

ZONING ORDINANCE

TOWN OF HOPE MILLS
NORTH CAROLINA



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HOPE MILLS ZONING ORDINANCE

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ARTICLE I ADMINISTRATIVE PROVISIONS

Sec. 102A-101. Intent and purpose.

The zoning regulations and districts as set forth in this ordinance have been made in accordance with a comprehensive land use plan and are designed to protect the public health, safety and welfare; to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; protect the quality of the environment; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

These regulations have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of building and encouraging the most appropriate use of land throughout the Town.

Contained herein are provisions providing for the administration, amendment and enforcement of this ordinance and defining the duties and powers of a Board of Adjustment in accordance with the provision of the NC General Statutes and amending in its entirety the previously adopted zoning chapter, including all amendments to said chapter.

State Statute Reference: N. C. GEN. STAT. § 160A-381 et seq.

Sec. 102A-102. Title

This ordinance shall be known and may be cited as the "Town of Hope Mills Zoning Ordinance."

Sec. 102A-103. Authority.

The Town of Hope Mills Board of Commissioners, pursuant to the authority conferred by N. C. GEN. STAT. § 160A-381 *et seq.* does hereby adopt, approve, ordain and enact into law this ordinance.

Sec. 102A-104. Jurisdiction.

On and after _____, this ordinance shall govern the use of all lands lying within the town.

Sec. 102A-105. Application.

This provisions of this ordinance shall be interpreted and applied as minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, general welfare and protection of the property rights of the owners of land within the Town.

Sec. 102A-106. Ordinance administrator.

This ordinance shall be administered and enforced by the Town Manager or the Manager's designee. This official or their representative shall have the right to enter upon the premises in any manner authorized by law as required to carry out the necessary duties for the fair and impartial enforcement of this ordinance. All questions arising in connection with enforcement and interpretation of this ordinance shall be presented first to the Chief Building Inspector who is charged with the day-to-day enforcement of this ordinance. If the Chief Building Inspector finds that they are not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the Board of Adjustment, then the matter shall be referred to the board for review and decision in accordance with the provisions of Article XVII.

Sec. 102A-107. Zoning permit.

(a) *Zoning permit required.* It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to commence the moving, alteration or repair of any structure, or the use of any land or building, including accessory structures, until the Chief Building Inspector has issued a zoning permit for such work or use. Such permit shall include a statement that the plans, specifications for, and intended use of such land or structure, in all respects, conform with the provisions of this ordinance and Chapter 86. Application for a zoning permit shall be made in writing to the Chief Building Inspector on forms provided for that purpose. Zoning permits shall be void after six months from date of issue unless substantial progress on the project has been made by that time.

(b) *Approval of plans.* The Chief Building Inspector shall review all applications for a zoning permit for any purpose regulated by this ordinance and Chapter 86 for conformity with this ordinance and Chapter 86. To this end, every application for a zoning permit shall be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Chief Building Inspector to ascertain whether the proposed activity is in conformance with this ordinance and Chapter 86:

- (1) The actual shape, location and dimensions of the lot;
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;
- (3) The existing and intended use of all such buildings or other structures; and
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance and the Chapter 86 are being observed.

In any planned district, the Chief Building Inspector shall not issue a zoning permit except in conformance with an approved site plan. The site plan shall also, without limitation, comply with all applicable standards of Article XV.

(c) *Issuance of zoning permit.* If the proposed activity as set forth in the application conforms with the provisions of this ordinance and Chapter 86, the Chief Building Inspector shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the Chief Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provision of this ordinance or of Chapter 86 and the Town reserves the right to rescind any zoning permit mistakenly issued in contravention of the provisions of this ordinance or of Chapter 86.

Sec. 102A-108. Certificate of occupancy required.

No land or structure (except for signs) or part thereof hereafter erected, moved or altered in its use shall be used until the Chief Building Inspector has issued a *Certificate of Occupancy* stating that such land, structure or part thereof conforms with the provisions of this ordinance and Chapter 86. Within three days after notification that a structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Chief Building Inspector to make a final inspection thereof, and to issue a *Certificate of Occupancy* if the building or premises or part thereof conforms with the provisions of this ordinance and Chapter 86, or if such certificate is refused, to state the reason for the refusal in writing.

Sec. 102A-109. Bona fide farm exemption.

The provisions of this ordinance do not apply to bona fide farms. This ordinance does not regulate or exercise controls over croplands, timberlands, pasturelands, orchards, or other farmlands, or any farmhouse, barn, poultry house, or other farm buildings, including tenant or other dwellings for persons working on said farms, so long as such dwellings shall be in the same ownership as the farm and located on the farm. To qualify for the bona fide farm exemption, the land must be a part of a farm unit with a N. C. Cooperative Extension Office or U. S. Department of Agriculture farm number assigned. Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this ordinance.

Sec. 102A-110. Fees.

Each applicant for a zoning amendment, either general or for a conditional use district and permit, text amendment, appeal from administrative decisions, variance, special use permit or site plan approval shall pay a non-refundable fee in accordance with a schedule recommended by the Zoning Board and adopted by the Board of Commissioners.

ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS

The interpretation of terms, methods of measurement, and definitions contained in this article shall be observed and applied when construing this ordinance, except when the context clearly indicates otherwise. Words not otherwise defined shall be construed and given their customary and ordinary meaning.

Sec. 102A-201. Interpretation of common terms and words.

For the purpose of interpreting certain words or terms contained within this ordinance, the following shall apply:

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

(b) The word “shall” is always mandatory and not discretionary.

(c) The word “may” is permissive.

(d) The word “person” includes any firm, association, organization, partnership, corporation, trust or company, or any other legal entity, as well as an individual.

(e) The word “lot” shall include the words “piece,” “parcel,” “tract” or “plot.”

(f) The phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for” and “occupied for.”

(g) Any reference to an “article” or “section” shall mean an article or section of this ordinance, unless otherwise specified.

