the Administrator in a conspicuous location in the City Hall at least ten working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

(3) A conspicuous sign shall also be placed by the city in a conspicuous location on the subject property(ies) indicating the nature of the public hearing and date, time and place at which it is to occur. The sign shall be placed on the property(ies) at least ten working days but not more than 25 days, prior to the hearing.

(4) The applicant, the city, and any person who would have standing to appeal the decision under G.S. § 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full Board.

(D) The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this provision, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.

(Prior UDO, § 15.6) (Ord. ZTA-3-2013, passed 10-3-2013; Ord. passed - -) Penalty, see § 153.999

§ 153.281 APPEALS FROM THE BOARD OF ADJUSTMENT.

(A) (1) An application for a rehearing shall be made in the same manner as provided for in the original hearing within a period of 15 days after the date of the Board of Adjustment's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. The Board of Adjustment shall deny a rehearing, if, in its judgment, the change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding a rehearing. Approval of the consideration shall, however, require an affirmative vote of at least three voting members. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.

(2) Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application shall not be accepted for hearing for a period of one year after the date of denial of the original application.

(B) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. § 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with § 153.280(B). When first class mail is used to deliver notice, three days shall be added to the time to file the petition.

(Prior UDO, § 15.7) (Ord. ZTA-3-2013, passed 10-3-2013; Ord. passed - -)

HISTORIC DISTRICT COMMISSION

§ 153.295 CREATION.

(A) There is hereby established the city's Historic District Commission, hereafter referred to as the Historic District Commission or Commission, to consist of five regular members and two alternate members. Members are appointed by the City Council. The Commission shall serve without compensation.

(B) Alternate members shall serve in the absence of regular Commission members. The alternate members, while attending any regular or special meeting of the Commission and serving in the absence of any regular member, shall exercise all of the powers and duties of the regular member so absent. No member or alternate member of the Historic District Commission shall vote on any matter concerning an application for a certificate of appropriateness unless that member or alternate shall have been present during the hearing and deliberation concerning the application.

(Prior UDO, § 16.1)

§ 153.296 TENURE.

(A) Members of the Historic District Commission shall serve overlapping terms of two alternate members. Members are appointed by the City Council. The Commission shall serve without compensation.

(B) Alternate members shall serve in the absence of regular Commission members. The alternate members, while attending any regular or special meeting of the Commission and serving in the absence of any regular member, shall have exercised all of the powers and duties of the regular member so absent. No member or alternate member of the Historic District Commission shall vote on any matter concerning an application for a certificate of appropriateness unless that member or alternate shall have been present during the hearing and deliberation concerning the application.

(Prior UDO, § 16.2)

§ 153.297 QUALIFICATIONS.

All members of the Historic District Commission shall be residents of the territorial zoning jurisdiction of the city and a majority of the regular members and both of the alternate members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

(Prior UDO, § 16.3)

§ 153.298 MEETINGS.

The Historic District Commission shall establish a meeting time, and shall meet at least quarterly and more often as it shall determine and require. All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the State Open Meetings Law (G.S. Chapter 143, Article 33C).

(Prior UDO, § 16.4)

§ 153.299 ATTENDANCE OF MEETINGS.

Any member of the Historic District Commission who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission and shall be replaced or re-appointed by the City Council. Absence due to sickness, death or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Commission except that in the event of a long illness or other cause for prolonged absence, the member shall be replaced.

(Prior UDO, § 16.5)

§ 153.300 RULES OF PROCEDURE.

The Historic District Commission shall adopt and make available to the public rules of procedure for the conduct of its business.

(Prior UDO, § 16.6)

§ 153.301 ANNUAL REPORT, REQUIRED.

An annual report shall be prepared and submitted by March 1 of each year to the City Council. The report shall include a comprehensive and detailed review of the activities, problems and actions of the Commission, as well as any budget requests and/or recommendations.

(Prior UDO, § 16.7)

§ 153.302 MEETING MINUTES.

(A) The Commission shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions.

(B) The minutes of the Commission shall be a public record.

(Prior UDO, § 16.8)

§ 153.303 COMMISSION POWERS.

(A) *General responsibilities of the Commission.* The Commission shall seek to promote, enhance and preserve the

character of the Historic District provided the Commission shall not require the reconstruction of individual or original buildings or structures or portions thereof.

(B) *Specific authority and powers.* The Historic District Commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and G.S. Chapter 160D, Article 9, Part 4, including but not limited to the following:

- (1) To recommend to the Planning Board districts or areas to be designated by ordinance as "Historic District" and individual structures, buildings, sites, areas or objects to be designated by ordinance as "landmarks;"
- (2) To recommend to the Planning Board that designation of any district or area as a Historic District be revoked or removed;
- (3) To consider and grant or deny applications for certificates of appropriateness in accordance with §153.122 of this chapter;
- (4) To give advice to property owners concerning the treatment of the historical and visual characteristics of the properties located within the District, such as color schemes, gardens and landscape features and minor decorative elements;
- (5) To propose to the City Council changes to this or any related ordinance and to propose new ordinances or laws relating to the Historic District or relating to the total program for the development of the historical resources of the city and its environs;
- (6) To cooperate with other city boards or commissions or with agencies of the city or other governmental units; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest;
- (7) To publish information about, or otherwise inform the owners of property within the District, of any matters pertinent to its duties, organization, procedures, responsibilities, functions or requirements;
- (8) To undertake programs of information, research or analysis relating to any matters under its purview;
- (9) To report violations of this chapter or related ordinances to the local official responsible for enforcement;
- (10) To assist the city staff in obtaining the services of consultants to aid in carrying out programs of research or analysis;
- (11) To accept funds granted to the Commission from private or nonprofit organizations;
- (12) To contract, with the approval of the City Council, for services or funds from the state and agencies or departments of the United States government;
- (13) To recommend to the City Council and the state structures, sites, objects or districts worthy of national, state or local recognition;
- (14) To initiate and participate in negotiations with owners and other parties in an effort to find means of preserving buildings scheduled for demolition;
- (15) To establish guidelines under which the Administrator or his or her designee may approve minor modifications on behalf of the Commission. No application shall be denied without first being considered by the Commission;
- (16) To conduct public hearings on applications for certificates of appropriateness where the Commission deems that a hearing is necessary;
- (17) To organize itself and conduct its business by whatever legal means it deems proper and in accordance with its Rules of Procedure;
- (18) Undertake an inventory of properties of historical, pre-historical, architectural and/or archaeological significance;
- (19) Recommend to the City Council that designation of any area as a historic district or part thereof or designation of any building, structure site, area or object as a landmark, be revoked or removed for cause;
- (20) Conduct an educational program with respect to historic districts and properties within its jurisdiction;
- (21) Prepare and recommend the official adoption of a preservation element as part of the city's comprehensive land use plan; and
- (22) To exercise other powers and perform other duties as are required or allowed elsewhere by this chapter, the General Statutes of the state or by the City Council.

(Prior UDO, § 16.9) (Ord. passed - -)

AMENDMENTS

§ 153.315 AMENDMENTS TO TEXT AND MAP.

Land use regulations, as contained in this chapter, including zoning district boundaries, may from time to time be amended, supplemented, changed, modified or repealed in the following manner.

(A) *Initiation of application.*

(1) Applications for a change in the chapter text or zoning map may be instituted by the Planning Board, City Council or any person except as provided in G.S. § 160D-601(d) and § 153.315(A) of this chapter.

(2) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, **DOWN-ZONING** means a zoning ordinance that affects an area of land in one of the following ways:

- (a) By decreasing the development density of the land to be less dense than was allowed under its previous usage;
- (b) By reducing the permitted uses of the land that are specified in a zoning

(B) The application for a change in a zoning district shall be made on a form provided by the city.

(1) Each non-contiguous parcel of land for which a rezoning is requested shall be considered as a separate application, and a fee (in accordance with a fee schedule established by the City Council) shall accompany each application. There shall be no fee for applications instituted by the Administrator or any city official acting on behalf of the city.

(2) Each application shall be signed and contain the following information:

(a) Applicant's full name, address and telephone number; the property owner's full name, address and telephone number, if different from applicant;

(b) Applicant's interest in the property; and

(c) If the proposed change would require a change in the zoning map, the current zoning of the property and the type of zoning requested. In addition, the application shall be accompanied by an accurate and scaled diagram showing:

1. All property lines with dimensions, distances of lot from the nearest street intersection and north arrow;
2. Adjoining street rights-of-way and paving widths;
3. Zoning classification of all contiguous lots;

4. The names and addresses of all abutting property owners as shown on the most current records of the County Tax Supervisor's office; and

5. Except for conditional rezonings, neither the Planning Board nor the City Council shall evaluate a rezoning petition based on any specific proposal for the use or development of the property. The petitioner shall refrain from using any graphic materials or descriptions before either body except for those that would apply to any use permitted in the requested zoning district.

(C) The application for a change in the text shall be on a form provided by the city and shall be accompanied by a fee (in accordance with a fee schedule established by the City Council). The application shall contain a reference to the specific section, subsection, paragraph or item proposed for change, as well as the wording of the proposed change.

(D) (1) The Planning Board shall consider no application unless it has been properly completed and submitted to the Administrator, or his or her designee, by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule.

(2) In no case shall the meeting at which the Planning Board initially reviewed the application occur greater than 60 days after the completed application was submitted to the Administrator. The Planning Board shall have 45 days from the date of referral to comment and submit its recommendation to the City Council. If a recommendation is not made during the 45-day period, the application shall be forwarded to the City Council without a recommendation. During the process of reviewing an amendment, the Planning Board must advise the governing board in writing whether the amendment is consistent with the adopted city's land use plan. This can be done as part of the recommendation to the City Council in the staff report or by other means.

(E) If a petition for rezoning is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

(1) Grant the rezoning as requested;

(2) Grant the rezoning with a reduction of the area requested;

(3) Grant the rezoning to more restricted general zoning district or classification(s) (but less restrictive than the existing zoning classification) as shown in division (G) below of this chapter;

(4) Grant the rezoning with a combination of divisions (E)(1), (E)(2) and (E)(3) above; or

(5) Denial of the application request.