(h) Where any provision of this ordinance conflicts with any other provision of this ordinance, any other Town regulation, or any local, State, or Federal law, the most restrictive provision will apply.

Sec. 102A-202. Methods of calculation

The rules set out herein shall be used to enforce and apply this ordinance, unless such rules are inconsistent with specific criteria contained within an

individual article or section. If a discrepancy arises between the following methods and any specific section elsewhere in this ordinance, the standards of the section shall prevail.

(a) *Fractional requirements.* When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded. When the of the number of dwelling units permitted on a lot submitted for approval as a group development results in a fraction of a dwelling unit, a fraction of one-half or more shall be considered a dwelling unit, and a fraction of less than one-half shall be disregarded.

(b) *Computation of time.* The time within which an act is to be completed shall be computed by excluding the first day and including the last day; if the last day is a Saturday, Sunday or legal holiday recognized by the Town, that day shall also be excluded.

(c) *Calculations of measurement.* The spatial separations required by this ordinance shall be calculated as follows:

(1) *Distance.* By drawing a straight line from the closest point on the perimeter of the exterior wall of the site being measured to the closest point of the property line in question.

(2) *Separation from a use/structure.* By drawing a straight line from the closest point on the perimeter of the exterior wall, structure or bay to another structure, the property line, or a well or septic, as applicable.

(3) *Area.* Multiplying the length times the width and then further calculate to provide total acreage or square footage.

Sec. 102A-203. Definition of specific terms and words.

In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

Abutting/contiguous: Having property or district lines in common, i.e., two lots are abutting if they have any portion of any property line in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way or stream.

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

Accessory building or use: A building or use, not including signs, which is:

(a) Conducted or located on the same zoning lot with, and of a nature customarily incidental and subordinate to, the principal structure;

(b) Clearly incidental to, subordinate in area and purpose to, and serving the principal use; and

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

Agriculture: The practice of cultivating the soil, producing crops, and raising livestock; such as but not limited to dairying, pasturage, viticulture, horticulture, hydroponics, floriculture, aquaculture, truck farming, orchards, forestry and animal and poultry husbandry, as defined in N. C. GEN. STAT. § 105-277.2. The operation of any accessory uses shall be secondary to that of the normal agricultural activities.

Airport operations (major): Any area of land or water which is used or intended for use for the landing and taking off of aircraft having a seating capacity of ten or more person, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

Airport operations (minor): Any area of land or water designed and set aside for the landing and takeoff of aircraft provided that no aircraft capable of seating more than nine persons shall be permitted to utilize the site. This definition includes all necessary facilities for the housing and maintenance of aircraft.

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

Alter: To make any change, addition or modification in construction, occupancy or use.

Alternative structure (regarding telecommunication facilities): A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. Alternative structures include, but are not limited to, flagpoles, buildings, silos, water tanks, pole signs, lighting equipment, steeples, billboards and electric transmission towers.

Amusement center: An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games,

shooting galleries, table games and similar recreational diversions within an enclosed building.

Antenna: Any exterior transmitting or receiving device that radiates or captures electromagnetic waves (excluding radar signals).

Apartment: A room or suite of rooms intended for use as a residence by a single household or family. Such a dwelling unit may be located in an apartment house, duplex, non-residential building or as an accessory use in a single home.

Approach surface zones: An inclined plane located directly above the approach area to the Fayetteville Regional Airport. The dimensions of the approach area are measured horizontally. The approach areas for each particular runway are symmetrically located with respect to the extended runway center lines and have lengths and widths as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan. The Airport Airspace Plan also shows the slopes of the respective approach surface zones.

Approval authority: The Board of Commissioners or other board or official designated this ordinance as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

Assembly: An event causing a company of persons to collect together in one place, and usually for some common purpose, such as for deliberation and legislation, worship or social entertainment.

Avigation easement: An easement, recorded with the Cumberland County Register of Deeds, intended to protect property owners and residents of properties in close proximity to the Fayetteville Regional Airport and by providing for the free and unobstructed passage of aircraft in and through the air space above said properties thus providing for the safe, convenient and reasonable operation of the airport.

Bars & nightclubs: Establishments including private clubs, sport bars/clubs etc., that may be licensed to sell alcoholic beverages to be consumed on the premises and do not meet the criteria to be a restaurant.

Bed and breakfast: A form of temporary/transient housing with breakfast included, but no other meals available. There is no restaurant, but overnight guests may use a dining room, which is open only during breakfast hours.

Berm: Any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

Billboard: See Section 102A-1402 for all sign-related definitions.

Board of Adjustment: A quasi-judicial body whose establishment, powers, authority, and responsibility is described in detail in Article XVII.

Board of Commissioners: The governing body of the Town of Hope Mills.

Boarding house: A building other than a bed and breakfast, hotel, inn or motel where, for compensation, meals are served and lodging is provided.

Bona fide farm: Any tract of land where the land is used for the production of and activities relating to, or incidental to, the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.

Borrow source operations: The removal of soil, sand or other soil materials, with further processing limited to dry screening to remove roots, trash, objectionable and other deleterious material. The provisions of this ordinance shall not apply to bona fide farming activities, operations subject to N. C. Department of Transportation (NCDOT) contractual agreements or jurisdiction for the duration of the contract only, and any operations exempt from the N. C. Mining Commission's regulations. These exemptions shall apply in all zoning districts.

Buffer: An opaque fence, wall, berm, hedge or other natural planting or a combination thereof, which will restrict the view from adjoining streets and/or abutting properties.

Buildable area (buildable envelope): The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.

Building: Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, trailers, manufactured homes and attached or unattached structures consisting of roof and supporting members, and similar structures whether stationary or movable.

Building footprint: The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor, stoops, porches, chimneys, decks, etc.

Building frontage: The linear foot of a building that runs approximately parallel to and faces public or private street(s).

Building height: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the building.

Building lot coverage: The amount of net lot area or land surface area, expressed in terms of a percentage that is covered by all principal buildings.