(F) If a petition to amend the text of this chapter is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

(1) Adoption of the amendment(s) as written;

- (2) Adoption of the amendment as revised by the Planning Board; or
- (3) Rejection of the amendment.
- (G) The list of all general zoning districts in descending degrees of restrictiveness as follows:

Zoning Districts - Most Restrictive to Least Restrictive
Zoning Districts - Most Restrictive to Least Restrictive
R-25 (most restrictive)
R-15
R-10
R-8
RMF
RO
OI
NB
PB
CBT
CB
GB
GMC

(H) A public hearing shall be held by the Planning Board and by the City Council before adoption of any proposed amendment to this chapter. Notice of each public hearing shall be given as follows:

(1) A notice shall be published in a newspaper having general circulation in the city area once a week for 2 successive weeks, the first notice to be published not less than 10 days nor more than 25 days prior to the date established for the public hearing. In computing the time, the date of publication is not to be included, but the date of the hearing shall be included.

(2) A notice shall be conspicuously placed by the city in the City Hall not less than 10 days nor more than 25 days before the date established for the public hearing.

(3) A conspicuous notice shall be posted by the city in at least 1 conspicuous place on the subject property or on the street right-of-way near the site at least 10 days but not more than 25 days prior to the public hearing. For map amendments that contain multiple parcels, sufficient notice must be posted around the site.

(4) At least 10 days, but not more than 25 days prior to the public hearing, a notice of the proposed zoning change shall be sent by the city by first class mail to the owners of property subject to the proposed rezoning action and to all abutting property owners at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are **ABUTTING** even if separated by a street, railroad, or other transportation corridor.

(5) The first class mail notice cited in division (H)(4) above may not be required if the proposed zoning action involves a zoning map amendment that directly affects more than 50 properties, owned by a total of at least 50 different property owners. In lieu of sending first class mail notice to all the affected and contiguous property owners, the city may elect to publish in a newspaper of local circulation a notice of the public hearing that includes one or more maps showing the boundaries of the area affected by the proposed map amendment. The newspaper notice shall be not less than 1/2 of a newspaper page in size and shall be published once a week for at least 2 consecutive weeks. The notice shall satisfy the 2 advertisements published to satisfy the requirements of division (H)(1) above. Notwithstanding, affected and contiguous property owners who reside outside the circulation area of the newspaper shall be sent first class mail notice of the public hearing per division (H)(4) above.

(I) If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the City Council at least 2 business days prior to the proposed vote on such change, the Clerk shall deliver such written statement to the City Council.

(J) (1) After the City Council public hearing has been conducted and officially closed, the City Council shall render a decision concerning the proposal not later than the next regularly scheduled City Council meeting. The decision of the City Council shall be limited to 1 of the various alternatives listed in divisions (E) and (F) of this chapter. A copy of the City Council's decision shall be sent to the applicant by the Administrator by first class mail within 5 working days after the City Council's decision.

(2) When adopting or rejecting any petition for a zoning map amendment, City Council shall approve a statement analyzing the reasonableness of the proposed rezoning. This statement of reasonableness may consider, among other factors:

- (a) The size, physical conditions, and other attributes of the area proposed to be rezoned;
- (b) The benefits and detriments to the landowners, the neighbors, and the surrounding community;
- (c) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- (d) Why the action taken is in the public interest; and
- (e) Any changed conditions warranting the amendment.

(3) If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map in the approved land use plan, and no additional request or application for a plan amendment shall be required.

(K) City Council members shall not vote on any legislative decision regarding a development regulation adopted pursuant to this chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. City Council members shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For purposes of this section, a **CLOSE FAMILIAL RELATIONSHIP** means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(L) (1) If the City Council has denied an application for the change of any zoning district or change in zoning text, it shall not, thereafter, accept any application for the same or substantively similar change of zoning districts affecting the same property or any portion thereof or for a similar change in the zoning text until the expiration of 1 year from the date of the previous denial.

(2) When a petition for a change in classification zoning is withdrawn prior to it being considered by the City Council, no new petition for any change in zoning classification of the same property or any part thereof may be filed by the petitioner within a period of 90 days immediately following the withdrawal of the petition.

(Prior UDO, § 20.1) (Ord. ZTA-2-2016, passed 6-2-2016; Ord. O-16-17, passed 11-2-2017; Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024; Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

Editor's note:

Supplementary requirements for rezoning petitions to a conditional zoning district are found in §153.316.

§ 153.316 ADDITIONAL PROVISIONS PERTAINING TO CONDITIONAL ZONING AMENDMENTS.

The procedures in this section exist to supplement the procedures set forth in §153.315 of this chapter, to clarify special requirements for conditional rezonings.

(A) *Purpose.* The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community that cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted land use plan, and other plans for the physical development of the city as adopted by the City Council. Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. The review process established herein provides for the accommodation of the uses by a reclassification of property into a conditional district approval process is also established to address those situations when a particular use may be acceptable but the general zoning districts which would allow that use would not be acceptable.

(B) *Reclassification required prior to development.*

(1) In order for a property owner to secure privileges for developing property under the conditional district process, the property must first be rezoned by the City Council to a conditional district. Specific conditions may be proposed by the petitioner or the city, but only those conditions approved by the city and consented to by the petitioner in writing may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, the land use plan or the impacts reasonably expected to be generated by the development or use of the site. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district.

(2) Thus, if a property were rezoned to an NB(CD), that use must:

- (a) Be a use allowed in the NB District; and
- (b) Meet all dimensional, screening and related requirements of the NB District.

(3) Rezoning of property to a conditional district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time. No conditional district shall be established until the owner(s) of the property(ies) in

question (or his or her authorized agent) proposing the district has submitted an application for the rezoning of the property and the City Council has approved the application in accordance with the procedures stated herein.

(C) *Plans and other information to accompany petition.* Every application for the rezoning of property to a conditional district shall be accompanied by a site plan, drawn to scale, and any necessary supporting information together which conform to all the requirements set forth in division (D) below and when requested, the additional information that may be required pursuant to division (A) above.

(D) *Submittal to the Administrator.*

(1) Submittal to the Administrator of an application for a conditional district rezoning shall be in accordance with the schedule set forth in § 153.315(D) of this chapter.

(2) The application for a conditional zoning amendment can only be initiated by the property owner/owners.

(E) *Procedures.* The procedures for requesting rezoning to a conditional district shall be as follows:

(1) 3 copies and a digital version of a completed written application for a conditional district shall be filed with the Administrator. The application shall be submitted on official forms provided by the Administrator and shall be accompanied by the following items:

(a) A scaled boundary survey showing the total acreage, and present zoning classifications for the property(ies) for which the conditional district is sought, date and north arrow. On this survey shall be sketched the information required by this section;

(b) All existing easements, rights-of-way and required setbacks for the lot(s) for which the conditional district is sought;

(c) Proposed use, size, layout and setbacks of all proposed structures and proposed uses of land. For residential uses this shall include the number of units and an outline of the area where all principal and accessory structures will be located. For nonresidential uses, this shall include the approximate gross floor areas of all structures and an outline of the area where the structures will be located;

(d) Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets;

(e) Landscape plan showing proposed screening and landscaping, including location of walls, fences, berms and natural plantings as well as treatment of any existing natural features within the site;

(f) Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps;

(g) Proposed number, size, type and location of freestanding signs;

(h) Proposed phasing, if any, and approximate completion time of the project;

(i) The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties;

(j) A sketch vicinity map with north arrow shall be included showing the relationship between the proposed use and surrounding area; and

(k) Other information as the Planning Board may request as provided for in division (F) below.

(2) No application shall be considered complete unless it contains or is accompanied by all items listed in this section of this chapter and a fee, in accordance with a fee schedule approved by the City Council for the submittal of conditional district applications.

(3) The Planning Board shall consider no application unless it has been properly completed and submitted to the Administrator, or his or her designee, by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule. In no case shall the meeting at which the Planning Board initially reviews the application occur greater than 60 days after the required number of copies of the completed application have been submitted by the applicant to the Administrator.

(4) If the conditional district application is for a property located within an HO-Historic Overlay District the Administrator shall, upon his or her receipt of the application, promptly notify the chairperson of the Historic District Commission and submit copies of the application to the Historic District Commission in order that the Historic District Commission may review and make a recommendation on the application in accordance with § 153.122(G) of this chapter.

(5) The Planning Board shall have a maximum of 45 days from the date at which it initially met to review the application to submit its recommendation to the City Council. If a recommendation is not made during the 45-day period, the application shall be forwarded to the City Council without a recommendation.

(6) (a) When dealing with the conditional district process and with the rezoning of properties to a conditional district, it may be necessary to request information in addition to that listed in this division in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board (and/or City Council) may request additional information of the applicant, as it deems necessary.

(b) A request for additional information shall stay any further consideration of the application by the Planning Board or

City Council. This information may include (but not be limited to) the following:

1. Permanent and construction phase plans for the control of sedimentation and erosion control (for projects subject to State Sedimentation Pollution Control Act) and plans for the control of stormwater drainage and run-off;
2. Existing and proposed topography at 4-foot contour intervals or less;
3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development;
4. Proposed number, type and location of signs; and
5. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:
 - a. Existing traffic conditions within the study area boundary;
 - b. The distribution of existing and proposed trips through the street network;
 - c. Analyses of the capacities of intersections located within the study area boundary;
 - d. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way;
 - e. Other pertinent information, including but not limited to noise, and impacts on air quality and other natural resources; and
 - f. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak and average daily traffic levels.

(F) *City Council decision.*

(1) *Public hearing.* Once a recommendation has been received from the Planning Board, or the 45-day Planning Board review period has expired, the City Council shall hold (after notice) a public hearing concerning the application for a conditional district.

(2) *Special conditions and conditional district.* Specific conditions may be proposed by the petitioner or the city, but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, the land use plan, or the impacts reasonably expected to be generated by the development or use of the site. Prior to approval of a conditional district rezoning, the application shall be subject to all of the procedures and hearing as set forth in divisions (E) and (F) of this section.

(G) *Effect of approval.*

(1) If a petition for a conditional district rezoning is approved under this subchapter, the conditional district that is established and all conditions which may have been attached to the approval are binding on the property as an amendment to these regulations and to the zoning map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional district and all conditions attached to the approval.

(2) Following the approval of the petition for a parallel conditional district, the subject property shall be identified on the zoning map by the appropriate district designation. A parallel conditional district shall be identified by the same designation as the corresponding general zoning district followed by the letters CD (for example, "NB(CD)").

(3) Following the approval of the petition for a conditional district as identified in §§153.123 through 153.129, the subject property shall be identified on the zoning map by the appropriate district designation (PRD, PUD, TND, TID, MHP, or CC).

(H) *Alterations to approval.*

(1) Except as provided in (I) below, changes to the approved conditional district or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the zoning map and shall be processed in accordance with the procedures in this subchapter.

(2) Minor changes in the detail of the approved conditional district that are in accordance with division (J) below may be made with the approval of the Administrator. If multiple parcels of land are subject to a conditional district, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification.

(I) *Change in conditional district.* Once a petition for rezoning to a conditional district has been approved by the City Council, any request to materially change (any change not authorized by division (J)) the conditional district may only be made by the property owner or his or her authorized agent only after a public hearing has been duly advertised and held in accordance with §§ 153.315 and 153.316 of this chapter. Any amendment to the conditional district shall also be subject to the same considerations as set forth in § 153.315(F) of this chapter.

(J) *Binding effect.*

(1) Any conditional district so authorized shall be perpetually binding to the property unless subsequently changed or amended by the City Council.

(2) However, minor changes in the detail of the approved plan which:

(a) Will not alter the basic relationship of the proposed development to adjacent property;

(b) Will not alter the uses permitted or increase the density or intensity of development; and

(c) Will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site may be made with the approval of the Administrator.

(3) The changes shall not be deemed to materially change the conditional district.

(4) An increase in building size not to exceed 10% of the existing floor area on the site or 1,000 square feet of gross floor area on the entire site, whichever is less, and provided the expansion does not violate any of the standards of this chapter, shall be deemed a minor change as described in this chapter.

(K) *Certificate of occupancy.* No certificate of occupancy shall be issued for any building or land use on a piece of property which has been rezoned to a conditional district unless the building is constructed or used, or the land is developed or used, in conformity with the conditional district approved by the City Council. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

(L) *One-year limitation on re-application.* If a request for a conditional district is denied by the City Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of the most recent denial by the City Council. This waiting period shall not be applicable where the application for a conditional district is substantially different from the application that most previously had been denied.

(M) *Change in conditional district.* Any request to materially change (a change other than a minor change as set forth in division (J)) the conditional district once it has been issued by the City Council shall first be reviewed by the Planning Board in accordance with §§ 153.315 and 153.316 of this chapter. The City Council may thereafter change or amend any previously approved conditional district, only after having held a public hearing. Notice of the public hearing shall be in accordance with § 153.315 of this chapter. Amendment by the City Council of a previously issued conditional district shall be subject to the same considerations as provided for in §§ 153.315 and 153.316 of this chapter.

(N) *Review of approval of conditional zoning district.* It is intended that property be reclassified to a conditional district only in the event of firm plans to develop the property. Therefore, no sooner than five years after the date of approval of the petition, the Administrator will examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Administrator determines that progress has not been made in accordance with the approved petition and conditions, the Administrator shall forward to the City Council a report, which may recommend that the property be classified to another district.

(Prior UDO, § 20.2) (Ord. passed - - ; Ord. O-5-2024, passed 6-6-2024) Penalty, see § 153.999

Cross-reference:

Landscaping, see § 153.047

Screening, see § 153.046

LEGAL STATUS PROVISIONS

§ 153.330 CONFLICT WITH OTHER LAWS.

(A) It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. Notwithstanding, whenever the regulations of this chapter require a greater width or size of yards, or other open space, or require a lower height of buildings or fewer number of stories or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute or agreement, the regulations and requirements of this chapter shall govern.

(B) Whenever the provisions of any other statute or agreement require more restrictive standards than are required by this chapter, the provisions of the statute or agreement shall govern except that § 153.315(H)(4) of this chapter shall be construed as written.

(C) This chapter is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the city (adopted by the City Council on November 1, 1990, as amended) and it is not the intention to repeal but rather to re-enact and continue in force the existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the city enacted on November 1, 1990, as amended, which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter but shall be prosecuted to its finality, the same as if this chapter had not been adopted, and any and all violations of the existing zoning ordinance, prosecutions for which have not yet been initiated, may be hereafter filed and prosecuted. Nothing in this chapter shall be construed as to abandon,

abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

(Prior UDO, § 21.1)

§ 153.331 SEPARABILITY.

Should any section or provisions of this chapter be declared by the courts to be unconstitutional or invalid, the declaration shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Prior UDO, § 21.2)

§ 153.332 EFFECTIVE DATE.

This chapter shall take effect and be enforced as of October 7, 2004.

(Prior UDO, § 21.3)

IMPLEMENTATION OF THE STATUTORY VESTED RIGHT PROVISIONS OF G.S. § 160D-108

§ 153.345 PURPOSE.

The purpose of this subchapter is to implement the provisions of G.S. § 160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

(Prior UDO, § 22.1) (Ord. passed - -)

§ 153.346 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The terms of all other words used in this chapter are found in § 153.031.

APPROVAL AUTHORITY. The Lincolnton City Council.

SITE-SPECIFIC VESTING PLAN.

(1) A plan of land development submitted to the city for purposes of obtaining a zoning permit.

(2) Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a **SITE-SPECIFIC VESTING PLAN**.

ZONING VESTED RIGHT. A right pursuant to G.S. § 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. § 160D-108 or under common law.

(Prior UDO, § 22.2) (Ord. passed - -)

§ 153.347 ESTABLISHMENT OF A ZONING VESTED RIGHT.

(A) Zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the City Council as applicable of a site-specific vesting plan, following notice and public hearing.

(B) The City Council may approve a site specific vesting plan upon terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(C) Notwithstanding divisions (A) and (B) above, approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(D) A site-specific vesting plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the city, including, but not limited to, Building, Fire, Plumbing, Electrical and Mechanical Codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested right in accordance with this subchapter.

(F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise the right while applicable.

(Prior UDO, § 22.3) (Ord. passed - -)

§ 153.348 APPROVAL; PROCEDURES AND APPROVAL AUTHORITY.

(A) Except as otherwise provided in this section, an application for site specific vesting plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the City Council for the specific type

of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions of division (A) above, the applicant must request in writing at the time of application that the application be considered and acted on by the City Council following notice and a public hearing as provided in G.S. § 160D-601.

(C) In order for a zoning vested right to be established upon approval of a site specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the city, that a zoning vested right is being sought.

(D) Each map, plat, site plan or other document evidencing a site specific vesting plan shall contain the following notation:

Approval of this plan establishes a zoning vested right under G.S. § 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date).

(E) Following approval or conditional approval of a site specific vesting plan, nothing in this subchapter shall exempt the plan from subsequent reviews and approvals 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.

(F) Nothing in this part shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(Prior UDO, § 22.4) (Ord. passed - -)

§ 153.349 DURATION.

(A) A zoning right that has been vested as provided in this subchapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (B) below. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(B) Notwithstanding the provisions of division (A) above, the approval authority 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 of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific vesting plan is approved.

(C) Upon issuance of a building permit, the expiration provisions of G.S. § 160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(D) In accordance with G.S. § 160D-108, a multiphase development shall be vested for the entire development with the regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this division, **MULTIPHASE DEVELOPMENT** means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(Prior UDO, § 22.5) (Ord. passed - -)

§ 153.350 TERMINATION.

A zoning right that has been vested as provided in this chapter shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

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

(C) Upon findings by the City Council, by ordinance after notice and a public hearing, that natural or manmade 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 vesting plan;

(D) Upon payment to the affected landowner of 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 consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by the action;

(E) Upon findings by the City Council, 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 approval authority of the site specific vesting plan; or

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific vesting plan, in which case the approval authority may modify the affected provisions, upon

a finding that the change in state or federal law has fundamental effect on the plan, by ordinance after notice and a hearing.

(Prior UDO, § 22.6) (Ord. passed - -)

§ 153.351 VOLUNTARY ANNEXATION.

A petition for annexation filed with the city under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160D-108 or G.S. § 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. § 160D-108 or G.S. § 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any zoning vested right shall be terminated.

(Prior UDO, § 22.7) (Ord. passed - -)

Editor's note:

G.S. § 153A.344.1 was repealed by S.L. 2019-111, s. 2.2, as amended by S.L. 2020-3, s. 4.33(a), and S.L. 2020-25, s. 51(a), (b), (d), effective June 19, 2020.

§ 153.352 LIMITATIONS.

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160D-108.

(Prior UDO, § 22.8) (Ord. passed - -)

§ 153.353 REPEALER.

In the event that G.S. § 160D-108 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(Prior UDO, § 22.9) (Ord. passed - -)

§ 153.354 EFFECTIVE DATE.

This chapter shall be effective October 3, 1991 and shall only apply to site-specific development plans approved on or after October 3, 1991.

(Prior UDO, § 22.10)

SUBDIVISION REGULATIONS

§ 153.370 AUTHORITY, PURPOSE AND CONFLICT WITH OTHER LAWS.

(A) Subdivision provisions enacted herein are under the authority of G.S. § 160D-804.