Building, principal (main building and/or structure): A building in which the principal use is conducted for the lot on which it is situated.

Building, setbacks: The minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e. decks, landings, terraces, and porches, etc.).

Building, temporary: A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a development under construction.

Caliper: A measurement of the diameter of a tree trunk. Such measurement shall be taken according to the following standards:

- (a) New nursery (to be installed) and regulated (existing on-site) trees up to and including four inches in diameter shall be measured six inches above ground level.
- (b) For trees above four inches in diameter, the caliper measurement shall be taken 12 inches above ground level.

Call center: A central building or office place where agents or operators man banks of telephones to either make outgoing, or field incoming telephone calls for a large company or organization.

Camouflage: To disguise with paint or other aesthetic means so as to blend with the surrounding area.

Campground/RV parks: Land upon which shelters (such as tents, travel trailers and recreational vehicles) are erected or located for occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground.

Canopy, marquee or awning: A roof-like cover extending over a sidewalk, walkway, driveway or other outdoor improvement for the purpose of sheltering individuals or equipment from the weather. An awning is made of fabric or some flexible fabric-like substance. Canopies and marquees are rigid structures of a permanent nature.

Cemetery: As defined in Chapter 65, Article 9, of the General Statutes of North Carolina, any one or a combination of more than one of the following in a place used or to be used and dedicated or designed for cemetery purposes:

- (a) Burial park for earth internment;
- (b) Mausoleum; or
- (c) Columbarium.

Certificate of Occupancy: Official certification that a premise conforms to the provisions of this ordinance and the NC Building Code, and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use upon completion of the building or site final inspection. Unless such a certificate is issued, a structure cannot be occupied, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

Change of use: Changing the original purpose of the building to a different use or changing the lot configuration due to changed requirements (e.g., adding display or storage areas).

Chapter 86: The portion of the Town of Hope Mills Code of Ordinances that governs the subdivision of land and establishes provisions for other special developments within the Town; the chapter is entitled: *Subdivision Regulations*.

Club or lodge (private, non-profit, civic or fraternal): Non-profit associations of persons, who are bona fide, dues-paying members, which own, hire or lease a building, or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale of alcoholic beverages is in compliance with applicable Federal, State and local laws.

Conditional use: A use or occupancy of a structure or a use of land, permitted only upon the successful rezoning to a conditional use district and subsequent issuance of a conditional use permit and made subject to the limitations and conditions specified therein. (Articles V, VI, VII and VIII)

Condominium development: A project of two or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the *North Carolina Unit Ownership Act* (N. C. GEN. STAT. 47A-1 *et seq.*) and shall be approved under the requirements for condominium developments set forth in Chapter 86.

Conical surface zone: An area that extends upward and outward from the periphery of the horizontal surface zone with a slope of 20:1 measured in a vertical plane passing through the Fayetteville Regional Airport reference point. Measuring radially outward, from the periphery of the horizontal surface zone, the conical surface extends for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

Conservancy organization: Any legally established incorporated entity, whether for profit or non-profit, whose primary mission is dedicated to the protection of the environment and natural resources.

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

Critical root zone: A circle extending around the tree with a one-foot radius for every one inch of tree diameter.

Day care facility: A building or dwelling regularly used for recreational or supervisory care of six or more persons (adults or children), not including the operator's own family members, during any 24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit. The following are not included: public schools; nonpublic schools, as described in N. C. GEN. STAT. § 110-86(2); summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods.

Density: The average number of families, persons, housing units or buildings per unit of land.

Developed: Land that has been converted to a specific purpose by new construction or the addition of planned or structured improvements, not otherwise excluded by the provisions of this ordinance.

DNL: The A-weighted average day/night sound level in decibels during a 24-hour period.

Driveway: A private access way, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel in which it is located.

Dwelling: A building or portions thereof designed, arranged or used for permanent living quarters. The term “dwelling” shall not be deemed to include a travel trailer, recreational vehicle, motel, hotel, tourist home or other structures designed and intended for transient residence

Dwelling, multiple-family: A residence designed for or occupied by two or more families with separate housekeeping and cooking facilities for each.

Dwelling, single-family: A detached residence designed for or occupied by one family only.

Equestrian facilities: An integral part of and developed in conjunction with residential developments approved as a conditional use district with a permit being issued. This definition includes horse ranches, boarding stables, riding schools and academies, trails, and horse exhibition facilities. Barns, stables, corrals, paddocks and the like are considered accessory and incidental to the foregoing uses.

Easement: A right given or reserved by the owner of land for specific limited use of that land.

Essential site requirements: Any construction or reconstruction of site development features required by any local, State or Federal regulations, ordinances or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site, which cannot be accommodated on the site without the removal of regulated trees.

Family: One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over five persons. The presence of household employees or children in foster care shall not disqualify any premises otherwise satisfying the above rules.

Fences or walls: A tangible barrier constructed of any allowable material erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes (such as ornamental gate or ornamental gates), or to screen from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it.

Fence or wall, open: A tangible barrier in which the openings through which clear vision and the free passage of air is possible from one side to the other on a horizontal plane occupying 75 percent or more of the side area of the barrier fence or wall; all other barriers are solid fences or walls.

Flea market: Sales area (indoors or outdoors) in which space is set aside or rented, and which is intended for use by one or more individuals to sell a variety of articles.

Floor area, gross: The total area of a building measured by taking the outside dimensions of the building at each floor level.

Floor area, net: The horizontal area of each floor of a building or structure; excluding those areas not directly devoted to the principal, incidental, or accessory use, such as: storage areas, stairwells, elevators, closets, restrooms, maintenance rooms, hallways, and similar areas.

Food sales/grocery stores: Stores specializing in the sale of edible products as its principal business with incidental sales of household supplies.

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

Garage, private: An accessory building or portion of a building permitted in any district allowing residential uses, providing for the storage of private motor vehicles used by the occupants of the principal building, and in which no business, occupation or service for profit is in any way conducted, except in an approved home occupation.