(Prior UDO, § 1)

(B) *Purpose.* The purpose of the chapter's subdivision regulations is to establish procedures and standards for the development and subdivision of land within the planning jurisdiction area of the city. It is further designed to provide for the orderly growth and development of the city and its planning jurisdiction; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to the public's health, safety and general welfare. This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

(Prior UDO, § 3.2)

(C) *Conflict with other laws.* This chapter is in part carried forward by re-enactment of some of the provisions of the subdivision ordinance of the city (adopted by the City Council on January 10, 1991, as amended) and it is not the intention to repeal but rather to re-enact and continue in force the existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the subdivision ordinance of the city enacted in January 10, 1991, as amended, which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any subdivision ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter but shall be prosecuted to their finality, the same as if this chapter had not been adopted, and any and all violations of the existing subdivision ordinance, prosecutions for which have not yet been initiated, may be hereafter filed and prosecuted. Nothing in this chapter shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

(Prior UDO, § 21.1) (Ord. O-04-21, passed - -)

§ 153.371 PLATS TO BE APPROVED.

After the effective date of these regulations, no subdivision plat of land within the city's planning jurisdiction shall be filed

or recorded until it has been submitted and approved in accordance with all applicable regulations contained in this chapter.

(Prior UDO, § 17.1) Penalty, see § 153.999

§ 153.372 THOROUGHFARE PLAN.

Where a proposed subdivision includes any part of a thoroughfare, which has been designated as that upon the officially adopted thoroughfare plan of either the city or the county, the part of the thoroughfare, shall be platted by the subdivider in the location and manner shown on the thoroughfare plan. In cases where it is unclear as to the actual location of a proposed thoroughfare shown on the thoroughfare plan, the city shall have the authority to assign the location on a case-by-case basis.

(Prior UDO, § 17.2)

§ 153.373 SCHOOL SITES ON LAND USE PLAN.

(A) If the City Council and County Board of Education have jointly determined the specific location and size of any school sites to be reserved and if this information appears in an adopted plan of the city, the Administrator shall immediately notify the Board of Education in writing whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Administrator in writing. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without the reservation.

(B) The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by exercise of the power of eminent domain. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.

(Prior UDO, § 17.3) Penalty, see § 153.999

§ 153.374 ZONING AND OTHER PLANS.

Proposed subdivisions must comply in all respects with the requirements of all applicable zoning regulations in effect in the area to be subdivided, and any other pertinent plans or ordinances officially adopted by the City Council. If any provision in the adopted ordinance is more restrictive than the provisions provided in these regulations, the provisions of the more restrictive ordinance shall apply.

(Prior UDO, § 17.4)

§ 153.375 GENERAL PROCEDURE FOR PLAT APPROVAL.

(A) After the effective date of these regulations, no subdivision plat of land within the city's planning jurisdiction shall be filed or recorded unless it has first been submitted to the Administrator and approved by the proper body as set forth in these regulations, and until this approval is entered in writing on the face of the plat by the Administrator.

(B) The Deeds Office shall not file or record a plat of a subdivision of land located within the planning jurisdiction of the city that has not been first approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with these provisions.

(Prior UDO, § 17.5) Penalty, see § 153.999

§ 153.376 STATEMENT BY OWNER.

The owner of land shown on a subdivision plat submitted for recording, or his or her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the planning jurisdiction of the city.

(Prior UDO, § 17.6) Penalty, see § 153.999

§ 153.377 ISSUANCE OF BUILDING PERMITS ON SUBDIVISION LOTS.

No zoning permit shall be issued for the erection of any building on any lot within a proposed subdivision until a final plat of the subdivision has been approved in a manner as prescribed by these regulations and recorded at the Deeds Office and where applicable, an improvements permit has been issued by the County Health Department.

(Prior UDO, § 17.7) Penalty, see § 153.999

§ 153.378 WAIVERS AND MODIFICATIONS.

(A) The Planning Board or City Council shall have the authority to waive or modify the terms of this chapter as the terms apply to the plat approval process on a case-by-case basis after having first held a public hearing and having found in the affirmative each of the following findings:

(1) There are special circumstances or conditions affecting the property so that the strict application of the provisions of this chapter would deprive the subdivider of the reasonable use of his or her land;

(2) The modification is necessary for the preservation of a substantial property right of the petitioner;

(3) The circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions; and

(4) The granting of the modification will not be detrimental to the public's health, safety and welfare or injurious to other properties in close proximity to the subdivision site.

(B) Notice of the public hearing shall be provided in the following manner:

(1) The city shall send notice by first class mail to the applicant and to owners of all contiguous pieces of property at least 10 working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur;

(2) Notice shall also be posted by the city in a conspicuous location in the City Hall at least 10 working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur; and

(3) A conspicuous sign shall also be posted by the city in a conspicuous location on the subject property at least 10 working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur.

(C) The public hearings can be held at the same time as the meeting at which the Planning Board or City Council holds to consider plat approval. The decision to issue a waiver or modification on a plat may only be made by that body given the authority to approve the plat. If the Planning Board makes the decision, the City Council shall have no authority to override or modify the Planning Board's decision.

(Prior UDO, § 17.8) (Ord. ZTA-2-2025, passed 5-1-2025)

§ 153.379 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.

Pursuant to G.S. § 160D-803, a final plat shall be prepared, approved and recorded pursuant to the provisions of these regulations whenever any subdivision of land takes place, except as herein provided.

(Prior UDO, § 17.9) (Ord. O-04-21, passed - -) Penalty, see § 153.999

§ 153.380 APPROVAL PREREQUISITE TO PLAT RECORDATION.

Pursuant to G.S. § 160D-803, no final plat of a subdivision within the planning jurisdiction of the city as established in § 153.015 of these regulations shall be recorded by the County Deeds Office until it has been approved as provided herein.

(Prior UDO, § 17.10) (Ord. O-04-21, passed - -) Penalty, see § 153.999

§ 153.381 APPEALS.

Any decision of the Administrator may be appealed to the Board of Adjustment in accordance with §153.281.

(Prior UDO, § 17.11)

§ 153.382 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.

This section shall apply to minor subdivisions only. For all minor subdivisions, a preliminary plat shall not be required. All subdivisions, however, shall require the submittal, approval, and recordation in the Deeds Office of a final plat.

(A) *Sketch plan.*

(1) Prior to submission of a final plat, the subdivider may submit to the Administrator two paper copies and a digital copy of a sketch plan of the proposed subdivision. The purpose of the sketch plan is to familiarize the Administrator with the proposed development and to ensure that it is in compliance with all applicable regulations. While the submittal of a sketch plan is optional, it is suggested that the subdivider submit a plan in order to familiarize the Administrator of the proposed development and, upon review, notify the subdivider of any likely problems with the proposed development.

(2) The sketch plan should contain the following information:

(a) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

(b) The boundaries of the lot(s) to be subdivided;

(c) The tax map number(s) of the lots(s) to be subdivided;

(d) The total acreage to be subdivided;

(e) The existing street layout and right-of-way width;

(f) The name of the proposed subdivision; and

(g) The zoning classification of the property to be subdivided and of adjacent properties, if applicable.

(3) The Administrator shall review the sketch plan for general compliance with the requirements of the subdivision regulations and any applicable zoning regulations. The Administrator shall advise the subdivider of the regulations pertaining to the proposed subdivision and the procedures to be followed in preparing and submitting the final plat.

(B) *Application.*

(1) To be considered a valid submission, all the following are required to be submitted to the Administrator for review:

(a) Completed application;

(b) Nonrefundable submittal fee in accordance with the City Council's most recently adopted fee schedule;

(c) 3 paper copies, a digital copy, and 1 mylar of the final plat, which contains all the information required by § 153.387 and meet the following requirements:

1. Prepared by a registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. § 47-30 and the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

2. Material and drawing medium for the reproducible copy shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

3. The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than 1 inch equals 100 feet, unless each lot in the proposed subdivision is more than 3 acres. In that case, the scale shall not be less than 1 inch equals 200 feet. Maps may be placed on more than 1 sheet with appropriate match lines.

(C) *Review.*

(1) Once the Administrator has received a valid submission, he or she shall either:

(a) Review the plat; or

(b) At his or her discretion, submit the plat to the Planning Board for its review and decision.

(2) The Administrator shall have 21 days from the date of the submittal to act upon a plat. Otherwise, the plat shall automatically be forwarded to the Planning Board.

(3) The Planning Board shall have 31 days from the meeting date at which it reviewed the plat to either:

(a) Approve the plat;

(b) Approve the plat with conditions;

(c) Approve the plat with modifications per §153.378; or

(d) Disapprove the plat.

(4) If the Planning Board does not take action within the 31-day period, the plat shall then automatically be transferred to the City Council for its review and decision.

(5) If the final plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least 1 copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.

(a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.

(b) If a revised plat is not submitted within the period, any future resubmittal of the plat will require the payment of an additional non-refundable fee.

(c) After the third review, each additional submittal will require an additional non-refundable fee, in accordance with a fee schedule most recently adopted by the City Council.

(6) If the final plat is approved, the Administrator shall send a notice of approval to the subdivider. The approval shall be shown on the reproducible copy of the plat and include all required certificates. The subdivider shall have 21 days from the date of final approval to have the plat recorded in the Deeds Office. Otherwise, the approved final plat shall be null and void.

(Prior UDO, § 17.12) (Ord. O-5-23, passed 4-6-2023; Ord. O-1-2024, passed 1-4-2024; Ord. ZTA-2-2025, passed) Penalty, see § 153.999

§ 153.383 SUBMISSION AND REVIEW PROCEDURE FOR MAJOR SUBDIVISIONS SKETCH PLAN.

(A) Prior to the preliminary plat submission, the subdivider shall submit 3 paper copies and a digital version of the sketch plan for the proposed subdivision to the Administrator along with a completed application by the application deadline on the city's website, to be reviewed at the meetings corresponding to the schedule. The sketch plan shall be prepared by a registered architect, engineer, or land surveyor licensed and registered by the appropriate state board. At a minimum, the

sketch plan shall contain or be accompanied by the following:

- (1) A sketch vicinity map including north arrow showing the location of the planned development in relation to neighboring tracts, subdivisions, roads, and waterways;
- (2) The boundaries of the tract and the portion of the tract proposed to be in the subdivision;
- (3) The total acreage of the lot to be subdivided;
- (4) Locations of any existing public streets or utilities and rights-of-way of the facilities;
- (5) The existing and proposed uses of the land within the major subdivision and the existing uses of land adjoining it;
- (6) General locations of existing natural features of the site, such as wooded areas, water features, and significant topographic features;
- (7) The proposed street layout with approximate pavement and right-of-way width;
- (8) Existing property lines and approximate (sketch) locations of proposed property lines within the subdivision showing all proposed lots or other divisions of land;
- (9) Sketch of conceptual building locations;
- (10) The name, address, and telephone number of the owner;
- (11) The name, if any, of the proposed subdivision;
- (12) Streets and lots of adjacent developed or platted properties; and
- (13) The zoning classification of the tract and of adjacent properties.

(B) The Administrator and Technical Review Committee shall review the sketch plan for general compliance with the requirements of these regulations and any applicable zoning or other ordinance requirements. The Administrator shall advise the subdivider or his or her authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(C) 1 copy of the sketch plan shall be retained as a part of the city's record by the Administrator, with a copy being returned to the subdivider or his or her authorized agent along with any comments made by the Administrator concerning the proposed plat.

(D) Once the comments are corrected, the subdivider may submit a preliminary plat containing all of the information set forth in § 153.384 of this chapter.

(Prior UDO, § 17.13) (Ord. ZTA-1-2025, passed 4-3-2025) Penalty, see § 153.999

§ 153.384 PRELIMINARY MAJOR SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) Application.

(1) All preliminary plats shall first submit a sketch plan for review by the Subdivision Technical Review Committee (TRC) prior to submission to the Planning Board and, where necessary, to the City Council. For requirements, see § 153.383.

(2) To be considered a valid submission for review, all of the following are required to be submitted to the Administrator by the posted application deadline:

- (a) 4 paper copies and 1 digital copy of the preliminary plat meeting the specifications of §153.387 of these regulations;
- (b) Completed application;
- (c) Nonrefundable fee in accordance with the City Council's most recently adopted fee schedule.

(B) Review.

(1) Preliminary and final plat approval are required for all major subdivisions.

- (a) The Planning Board may approve preliminary plats containing 250 lots or less.
- (b) Only the City Council has the authority to grant final approval in any of the following situations:
 1. Subdivisions containing over 250 lots;
 2. Subdivisions that require the placement of oversized utility lines;
 3. Subdivisions that require a dedication of land or fee in lieu of per §153.398 *Other Requirements*.

(2) The Planning Board shall have 31 days from the meeting date at which the plat was reviewed to either:

- (a) Approve the plat;

- (b) Approve the plat with conditions;
- (c) Approve the plat with modifications per §153.378;
- (d) Disapprove the plat; and/or
- (e) Make a recommendation to the City Council on a plat containing over 250 lots.

(3) If no recommendation or decision is made during the 31-day period, the plat shall automatically be submitted to the City Council for their final decision.

(4) If the preliminary plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least 1 copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.

(a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.

(b) If a revised plat is not submitted within the period, any future resubmittal will require the payment of an additional non-refundable fee. The resubmitted revised plat shall be reviewed in the same manner as any other preliminary plat.

(c) After the third review, each additional submittal will require an additional non-refundable filing fee, in accordance with a fee schedule most recently adopted by the City Council.

(5) If the preliminary plat is approved, it shall be indicated on the reproducible copy of the plat, and the copy shall be retained by the Administrator as part of the city's official records. A copy of the approved plat shall be transmitted to the subdivider.

(6) If the preliminary plat is approved with conditions, the conditions shall be noted on or attached to the copy of the plat and shall be retained by the Administrator as part of the city's official records. A copy of the conditions shall also be transmitted to the subdivider. Once these conditions are met, the plat shall be noted as approved. A copy of the approved plat shall then be transmitted to the subdivider.

(a) Unless otherwise specified in the terms of approval, the conditions shall have been complied with by the subdivider within 12 months of the date of the conditional approval; otherwise, approval of the preliminary plat shall be null and void.

(7) Once the preliminary plat is approved, the subdivider may proceed with preparing the final plat and begin grading and installing the required improvements in accordance with the approved preliminary plat and the requirements of these regulations.

(C) *Expiration.*

(1) The subdivider may request a time extension for up to 12 months for the preliminary plat from the Administrator. The request must be submitted before the original plat expiration date. The Administrator may grant no more than 1 extension.

(2) The subdivider shall submit the final plat to the Administrator no later than 24 months after the preliminary plat's approval, unless a greater expiration date was granted originally in the preliminary plat approval. Otherwise, the preliminary plat's approval shall expire and become null and void.

(Prior UDO, § 17.14) (Ord. O-04-21, passed - - ; Ord. O-5-23, passed 4-6-2023; Ord. ZTA-2-2025, passed 5-1-2025)
Penalty, see § 153.999

§ 153.385 FINAL SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) *Preparation of final plat.*

(1) The subdivider shall submit the final plat to the Administrator no later than 24 months after the preliminary plat's approval, unless a greater expiration date was granted originally in the preliminary plat approval. Otherwise, the preliminary plat's approval shall expire and become null and void.

(2) Prior to approval of a final plat, the subdivider shall have installed the improvements specified in these regulations or guaranteed their installation as provided herein.

(3) If applicable, recorded maintenance agreements as determined by the TRC.

(4) The final plat shall represent only the phase(s) of the approved preliminary plat that the subdivider proposes to record at that time. The phase shall conform to all requirements of these regulations, and must depict the subdivision, or portion thereof, in substantially the same form and layout as the approved preliminary plat. Otherwise, the final plat may not be approved.

(a) For subsequent phases, the submission expiration date shall be extended for the subdivision's remaining phase(s) for an additional 24 months past the date of the final plat approval.

(B) *Application.*

(1) To be considered a valid submission for review, all the following are required to be submitted to the Administrator for review:

- (a) Completed application;
- (b) Nonrefundable submittal fee in accordance with the City Council's most recently adopted fee schedule;
- (c) 3 paper copies, a digital copy, and 1 mylar of the final plat, which contains all the information required by § 153.387 and the following requirements:

1. Material and drawing medium for the reproducible copy shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the County Register of Deeds requirements.

2. The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than 1 inch equals 100 feet, unless each lot in the proposed subdivision is more than 3 acres. In that case, the scale shall not be less than 1 inch equals 200 feet. Maps may be placed on more than 1 sheet with appropriate match lines.

(d) If applicable:

- 1. Improvement guarantee agreement.
- 2. Where a dedication of land is required, the dedication shall be shown on the final plat when submitted, and the submission shall include an executed general warranty deed conveying the dedicated land to the city.
- 3. Where the City Council approves a payment in lieu of dedication, the payment must be made before the final plat is signed and recorded.

(C) *Improvement guarantees.*

(1) In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the city may enter into an agreement with the subdivider in which the subdivider agrees to complete all required improvements.

(2) Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the City Council if all other requirements of these regulations are met. The amount of the guarantee shall be equal to 1.25 times the cost of installing all the required improvements.

(3) All guarantees shall be subject to the approval of the City Council (based on recommendations from the City Director of Public Works and Utilities) and shall be made payable to the city.

(4) To secure this agreement, the subdivider shall provide the City Council with either 1 or a combination of the following guarantees:

(a) *Surety performance bond(s).* The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The duration of the bond(s) shall be until a time when the improvements are accepted by the City Council (see division (F) below).

(b) *Cash or equivalent security.*

1. The subdivider shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the city or in escrow with a financial institution designated as the city's official depository.

2. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the subdivider shall then file with the City Council an agreement between the financial institution and himself or herself guaranteeing the following:

A. The escrow account shall be held in trust until released by the City Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

B. In case of a failure on the part of the subdivider to complete the improvements, the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the city the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the city any other instruments fully endorsed or otherwise made payable in full to the city.

(i) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the City Council, pay all or any portion of the bond or escrow fund to the city up to the amount needed to complete the improvements based on the estimate by the Director of Public Works and Utilities. Upon payment, the City Council, in its discretion, may expend a portion of the funds, as it deems necessary to complete all or any portion of the required improvements. The city shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the subdivider shall nonetheless be responsible for providing the funds to cover the costs. The subdivider shall at all times bear the financial burden for the installation of all required improvements.

(ii) *Release of guaranteed security.* The City Council may authorize the City Manager to release a portion of any security posted as the improvements are completed and approved by the city, and once the required infrastructure as-builts have been provided to the city. The funds shall then be released within ten days after the corresponding improvements have

been so approved.

(E) *Review.*

(1) Only the City Council is authorized to approve plats that involve any of the following:

- (a) Improvement guarantees as outlined in division (C) above of these regulations.
- (b) Oversized improvements as outlined in § 153.398(C) *Other Requirements*.
- (c) Dedication of land for and/or fees in lieu of as outlined in § 153.398(D) *Other Requirements*.

(2) The Administrator shall have the authority to review and approve any final plat other than those listed above. At his or her discretion, the Administrator may receive comment from the TRC and/or transmit a final plat to the Planning Board for their review and approval.

(3) The Planning Board shall have the authority to approve any final plat other than those listed above.

(4) The Planning Board and City Council have the authority to approve a plat with modifications per § 153.378.

(5) The Administrator shall have 21 days from the date on which the plat was submitted to:

- (a) Approve the plat;
- (b) Disapprove the plat; or
- (c) Submit the final plat to the Planning Board for their review and decision.

(6) If the Administrator takes none of these actions during the 21-day period, the plat shall automatically be submitted to the Planning Board for its review and decision.

(7) If the final plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least 1 copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.

(a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.

(b) If a revised plat is not submitted within the period, any future resubmittal of the plat will require the payment of an additional non-refundable fee. The resubmitted revised plat shall be reviewed in the same manner as any other final major subdivision plat.

(c) After the third review, each additional submittal will require an additional non-refundable fee, in accordance with a fee schedule most recently adopted by the City Council.