Golf course/driving range: Land developed for the recreational purpose of golf, excluding miniature golf courses and including country clubs, private and public courses, driving ranges and pro and snack shops.

Governmental use: A building, structure or facility owned and operated or occupied by a unit of local government of the State, including but not limited to the Town, another municipality, any agency of the State, the United States or any State thereof, or any Indian tribe recognized as such by the federal

government. This definition does not include any utility, whether owned and/or operated by any public or private agency.

Gross floor area: The total number of square feet within a building devoted to a particular use, including the space occupied by such supporting facilities as storage areas, work areas, toilets, mechanical equipment and the like.

Group development: A group of two or more principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land.

Group home: A home with support and supervisory personnel, some or all of whom are nonresident, that provides room and board, personal care and habilitation services in a residential environment to not more than six resident handicapped persons 24 hours a day, seven days a week.

Group quarters: A building or group of buildings, which houses more than two persons in other than a traditional family setting. Housing may be in individual rooms or communal rooms with bathroom facilities and other common use areas. Housing may be free of charge or with a fee (monetary or service). This definition shall not include foster care homes, therapeutic foster care homes or other uses specifically listed in Section 102A-403, Use Matrix, i.e., group homes and residential habilitation support facilities. It does include, but is not limited to, rooming/boarding houses, dormitories, residence halls, membership lodgings, halfway houses, alcohol and drug abuse centers, homeless shelters and hospice facilities, orphanages and religious quarters.

Halfway house: An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation and rehabilitation for prison parolees and juveniles. This shall not include facilities defined and licensed as "group homes." Halfway houses will be regulated as "group quarters."

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

Hazardous materials storage: The keeping, retention or leaving of hazardous materials in closed containers, tanks, cylinders or similar vessels; or vessels supplying operation through closed connections to the vessel. Hazardous materials storage is not a permitted use inside the corporate limits of the Town.

Height: For purposes of determining vertical (height) limits related to the airport overlay district, established and regulated by the Federal Aviation Administration (FAA), the datum shall be *mean sea level* elevation unless otherwise specified.

Highway Plan: A plan, formally known as *Fayetteville Area Metropolitan Planning Organization Highway Plan* that provides and defines a functional system of streets permitting travel from origins to destinations with directness, ease and safety. Different streets in this system are designed and called on to perform specific functions, thus minimizing the traffic and land service conflict.

Home occupation: Any occupation or profession carried on entirely within a dwelling or accessory building on the same lot by one or more occupants thereof.

Horizontal surface zone: A plane, circular in shape with its height 150 feet above the established Fayetteville Regional Airport elevation and having a radius from the airport reference point as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

Hospital: An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services primarily for inpatients and including as related: clinic facilities, laboratories, outpatient departments, training facilities and staff offices.

Hotel/motel: A building or other structure kept, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants and where rooms are furnished for the accommodation of such guests. Entry to sleeping rooms may be from the interior or exterior of the building. Food may be served in dining rooms, restaurants or cafes, which may be located in the same building as the sleeping rooms or may be in one or more separate buildings.

Junk yard/salvage yard: Any area exceeding 200 square feet, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires and bottles. A "junk yard" includes a motor vehicle wrecking yard, but does not include uses established entirely within enclosed buildings. It also includes residential outside storage of the above items.

Kennel: Any premises where four or more dogs which are three months old or older are kept commercially or as pets, including the boarding of

animals, keeping of animals for breeding purposes or for sale, but excluding pet grooming shops, veterinary clinics and veterinary hospitals.

Land, gross area: The square footage of all the area included within the external boundary of the property to be developed excluding existing public streets and railroad rights-of-way.

Land, net area: The land area required to meet the minimum dimensional zoning district standards as required by this ordinance.

Lateral access: The provision of ingress and egress between adjoining or abutting nonresidential uses to facilitate the circulation of vehicular traffic between those uses and designed to relieve traffic congestion, provide protection from through traffic, and limit individual driveway access along public rights-of-way.

Loading area or space, off-street: An area logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles used for the pickups and deliveries. Any required off-street loading space is not to be included as off-street parking space in computing required off-street parking space. (Article XIII)

Loading and service area: Area which is used for trash or garbage collection, vehicular loading and unloading, outdoor storage or repair, or for covered storage where the structure has no walls to screen views. Loading doors without an exterior platform (dock) are not included.

Lot: A parcel of land occupied or intended for occupancy, by a main building or group of main buildings together with any accessory buildings, including such yards, open spaces, width, and area as are required by this ordinance, either shown on a plat of record or described by metes and bounds and recorded with the Register of Deeds.

Lot, corner: A lot abutting the intersection of two or more streets, or a lot abutting on a curved street or streets, which streets have an angle of intersection of not more than 135 degrees.

Lot, depth: The depth of a lot is the average distance between the front and back lot lines excluding street rights-of-way.

Lot, flag: A lot where the main body of the lot is separated from the street giving access to the property, but which has an included strip of land at least 35 feet in width connecting the lot to the street, thus providing lot access.

Lot, frontage: The linear feet of property measured along the property line that abuts a public street or an approved private street.

Lot, interior: A lot other than a corner lot.

Lot lines: The property lines bounding a lot. Where a lot of record includes a public street right-of-way, the lot lines are presumed not to extend into the right-of-way.

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the office of the Cumberland County Register of Deeds, or a lot described by the metes and bounds, the description of which has been recorded in the office of the Cumberland County Register of Deeds, and if applicable, meets all requirements of Chapter 86.

Lot, through: A lot, other than a corner lot, having frontage on two parallel, or approximately parallel streets, or a corner lot having frontage on three or more streets.

Lot width: The straight-line distance between the points where the building setback line intersects the two side lot lines.

Manufactured home: A manufactured building designed to be used as a single-family dwelling unit, which has been constructed and labeled indicating compliance with the U. S. Department of Housing and Urban Development administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

Manufactured 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 the following additional criteria:

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

(b) The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

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

(d) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint) or wood or hardboard siding, comparable in composition, appearance

and durability to the exterior siding commonly used in standard residential construction.