(8) If the final plat is approved, the Administrator shall send a notice of approval to the subdivider. The approval shall be shown on the reproducible copy of the plat and include all required certificates. The subdivider shall have 21 days from the date of final approval to have the plat recorded in the Deeds Office. Otherwise, the approved final plat shall be null and void.

(F) *Effect of plat approval on dedications.* Per G.S. § 160D-806. The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any governing board may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

(Prior UDO, § 17.15) (Ord. O-1-2024, passed 1-4-2024; Ord. ZTA-2-2025, passed 5-1-2025) Penalty, see § 153.999

§ 153.386 PLAT TYPES AND APPROVED CERTIFICATES.

Certificates are provided by the Planning Department.

(A) *Exempt plats.*

(1) The following are not subject to subdivision regulations or certified by a review officer:

(a) The survey is of an existing parcel or parcels of land or 1 or more existing easements and does not create a new street or change an existing street. For the purposes of this section, an **EXISTING PARCEL** or **EXISTING EASEMENT** is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.

(b) The survey is of an existing feature, such as a building or other structure, or natural feature, such as a watercourse.

(c) The survey is a control survey. For the purposes of this section, a **CONTROL SURVEY** is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.

(d) The survey is of a proposed easement for a public utility as defined in G.S. § 62-3.

(2) *Required certificates.*

(a) Certificate of survey and accuracy - surveyor's certificate.

(b) Requires a statement from the surveyor certifying one of the exemptions above.

(B) *Exception plat.*

(1) The following are not subject to subdivision regulations, but are subject to plat review, zoning, and other regulations:

(a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.

(b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

(c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(d) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.

(e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. Chapter 29.

(2) *Required certificates.*

(a) Certificate of survey and accuracy - surveyor's certificate. Statement notating that the survey is of another category, such as the recombination of existing parcels or other exception to the definition of subdivision (signature required if it is a standalone certification).

(b) Review officer certificate.

(c) Certificate of approval for recording – exception plats.

(d) Certificate of ownership and dedication.

(e) Watershed certificate (if applicable).

(f) Septic tank disclosure statement (if applicable).

(C) *Minor subdivision.*

(1) A subdivision where:

(a) No new roads are proposed or road rights-of-way dedicated; and

(b) Where 10 or fewer lots will result after the subdivision is completed.

(2) *Required certificates.*

(a) Certificate of survey and accuracy - surveyor's certificate.

(b) Review officer certificate.

(c) Certificate of approval for recording.

(d) Certificate of ownership and dedication.

(e) Watershed certificate (if applicable).

(f) Septic tank disclaimer statement (if applicable).

(D) *Major subdivision.*

(1) A subdivision where:

(a) New roads are proposed, or rights-of-way are dedicated; or

(b) More than 10 lots are created after the subdivision is completed.

- (2) Requires a preliminary plat before the final plat approval.
- (3) *Required certificates.*
 - (a) Certificate of survey and accuracy - surveyor's certificate.
 - (b) Review officer certificate.
 - (c) Certificate of approval for recording.
 - (d) Certificate of ownership and dedication.
 - (e) Certificate of approval of the design and installation of streets, utilities, and other required improvements (if applicable).
 - (f) Subdivision street disclosure (if applicable).
 - (g) Common open space disclosure (if applicable).
 - (h) Watershed certificate (if applicable).
 - (i) Septic tank disclaimer statement (if applicable).

(Ord. ZTA-3-2025, passed 6-5-2025)

§ 153.387 INFORMATION TO BE CONTAINED IN OR DEPICTED ON PRELIMINARY AND FINAL PLATS.

(A) This section shall apply to minor subdivisions, major subdivisions and PRDs/PUDs.

(B) The preliminary and final plats shall depict, contain or be accompanied by the information indicated in the following table. A "Yes" indicates that the information is required; where a "No" appears, the information shall not be required. Preliminary plat information shall only be required for major subdivisions.

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title block containing:		
Subdivision name	Yes	Yes
Name of subdivider	Yes	Yes
Location (including township, block numbers as shown on the county index map, county and state)	Yes	Yes
Date or dates survey was conducted and plat prepared	Yes	Yes
A bar graph, scale and north arrow	Yes	Yes
Name, address, registration number and seal of the registered land surveyor and/or professional engineer who drew the plat	Yes	Yes
A sketch vicinity map with north arrow showing the relationship between the proposed subdivision and the surrounding area	Yes	Yes
Corporate limits and city extraterritorial jurisdictional lines if on the subdivision tract	Yes	Yes
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearing and distances shown	Yes	No
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings and the location of existing boundary lines of adjoining lands	No	Yes
The names of owners of adjoining properties	Yes	Yes
The names of any adjoining subdivisions of record or proposed and under review	Yes	Yes
Minimum required setback lines	Yes	Yes
The zoning classifications, if any, of the tract to be subdivided and adjoining properties	Yes	Yes
Existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, cemetery plots, both on the land to be subdivided and land immediately adjoining	Yes	Yes
Proposed lot lines, lot and block numbers and appropriate dimensions of each lot	Yes	Yes
The lots numbered consecutively throughout the subdivision with exact dimensions and areas given	No	Yes
Marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	Yes	Yes

The exact location of any flood hazard area, floodway and floodway fringe areas from the city or county FEMA maps, if applicable	Yes	Yes
The following data concerning streets:		
Proposed streets	Yes	Yes
Existing and platted streets on adjoining properties and in the proposed subdivision	Yes	Yes
Street rights-of-way, locations and dimensions	Yes	Yes
Pavement widths	Yes	Yes
Approximate grades	Yes	Yes
Design engineering data for all corners and curves	Yes	Yes
Typical road cross-sections	Yes	Yes
Street names	Yes	Yes
Type of streets dedication; all streets must be designated either "public" or "private." Where public streets are involved which will not be dedicated to the city, the subdivider following documents to the North Carolina Department of Transportation District Highway Office (NCDOT) for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout (NCDOT may require the plotting of the ground profile and grade line for roads where special conditions or problems exist); typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	Yes	Yes
Subdivision street disclosure statement indicating (i) if streets are public or private and (ii) if private, who will maintain private streets in subdivision and also that all lots will have right of access to any private street in the subdivision	No	Yes
Where streets are dedicated to the public, but not accepted into the state system before lots are sold, a statement explaining the status of the street in accordance with § 153.26 of these regulations	No	Yes
If any road is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by NCDOT's <i>Manual on Driveway Regulations</i> , evidence that the subdivider has obtained approval	No	Yes
The location and dimensions of all:		
Utilities and other easements	Yes	Yes
Parks and recreation areas with specific type indicated	Yes	Yes
School sites (both existing and proposed)	Yes	Yes
Dedicated water access lots	Yes	Yes
Areas and/or lots to be used for purposes other than residential with the purpose of each stated	Yes	Yes
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association or for tenants remaining in subdivider's ownership) of recreation and open space lands	Yes	Yes
Site calculations including:		
Acreage in total tract to be subdivided and area in each lot	Yes	Yes
Acreage in parks and recreation areas and other nonresidential uses	Yes	Yes
Total number of lots created	Yes	Yes
Linear feet in streets in subdivision	Yes	Yes
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	Yes	Yes
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distance for the centerline of curved property lines that are not the boundary lines of curved streets; all dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest minute.	No	Yes
The accurate locations and descriptions of all survey monuments, markers and control points	No	Yes
A copy of the erosion control plan submitted to the North Carolina Department of Environment, Health and Natural Resources for approval, where applicable	Yes	No

A topographic map with contour intervals of no greater than five feet at a scale of no less than one inch equals 200 feet may be required	Yes	No
A copy of the Lincoln County Health Department's Soil Site Evaluation of the subdivision, where applicable	Yes	No
A copy of the Soils Map for the subdivision obtained from the County Soil and Water Conservation District	Yes	No
Any additional information required as a result of changes in federal, state or local ordinances	Yes	Yes
In addition to all other information herein required, additional information shall be required for PUDs/PRDs which is set forth in §§ 153.217 of this chapter.		

(Prior UDO, § 17.17) Penalty, see § 153.999

§ 153.388 RECOMBINATION OF LAND.

(A) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by gaining approval of and filing a plat inconsistent with the originally approved plat or by filing a plat showing the tract without the lots as if no lots have been sold.

(B) The replatting of any previously platted property shall not abridge or destroy any public rights.

(C) The filing and recording of an amended plat as described in division (A) above of these regulations shall serve to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds and all dedications laid out or described in the plat.

(D) When lots have been sold, the plat may be vacated or amended by all owners of the lots in the plat joining in the execution of the writing.

(E) Streets which have not been used within 15 years of dedication may be deemed abandoned. The withdrawal of dedication shall be consistent with G.S. § 136-96.

(Prior UDO, § 17.18) Penalty, see § 153.999

§ 153.389 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(Prior UDO, § 17.19)

§ 153.390 GENERAL.

Prior to final plat approval, each subdivision shall contain the improvements specified in these regulations, which shall be installed in accordance with the requirements of these regulations and paid for by the subdivider, unless other means of financing are specifically proposed. Land shall be dedicated and reserved in each subdivision as herein specified. Each subdivision shall adhere to the minimum standards of design as provided for in these regulations.

(Prior UDO, § 17.20) Penalty, see § 153.999

§ 153.391 SUITABILITY OF LAND.

The Planning Board and City Council reserve the right to deny approval of a subdivision plat, notwithstanding all other provisions contained in these regulations where it has reasonable evidence to suspect (based on engineering or other expert surveys) that the proposed subdivision, and the development allowed for under the subdivision, will pose an ascertainable danger to life or property. The burden of proof for determining that the danger in a subdivision does not exist shall rest entirely with the subdivider.

(Prior UDO, § 17.21)

§ 153.392 NAME DUPLICATION.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the county.

(Prior UDO, § 17.22) Penalty, see § 153.999

§ 153.393 SUBDIVISION DESIGN.

(A) *Blocks.*

- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:

- (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- (b) Zoning requirements;
- (c) Needs for vehicular and pedestrian circulation;
- (d) Control and safety of street traffic;
- (e) Limitations and opportunities of topography; and
- (f) Convenient access to water areas.

(2) Where deemed necessary, by the Planning Board or City Council as part of the plat approval process, a pedestrian crosswalk may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(B) *Lot dimensions.* All new residential lots in subdivisions shall conform to the following requirements.

(1) *Residential lot area.*

(a) All lots in new subdivisions shall conform to the zoning requirements of the zoning district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of this chapter. The city may require larger lot sizes in cases where the County Health Department has recommended that based upon the assessment of soil applicator rates and subsoil conditions and other factors limiting the placement of well and septic systems.

(b) In determining lot areas, all rights-of-way or areas deeded or reserved for public roads shall be excluded when determining lot areas.

(c) In calculating lot area, the following shall not be included:

- 1. Any dedicated road right-of-way;
- 2. Any road right-of-way to be dedicated;
- 3. Any road right-of-way claimed by the State Department of Transportation or the city; and/or
- 4. Any railroad right-of-way.

(2) *Lot width and road frontage requirements.* Minimum lot width and road frontage requirements shall be as required in the underlying zoning district.

(3) *Orientation of residential lot lines.* Side lot lines shall be substantially at right angles or radial to street lines. Double-frontage lots shall be avoided wherever possible.

(4) *Panhandle lots.* Panhandle lots will be allowed in subdivisions provided that they meet the following requirements:

- (a) In no case shall an entire subdivision or the majority of lots within a subdivision consist of panhandle lots;
- (b) All panhandle lots shall have a minimum road frontage of 35 feet;
- (c) The length of the panhandle strip in the lot shall not exceed 100 feet; and
- (d) The strip shall not be used to determine lot area, lot width or required building setback lines.

(5) *Minimum lot dimensions.* All minimum lot dimensions may be increased over those required in the zoning regulations in order to meet any applicable requirements of the County Health Department.

(Prior UDO, § 17.23) Penalty, see § 153.999

§ 153.394 EASEMENTS.

(A) Easements shall be provided for storm and sanitary sewers, water lines and other utilities in those widths, and at those locations as may be required by the city's Public Works Director; in order to properly serve the lot and adjoining realty; but in no event shall an easement of less than ten feet in width along all rear lines and exterior side lot lines, and five feet in width along each side of all interior side lot lines. Notwithstanding, in no case may the width of an easement upon a lot be less than the minimum required side or rear yard setback for that lot per the requirements of the underlying zoning district.

(B) No principal or accessory structure may be placed within a utility easement.

(Prior UDO, § 17.24) Penalty, see § 153.999

§ 153.395 STREET STANDARDS.

(A) *Public streets.*

(1) All subdivision streets shall abut on a public road except where allowed in division (B) below of these regulations. All public streets shall be paved and built to all applicable standards of these regulations and all other applicable standards of the North Carolina Department of Transportation (NCDOT) including the most up-to-date version of NCDOT's *Subdivision*

Roads, Minimum Construction Standards. All public streets inside the city limits shall be dedicated to the city.

(2) Streets, outside the city limits, which are not eligible to be put on the NCDOT system because there are too few lots or residences shall, nevertheless, be dedicated for public use and shall be built in accordance with the standards necessary to be put on the NCDOT system so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the state system shall be included with the final plat and recorded with the County Deeds Office.

(B) *Private streets.*

(1) Private streets that are neither maintained by NCDOT or the city are permitted. The streets shall meet all right-of-way and construction standards of NCDOT with the following exceptions:

(a) Streets that provide access to five or fewer lots may be unpaved and graveled; the unpaved streets shall have a minimum road surface of 16 feet. In no instance may a subdivision be approved containing both paved and unpaved streets. In no instance shall one unpaved private street be allowed to intersect with another unpaved private road;

(b) All private streets shall be local streets; and

(c) No two private streets accessing the same public street shall be less than 500 feet apart as measured at their access points on the public street. All private streets shall be marked as that on the preliminary and final plat and a written maintenance agreement shall be provided and recorded with the Deeds Office once the final plat has been approved.

(2) The maintenance agreement shall include, but not be limited to, the following items:

(a) A homeowner's association shall be established as a legal entity for the property owners within the entire subdivision;

(b) All property owners within the subdivision shall be members of the homeowner's association;

(c) The subdivider shall convey all private streets in fee simple ownership within the subdivision to the homeowner's association; and

(d) The responsibility for maintenance of private streets shall rest with the homeowner's association.

(3) Passage of the responsibility for maintenance of private streets from the developer to the homeowner's association shall be noted in the deed of each purchaser of property within the subdivision.

(4) At the time of the preparation of the sales agreement the developer shall include a disclosure statement to the prospective buyer as herein outlined. The developer and seller shall include in the disclosure statement an explanation of the consequences and responsibility as to maintenance of a private street, and shall fully and accurately disclose the party or parties upon whom responsibility for construction and maintenance of the street or streets shall rest.

(C) *Subdivision street disclosure statement.* Where streets are dedicated to the public but not accepted into the city or NCDOT system before lots are sold, a statement explaining the status of the street shall be included with the final plat. Prior to entering into any agreement or any conveyance with any prospective buyer, the developer and seller shall prepare and sign, and the buyer of the subject real estate shall receive and sign an acknowledgment of receipt of a subdivision streets disclosure statement (hereinafter referred to as "disclosure statement"). The disclosure statement shall fully and completely disclose the status (whether public or private) of the street upon which the lot fronts.

(D) *Marginal access street.*

(1) Where a tract of land to be subdivided adjoins a major or minor thoroughfare as designated on the thoroughfare plan of the city or county, the subdivider shall be required to provide a marginal access street parallel to the major thoroughfare or reverse frontage on a minor street for the lots to be developed adjacent to the major thoroughfare. Where reverse frontage is established, private driveways shall be prevented from having direct access to the thoroughfare. The Planning Board or the City Council, in their plat approving capacity, shall have the authority to decide which of these alternatives would best serve the general public's safety and welfare.

(2) In cases where it is not feasible or practical for the subdivider to provide a marginal access street or when the Planning Board or City Council determines that the installation of a marginal access road would result in a less desirable subdivision design, the Planning Board or City Council may grant an exception to the requirement for a marginal access street. In granting the exception the Planning Board or City Council shall find that the spirit and intent of these regulations are preserved and that circumstances particular to the subject property, such as topography or shape of the tract exist to warrant the exception. The exemption shall not be subject to the requirements of § 153.378.

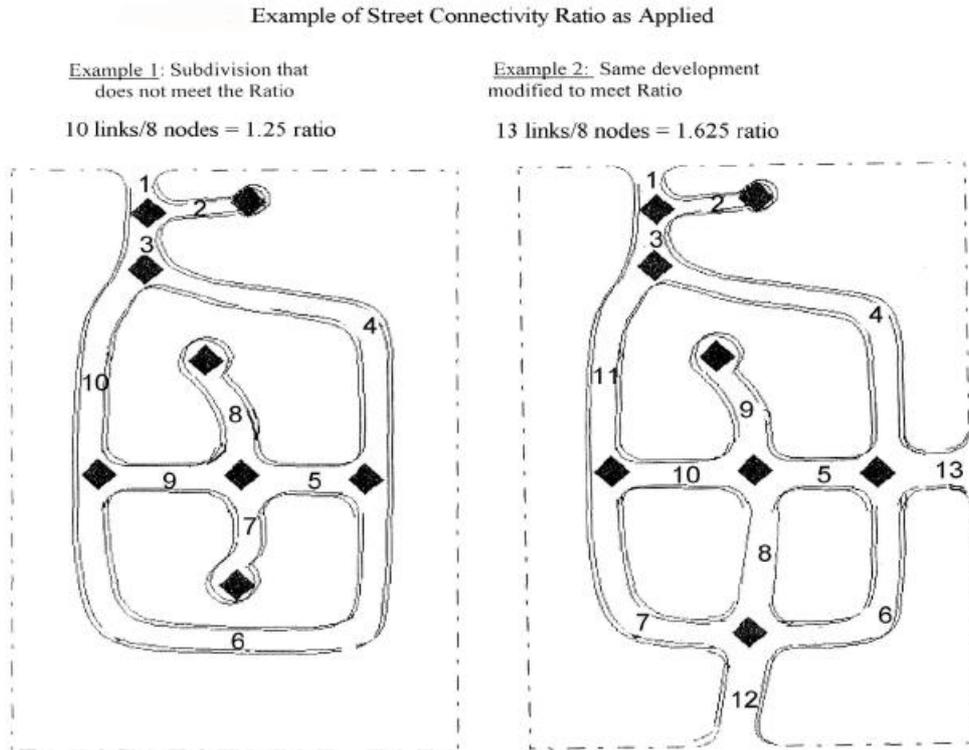
(E) *Street connectivity requirements.*

(1) The City Council hereby finds and determines that an interconnected street system is necessary in order to protect the public health, safety and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes.

(2) All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

(3) The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40. See example in Figure A below.

Figure A



(4) The phrase “connectivity ratio” means the number of street links divided by the number of nodes or link ends, including cul-de-sac heads. (See § 153.031 for definitions of “node” and “link.”)

(5) Residential streets shall be designed so as to minimize the block length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

(6) Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.

(7) Exemption. New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity ratio standard as set forth in this section, provided the Administrator determines that there is no option for providing stub streets due to topographic conditions, adjacent developed sites or other limiting factors; and interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

(F) *Road entrance requirements.* The Planning Board or City Council shall require conformity with NCDOT standards for public road entrances.

(G) *Sidewalks.* Sidewalks shall be required on both sides of the street in all major subdivisions. The sidewalks shall be constructed to a minimum width of four feet and a minimum thickness of four inches of concrete or must be ADA compliant, whichever is more stringent. All sidewalks shall be placed in the street right-of-way and shall be a minimum distance of six feet off of the back of the curb in order to accommodate a planting strip that may be used for the placement of street trees. Sidewalks shall contain a minimum of six inches of concrete at driveway crossings.

(H) *Street names.* Proposed streets that are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court or the like. All new streets shall be named in accordance with § 153.392 of these regulations.