(e) The manufactured home is set up in accordance with the standards set by the N. C. Carolina Department of Insurance and a continuous permanent masonry foundation, or permanent masonry curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home.

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

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

Manufactured home, Class B: 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, but that does not satisfy all of the criteria necessary to qualify the home as a Class A manufactured home.

Manufactured home, Class C: Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

Manufactured home park: A multi-family development on any site or tract of land with three or more spaces intended to be occupied by manufactured homes, regardless of whether a charge is made for such services. Manufactured home parks may include recreational facilities and other incidental structures necessary to support the residents of the park. (Chapter 86)

Manufactured home space: A plot of land within a manufactured home park designed for the accommodation of one manufactured home. (Chapter 86)

Massage and bodywork therapy: Systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes as regulated by N.C. GEN. STAT., Chapter 90, Article 36 and the N. C. Board of Massage and Bodywork Therapy. The application may include:

(a) Pressure, friction, stroking, rocking, kneading, percussion or passive or active stretching within the normal anatomical range of movement;

(b) Complimentary methods, including the external application of water, heat, cold, lubricants and other topical preparations;

(c) The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

Massage and bodywork therapist: Any person who is licensed by the North Carolina Board of Massage and Bodywork Therapy to practice massage and bodywork therapy as defined and regulated by N.C. GEN. STAT., Chapter 90, Article 36.

Mini-warehouse/storage facilities: A building or group of buildings, in a controlled access and/or fenced compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the dead storage of a customer's personal property, goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

Mixed use: A single building containing more than one type of land use where the ground floor use is a permitted non-residential use in the zoning district and all second floor and above uses are residential or a single development of more than one building and use with the different types of land uses in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

Mobile storage units: Self-contained portable units designed to be temporarily placed on a lot for the purpose of loading and/or unloading the contents, with the unit being transported to and stored at a permanent storage facility. (Examples include: Pods, U-pack, Mini-Mobile, etc.)

Modular structure: A manufactured structure designed for year-round residential or commercial use, with major components or modules pre-assembled and transported to a site for final assembly, foundation, construction, and utility connection. Such structures must meet all requirements of the N. C. Building Code and must have attached a North Carolina Validating Stamp.

More intensive use: A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

Motor vehicle: A machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle, except that said definition shall not include a "manufactured home" as defined in this ordinance.

Motor vehicle parking lot: An area or plot of land used for, or designated for, the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use.

Motor vehicle parking lot, commercial: A tract of land which is used for the storage of legally licensed, insured and registered motor vehicles, not accessory to any other use on the same or any other lot, and which contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month.

Motor vehicle parking space: An area of not less than 20 feet in length and nine feet in width for one motor vehicle, plus the necessary access space.

Motor vehicle parking, off-street: A parking space located outside of a public street right-of-way.

Motor vehicle storage lot: A plot of land used for the open storage of vehicles, which does not meet the definition of a junkyard or motor vehicle parking lot.

New construction: Any single-family development, multi-family or non-residential structure, parking lot or motor vehicle or manufactured housing sales lot for which a building permit or construction permit is issued or upon which construction actually begins on or after the effective date of this ordinance.

Nonconforming lot: A lot existing at the effective date of this ordinance or any amendment to it that was created in compliance with Chapter 86 in effect at the time of lot creation and that does not meet the minimum area or lot width or depth requirements of the district in which the lot is located.

Nonconforming structure: An existing structure that does not comply with the dimensional requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments thereto.

Nonconforming use: Any existing use of land or structure which does not comply with the use regulations of this ordinance for the district in which it is located either at the effective date of this ordinance from which this ordinance was derived or as a result of subsequent amendments thereto.

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

Obscene matter: Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance.

Open space: The land used for recreation, natural resource protection, amenities and/or buffer areas. Open space may include, but is not limited to, walkways, recreation areas, playgrounds, wooded areas, greenways and watercourses.

Ordinance: This, the Town of Hope Mills Zoning Ordinance, a technical ordinance, including any amendments thereto. Whenever the effective date of the ordinance is referred to, the reference includes the effective date and the effective date of any amendment to the Zoning Ordinance. This ordinance consists of two parts – a text and a map, in hardcopy or digital format.

Person: Any individual, association, firm, partnership, public or private utility, or body politic or corporate.

Planning Department/ Planning Staff: The County agency that is contracted with the Town for planning services and is responsible for and tasked with planning and land use matters for the Town and the surrounding area.

Planting area: A reserved landscape area free of concrete, asphalt, stone, gravel, brick or other paving material, aside from approved walkways, which is required or used to provide growth area for required plant material.

Planting strip: Planting area along a public right-of-way which is reserved for landscaping purposes.

Plat/plan: A map, usually of land which is to be or has been subdivided or developed, showing the location, boundaries, and ownership of properties; the location, bearing and length of every street and alley line, lot line and easement boundary line; and such other information as may be necessary to determine whether a proposed subdivision or development meets all required standards of this ordinance, Chapter 86 and other applicable regulations.

Premises: A lot and the structure or structures located on it.

Principal structure/principal uses: The primary building(s), purpose(s) or function(s) that a parcel or structure serves or is intended to serve.

Public utility station: A structure or facility used by a public or quasi-public utility agency to store, distribute or generate electricity, gas,

telecommunications and related equipment or to pump or chemically treat water. This does not include telecommunication towers, storage or treatment of sewage, solid waste or hazardous waste.

Public water and/or sewer: Municipal, sanitary district, community, and privately owned water and/or sewer systems as regulated and controlled by the N. C. Utilities Commission, N. C. Board of Health, N. C. Department of Environment and Natural Resources (NCDENR) and the County Public Health Department.