(I) *Street name signs.* The subdivider shall either be required to provide and erect street name signs at all street intersections within the subdivision in accordance with all city standards or be required to reimburse the city for providing the street name signs. Any fee, in accordance with the most recently adopted fee schedule adopted by the City Council, shall be paid to the Administrator prior to final plat approval.

(J) *Permits for connection to state roads.* An approved NCDOT permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road.

(K) *Wheelchair ramps.* In accordance with G.S. § 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(L) *Street trees.* In order to provide a unifying element along street frontages and soften the transition of the public street to the private yard, street trees shall be required along all collector streets. Small trees shall be spaced 20 feet on-center, and large trees shall be spaced 40 feet on-center. Trees shall be planted parallel to the street within a well-defined planting strip a minimum of six-feet wide.

(Prior UDO, § 17.25)

§ 153.396 WATER AND SEWER SYSTEMS.

(A) *Water and sewer systems.*

(1) All lots in subdivisions shall have a suitable source of water supply and sanitary sewage disposal that complies with the regulations of all appropriate agencies.

(2) All lots within the city limits shall be served by city water and sewer at the subdivider's expense. Outside the city limits, the following criteria shall be used to determine whether or not a subdivision shall be connected with public water and sewer.

(3) If the tract in question is proposed to be subdivided with the number of dwelling units indicated in the left hand column of the following table or with a nonresidential use that places a comparable demand on the water or sewer system, then the distance (as measured using the straight line distance between the closest portion of the subdivision to the existing water or sewer line) within which the tract must be connected is indicated in the right-hand column of that table.

<i>Dwelling Units</i>	<i>Distance</i>
0 - 10	200 feet
11 - 20	300 feet
21 - 50	600 feet
51 - 100	1,000 feet
101+	1,500 feet

(4) In determining the number of dwelling units proposed for a tract, this relates to the number proposed for all phases of the subdivision.

(5) Connection to a water or sewer line shall not be deemed legally impossible if, after diligent effort by the subdivider, the easement necessary to run the connection line across property(ies) not owned by the subdivider, cannot be obtained. The subdivider shall document to the City Council the efforts that have been to secure the easement. The City Council shall make its decision as whether to relieve the subdivider of making the connection upon the documentation. Procedures called for in § 153.378 shall not be required to issue relief.

(6) In addition to the regulations contained in these regulations, all applicable city water and sewer extension policies shall be followed.

(B) *Sewer system alternatives.*

(1) In cases where connections to a public sewer system is not deemed necessary by the City Council, alternative sewer disposal systems may be considered.

(2) Sewer disposal systems using package treatment plants as the main treatment facility shall be designed to accommodate the eventual connection to a municipal or county owned public sewer system at the time the connection becomes feasible.

(3) The subdivider of a subdivision containing a package sewage treatment plant shall adequately demonstrate to the city that the plant, where located, shall satisfactorily serve as a means of waste treatment in a manner which is compatible with the environment and which will not adversely impact upon any public water supply system.

(4) Septic tanks (i.e., private sewage disposal systems) may also be allowed as a means of sewage disposal in cases where connection to a public sewer system is not feasible. However, the following statement shall appear on all final plats containing lots that are proposed to be served by septic tanks.

In approving this plat, the City of Lincoln or Lincoln County does not guarantee the suitability of any lot for the placement of a septic tank system.

(C) *Water.*

(1) In cases where connections to a public water system are approved by the City Council, alternative water supply systems may be considered. In no instance shall any intermediate water system having two to 14 service connections be

allowed. Potable water shall be provided by either an intermediate water system having 15 or more service connections, a private water supply system or a public water system.

(2) The following table indicates the types of water systems allowed under these regulations.

Water System Ownership		
Service Connections	Public Entity	Private Entity
2 to 14	Yes	No
15+	Yes	Yes

(Prior UDO, § 17.26) Penalty, see § 153.999

§ 153.397 STORMWATER DRAINAGE SYSTEMS.

The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in *Handbook for the Design of Highway Surface Drainage Structures, 1975* as amended or revised, subject to review by the city.

(Prior UDO, § 17.27) Penalty, see § 153.999

§ 153.398 OTHER REQUIREMENTS.

(A) *Placement of monuments.* The *Standards of Practice for Land Surveying* as adopted by the State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(B) *Construction procedures.*

(1) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and the appropriate authorities have approved all plans and specifications.

(2) No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of these regulations until all the requirements of these regulations have been met. The subdivider, prior to commencing any work on any public improvements within the subdivision, shall make arrangements with the Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of any sureties.

(C) *Oversized improvements.* The City Council may require installation of certain oversized utilities or the extension of utilities to adjacent property(ies) when it is in the interest of future development. Thus, irrespective of all other regulations contained in these regulations, any plat that calls for the installation of oversized utilities may only be approved by the City Council. If the City Council requires the installation of improvements in excess of the standards required in these regulations, including all standards adopted by reference, the city shall bear the cost differential between the oversized improvement required and the standards which would otherwise apply to the proposed subdivision. In this manner, the subdivider shall not bear the costs of providing oversized improvements required by the city.

(D) *Dedication of land for and/or fees in lieu of park, recreation and open space purposes.*

(1) *Dedication of land.*

(a) *General provisions.* Every subdivider, except a major subdivision developed completely within a public golf course, who proposes a major subdivision of land for residential purposes shall dedicate a portion of land or pay a fee in lieu thereof, in accordance with this section, for public park, greenway, recreation and open space sites to serve the recreational needs of the residents of the subdivision or development.

(b) *Amount of land to be dedicated.*

1. At least one-thirty-fifth of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development.

2. The minimum amount of land that shall be dedicated for a public park, recreation or open space site shall be no less than two acres in size. When the area to be provided is less than two acres, the subdivider shall be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park or open space sites which would serve the needs of the residents of the subdivision.

(c) *Nature of land to be dedicated.* Except as otherwise required by the City Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria.

1. *Unity.* The dedicated land shall form a single parcel of land, except where the City Council determines that two or

more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In these cases, the City Council may require that the parcels be connected by a dedicated strip of land at least 30 feet in width.

2. *Usability.* Two-thirds of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.

3. *Shape.* The shape of the portion of dedicated land that is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate the facilities. Land dedicated only for greenways need not follow the requirements of this division.

4. *Location.* The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.

5. *Access.* Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 30 feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least 20-foot wide.

6. *Topography.* The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed 15%.

7. *Landscaping.* Dedicated parks, recreation and open space areas shall have a sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.

(2) *Payments of fees in lieu of land dedication.*

(a) *General.* The payment of fees, in lieu of the dedication of land under division (D)(1) above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes or a payment of a fee in lieu, shall be made by the City Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the city's overall recreational needs.

(b) *Time of payment.* The fees in lieu of dedication shall be paid prior to final plat approval by the City Council.

(c) *Amount of payment.*

1. The amount of the payment shall be the product of:

a. The number of acres to be dedicated, as required above; and

b. The assessed value for property tax purposed of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.

2. Procedures for determining the amount is as follows:

a. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer from an approved list maintained by the City Council. The appraisal shall not be done prior to submission of the preliminary plat. The cost of the appraisal shall be borne by the developer.

b. Professional land appraiser refers to a land appraiser who, in the opinion of the City Council, has the expertise and/or certification to perform an adequate appraisal.

(3) *Procedures.*

(a) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated. If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The City Council reserves the right to refuse to accept dedication of parcels for public park, recreation or open space.

(b) Where a dedication of land is required, the dedication shall be shown on the final plat when submitted, and the plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the city. Where a payment in lieu of dedication is approved by the City Council, the payment will be made before the final plat is signed and recorded.

(c) The city encourages neighborhood or homeowner associations or management to construct, operate and maintain private parks and recreation. The construction, operation or maintenance of private facilities shall not, however, diminish or eliminate the responsibility and obligations of the subdivider under this section.

(d) Greenways may be credited against the requirements of this section provided that the greenways are part of the city's greenway plan and dedicated to public use.

(Prior UDO, § 17.28) Penalty, see § 153.999

§ 153.999 PENALTY.

(A) Any person, firm or corporation convicted of violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount as set forth in the fee schedule and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be deemed a separate offense, provided that the violation of this chapter is not corrected within ten days after notice of the violation is given.

(B) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the planning jurisdiction of the city, thereafter subdivides his or her land in violation of this chapter or transfer or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the County Deeds Office, shall be in violation of this chapter. Any person, firm or corporation convicted of violating any of the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount as set forth in the fee schedule and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be deemed a separate offense, provided that the violation of this chapter is not corrected within ten days after notice of the violation is given.

(C) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt this transaction from the violation. The city through its attorney or other official designated by the City Council may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. § 14-4.

(D) In addition to the other remedies cited in this chapter for the enforcement of its provisions, and pursuant to G.S. §§ 160D-807 and 160D-404, the regulations and standards in this chapter may be enforced through the issuance of civil penalties by the Administrator. Additionally, and pursuant to the authority granted by G.S. § 160A-404, the city declares that the violation of the aforementioned civil penalty provisions shall not be a misdemeanor or infraction as provided in G.S. § 14-4.

(E) Subsequent citations for the same violation may be issued by the Administrator if the offender does not correct the violation within three days (except as otherwise provided in a warning situation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment.

(F) The following penalties are hereby established.

Warning citation	Correct violation within ten days
First citation	as set forth in the fee schedule
Second citation for same offense	as set forth in the fee schedule
Third and subsequent citations for same offense	as set forth in the fee schedule

(G) If the offender fails to pay penalties that have been cited within five days after the offender has been cited, the city may recover the penalties in a civil action in the nature of debt.

(H) Pursuant to G.S. § 160D-404 (c), if a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter or other regulation made under authority conferred thereby, the city in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

(I) Pursuant to G.S. § 160D-807, the city may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(J) The above remedies are cumulative, and the city may pursue any or all of the same at its discretion. Each day that the violation exists shall constitute a separate and distinct offense.

(Prior UDO, § 14.8) (Ord. O-04-21, passed - -)