Public way: Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Quarry operations: The extraction or removal by any means, to include, but not limited to, such activities as blasting, excavating, jacking of minerals, ores or other materials which are processed by washing, wet screening, classifying, crushing, material gradation or other treatment which combines, mixes or blends with other materials.

Recreation, indoor: An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller or ice skating, billiards, pool, motion picture theatres and related amusements.

Recreation, outdoor: An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

Recreational vehicle: A vehicular, portable structure built on a single chassis or capable of being placed in or on a vehicle; designed to be self-propelled or towable by a light duty truck; and designed primarily for use as temporary dwelling for recreational, camping, travel or recreational use. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

Recreational vehicle park: See "Campground/RV park" above.

Religious worship activity: Any premises, the principal purpose of which is religious worship and in which the principal structure is the principal place of worship. Accessory uses may include religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, and a one-family dwelling unit (parsonage), but excluding day care facilities and facilities for residence or training of religious orders.

Residential habilitation support facility: A day care home with support and supervisory personnel that provides room and board, personal care and

habilitation services in a family environment to more than six resident handicapped persons.

Restaurant: An eating establishment, including cafeterias, cafes, grills, fast-food establishments, etc., that has gross receipts from food sales and non-alcoholic beverage sales of at least 30 percent of the total gross receipts including alcoholic beverage sales. This definition does not include those uses regulated as a sexually oriented business.

Right-of-way: An area owned and maintained by the Town, other municipality, the State of North Carolina, a public utility, a railroad or a private entity for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities or railroads.

Seasonal sales establishments: For purposes of this ordinance, the temporary offering for purchase of fireworks sales, pumpkins and Christmas trees to the general public.

Setback: The required distance between every structure with other structures, whether on the same or separate lots, and every structure and the lot lines of the lot on which it is located.

Sexually oriented business: Any business or enterprise that has as one of its principal business purposes or as a predominant purpose of its business an emphasis on matter and conduct depicting, describing or related to anatomical areas and sexual activities specified in N.C. GEN. STAT. § 14-202.10.

Shopping center: A group of retail and other commercial establishments that is planned and designed for the site on which it is built, functioning as a unit, with common entrance ways, off-street parking, landscaped areas, and pedestrian paths provided on the property as an integral part of the unit.

Sign: See Section 102A-1402 for all sign-related definitions.

Site plan: A scaled drawing depicting uses and structures proposed for a parcel of land as required by this ordinance and Chapter 86. It includes such items as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, buildings, major landscape features - both natural and manmade - and, depending on requirements, the locations of proposed utility lines. The specific criteria for site plans are found in Article XV.

Site specific development plan: A plan of land development submitted to the Town for purposes of obtaining one of the following zoning or land use

permits or approvals: subdivision plat (if properly recorded), conditional use or special use permit or zoning permit.

Solid waste disposal facility: Any depository of solid waste, excluding earth for fill and septage. This definition includes, but is not limited to, sanitary landfills, sewage treatment facilities and waste incinerators.

Special use: Those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics, or qualities that require comprehensive review at a quasi-judicial public hearing by the Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions. (Section 102A-1706)

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.

Street, centerline: A line officially determined to be lying halfway between the two edges of the street right-of-way.

Street line: The dividing line between a street or road right-of-way and the contiguous/abutting property.

Street, private: Any road, street, or alley which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public. (This does not include neighborhood public roads, cart paths and ingress/egress easements.) Requirements for private streets are in Chapter 86.

Street, public: A dedicated and accepted for maintenance purposes public right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

Street tree: Any tree planted within or adjacent to a public right-of-way.

Streetscape: Improvements intended primarily for the visual enhancement of the public right-of-way.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in a permanent manner.

Subdivision: All divisions of a less than ten acre 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, with certain modifications as more particularly defined in Chapter 86.

Swimming pool, children's wading: Any swimming pool that does not meet the definitions of "private" or "public" swimming pool below.

Swimming pool, private: Any structure which contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a single-family residence and which is available only to the family and guests of the house holder. This includes in-, on- and above-ground swimming pools.

Swimming pool, public: Any swimming pool that does not meet the definition of "private swimming pool" located above. Chapter 86 and the County Public Health Department also have provisions regulating public swimming pools.

Therapeutic foster care home: A 24-hour residential treatment facility located in a private residence which provides professionally trained parent substitutes who work intensively with children and adolescents who are emotionally disturbed or have a substance problem, or both. These homes shall not serve more than two children or adolescents.

Temporary: A permit or event for a limited period of time.

Transient lodgings: Land used or intended to be used or occupied by a group of two or more detached or semi-detached buildings, except manufactured homes, or by a multiple unit building containing guest rooms, with motor vehicle parking spaces and incidental utility structures which are provided in connection therewith, all of which is used or designed for use primarily by motor vehicle transients.

Tower: Any fabricated structure or device including, but not limited to, relay stations for commercial operations, such as cable television, telecommunication, radio, television stations and the operation of such uses. "tower" shall not include structures that support antennae or similar devices that support or facilitate HAM radio or citizen band communication.

Townhouse: A single structure on its own separate lot containing one dwelling unit that occupies space from the ground to the roof, and is attached to one or more other dwelling units by at least one common wall.

Transitional zone: The areas within the Fayetteville Regional Airport airspace that extends outward and upward from the sides of the approach zones for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet

No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

Unit: A use, group, structure, or other entity regarded as an elementary structural or functional constituent of a whole.

Variance: A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. (Section 102A-1705)

Vehicular display/service area: An area where manufactured homes, motor vehicles, motor homes, boats and trailers are displayed for sale, parked while awaiting service, or having been serviced, are awaiting customer pickup.

Vehicular use area: Areas accessible to vehicular traffic on a regular established basis, and which have an improved surface such as gravel, asphalt, brick or concrete pavement. Examples include but are not limited to driveways and parking lots. Areas that are not accessible on a regular basis to the general public and are not visible from a public right-of-way shall not be considered as a vehicular use area for purposes of this ordinance. Also not included as vehicular use areas by this definition are areas, including parking lots that are screened from public rights-of-way, which screens may not totally block from view the area screened but are installed and maintained as provided for in this ordinance.

Vertical mixed use: Buildings erected for two or more different uses, providing space for non-residential uses on the ground floor with residential areas located on the upper floors and functionally designed to share vehicular and pedestrian access and parking areas.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from the ground to the sky, except where encroachments and accessory buildings are expressly permitted herein.

Yard, front: An area of which the width is measured the entire length of the front property line between the side property lines; and the depth is measured as the distance between the street right-of-way or property line and the required front yard setback line.

Yard, rear: An area of which the width is measured the entire length of the rear property line between the side property lines; and the depth is measured as the distance between the property line and the required rear setback line.

Yard, side: An area extending from the required front setback to the required rear setback, or to the front or rear property lines where no front or rear setback is required by the provisions of this ordinance, the minimum and average dimensions of which are determined by the standards of property development of the zoning district in which such lot is located.

Zero lot line development: A single development including, but not limited to, patio homes, townhouses, condominiums, businesses, individual lots and including one or more structures comprising at least two individual lots, dwelling units, or businesses, whether attached or detached, intended for separate ownership and developed in accordance with the standards of Chapter 86.

Zoning: A police power measure, enacted by the Board of Commissioners pursuant to enabling statutes, in which the Town is divided into districts or zones within which permitted, conditional, and special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.

Zoning Board: The Town's appointed body established for the purpose of conducting hearings to derive at and formulate recommendations to advise the Board of Commissioners on zoning-related matters.

Zoning district: An area established by this ordinance where the individual properties are designed to serve compatible functions and to be developed at compatible scales.

Zoning vested right: A right pursuant to N. C. GEN. STAT. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

ARTICLE III ZONING DISTRICT CLASSIFICATION

Sec. 102A-301. Establishment of districts.

For the purpose of this ordinance, the areas shown on the Town's zoning map are divided into the following classes of general, conditional and overlay districts.

Sec. 102A-302. Zone characteristics.

(a) *Residential districts.* Residential districts are composed of certain existing residential areas of the Town and certain areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of each district by promoting and encouraging a suitable environment for family life and prohibiting certain activities of a non-residential nature. To these ends, development is limited to dwellings which provide homes for the residents plus certain additional uses such as schools, parks, recreation facilities, and certain other public facilities. This system of classification is utilized to optimize orderly development by providing a variety of living environments based on different levels of permitted population density and facilitating the adequate provision of transportation and other public facilities.

(1) *RR rural residential.* A district intended for traditional rural use with lots of 20,000 square feet or above. The principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

(2) *R-20 residential district.* A district designed primarily for single-family units with a lot area of 20, 000 square feet or above.

(3) *R-15 residential district.* A district designed primarily for single-family dwelling units with a lot area of 15,000 square feet or above.

(4) *R-7.5 residential district.* A district designed primarily for single-family dwellings on lots with a lot area of 7,500 square feet or above.

(5) *R-6 residential district.* A district designed for a mix of single- and multiple-family dwellings.

(6) *R-6A residential district.* A district designed for a mix of single- and multiple-family dwellings including the use of manufactured homes on individual lots and in manufactured home parks.

(7) *R-5A residential district.* A district designed primarily for multiple-family housing with a maximum density of 13.5 dwelling units per net acre.

(8) *R-5 residential district.* A district designed primarily for multiple-family dwelling units with a maximum density of 29 units per acre, dependent upon the type of development.

(b) *Office and institutional district.*

- *O and I(P) planned office and institutional district.* This district is designed primarily for agencies and offices rendering specialized services in the professions, finance, real estate, and brokerage as well as the traditional institutional functions both public and private, public assembly, religious and certain cultural and recreational activities and group housing. The uses in this district classification may be characterized as having no retail or wholesale trade, except as incidental use. The district is normally small and often situated between business and residential areas. The regulations are designed for maintaining more compatibility with nearby residential districts than would exist with a commercial district. To promote the essential design features with the O&I(P) district, site plan approval is a requirement.

(c) *Commercial districts.*

(1) *C1(P) planned local business district.* This district is designed to cater to the ordinary shopping needs of the immediate neighborhood with emphasis on convenience goods. This district is customarily located adjacent to an arterial street and generally surrounded by residential areas. To promote the essential design features with the C1(P) district, site plan approval is a requirement for development proposed for the district.

(2) *C2(P) planned service and retail district.* This district is designed to allow for the non-residential development of land with service and retail uses not typically considered intrusive to neighboring residential properties or in areas generally requiring a greater degree of restrictions regarding the commercial use of properties.

(3) *C(P) planned commercial district.* The intent of this district is to assure the grouping of buildings on a parcel of land so as to constitute a harmonious, efficient and convenient retail shopping area. To promote the essential design features within this district, site plan approval is required. Any site plan design layout shall assure traffic safety and the harmonious and beneficial relations between the commercial area and contiguous land.

(d) *Industrial districts.*

(1) *M1(P) planned light industrial district.* This district is designed for a wide variety of light industrial operations involving manufacturing, processing, and fabrication of materials, operations involving wholesaling and bulk storage, other non-retail uses and certain public assembly and recreational uses. The general intent of the district is to prohibit residential, retail, and heavy industrial uses of the land. By their nature, the uses permitted in this district are generally not compatible with residential or shopping center uses. Access and compatibility with the surrounding uses are the most important location criteria for light industrial districts. To promote the essential design features with the M1(P) district, site plan approval is a requirement.

(2) *M(P) planned industrial district.* This district is designed primarily for basic manufacturing and processing industries, all of which normally create a high degree of nuisance and are not generally compatible with residential, service or commercial uses. The general intent of this district is to permit uses confined to wholesaling, manufacturing, fabrication, and processing activities that can be carried on in an unobtrusive manner and limited external effects with suitable open spaces, landscaping, parking, and service areas. The district is customarily located on larger tracts of land with good highway and rail access buffered from residential districts by other more compatible uses. Commercial activities are not permitted except those having only limited contact with the general public and those not involving the sale of merchandise at retail except for occasional temporary sale of items produced on the premises or for the purpose of serving employees, guests and other persons who are within the district with an industrial activity. To promote the essential design features within the M(P) district, site plan approval is a requirement.

(e) *Conservancy district.*

- *CD conservancy district.* This district is designed to preserve and protect identifiable natural resources from encroachment. The general intent of the district is to provide protection for such resource areas that will continue to provide limited development potential while preserving existing conditions to the extent feasible. Areas to be zoned in this district shall be identifiable as any land area deemed desirable for protection from development and may include, but not limited to: swamp, marsh, flood land, poor or very severe soils areas or managed and unmanaged woodland on U. S. Geological Survey maps, soil maps prepared by the U. S. Department of Agriculture, Soil Conservation Service or other appropriate sources.

(f) *Conditional use districts.*

(1) *Companion districts (___/CUD).* Each district includes a companion conditional use district (e.g. RR has RR/CUD) where no uses are permitted by right. All uses in the companion conditional use districts also require a conditional use permit.

(2) *Mixed use development - conditional use district (MXD/CUD).* The purpose of this district is to encourage innovative development on a conditional use basis by providing use flexibility while maintaining quality design standards tempered with proper controls regarding buffering, landscaping, open space designation, density and other conditions.

(3) *Planned neighborhood development - conditional use district (PND/CUD).* A district designed for the planned development of various residential densities concurrent with neighborhood oriented uses in a single project

(4) *Density development - conditional use district (___/DD/CUD).* The purpose of this district is to promote the preservation of open space within the Town, through permanent restriction of development on a percentage of a tract, buffering, and clustering of lots, while at the same time providing for the residential development of land. The specific designation depends on the density of the development, i.e., R20/DD/CUD.

(g) *Overlay districts.* The districts presented in this sub-section are created for the purpose of providing for special regulations in given designated areas of the Town to accomplish stated purposes that are set forth for each district. These districts shall be in addition to, and shall overlap and overlay all other zoning districts within which lands placed in each district also lie, so that any parcel of land lying in an overlay district shall also lie in one or more of the other zoning districts provided for by this ordinance.

(1) *Airport overlay district (AOD).* The purpose of this district is to protect the public health, safety and welfare in the vicinity of the Fayetteville Regional Airport by minimizing exposure to and giving public notice of probable high noise levels and accident hazards generated by the airport operations and to encourage future development that is compatible with the continued operation of the airport and the economic well being of the Town.

(2) *Reserved for future use.*

(3) *Historic overlay district (HOD).* This overlay district is designed to promote the preservation and restoration of structures and landscape features within specified areas and/or neighborhoods of the Town that are of historical, architectural and cultural importance, having significant character,

design, setting, materials or value for their association with the Town, Cumberland County, North Carolina or the nation. This district is designed to protect buildings, structures and sites, and their environs through guidelines administered by the Town's Historic Advisory Committee.

(h) *Dormant/corresponding zoning districts.* This amendment makes dormant certain previously existing zoning districts created under the Town Zoning Ordinance of 1985, and subsequent amendments. The PND planned neighborhood district is now dormant and development shall either comply with the standards of the R7.5 residential district or shall be submitted for approval under Article VII. The following previously existing zoning districts now correspond to current districts as indicated:

(1) HS(P) planned highway services district shall correspond to the C(P) planned commercial district;

(2) C3 heavy commercial district shall correspond to the C(P) planned commercial district;

(3) M2 heavy industrial district shall correspond to the M(P) planned industrial district; and

(4) R10 residential district shall correspond to R7.5 residential district.

Sec. 102A-303. Zoning maps; interpretation of district boundaries.

(a) *Zoning maps.* All the territory included in the Town is classified into one or more zoning districts and the boundaries of each of these districts are hereby adopted as shown on a series of maps in digital format, which is to be considered a part of this ordinance and entitled "*Zoning Maps, Hope Mills, North Carolina.*" The zoning maps and all notations, references, and all amendments thereto, and other information shown thereon are made a part of this ordinance, the same as if such information set forth in the map were all fully described and set out in this ordinance. The zoning maps are public record and shall be kept on file with the Chief Building Inspector and the County Planning Department, where it shall be available for inspection by the public. Regardless of the existence of purported copies of the zoning map which may from time to time be made or published, the zoning maps on file with the Planning Department and amendments thereto entered in the minutes of the Board of Commissioners shall be final authority as to the current zoning status of lands, buildings, and other structures in the zoning areas.

(b) *Interpretation of district boundaries.* If dispute exists as to the boundaries of any district shown on the zoning maps, the following rules shall apply:

(1) *Extensions of line.* Where such district boundaries are indicated as approximately following street or railroad rights-of-way, alley lines and lot lines, or extensions of such lines, shall be considered to be such boundaries. Where district boundaries are indicated as approximately following the centerline of stream beds or river beds, or such centerlines extended, such centerlines shall be considered to be such boundaries.

(2) *Undeveloped property.* For undeveloped property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale of the map.

(3) *Physical or cultural features.* Where physical or cultural features existing on the ground are at variance with those shown on the zoning maps, or in other circumstances not covered by sub-sections (b)(1) and (b)(2) of this section, the Board of Adjustment shall interpret the district boundaries.

(4) *Jurisdiction after annexation.* When any portion of the territory subject to this ordinance as shown on the zoning map has been annexed into the corporate limits of the Town, such area or areas shall remain subject to the provisions of the previous jurisdiction's regulations for a maximum period of 60 days thereafter, or until such time that the area or areas are subject to the Town regulations (initial zoning), whichever occurs first.

ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES

Sec. 102A-401. General.

Within the various zoning districts established in Article III and subject to the requirements of this ordinance, no land, building or structure shall be used, and no building or structure shall be erected which is intended or designed to be used, in whole or in part for any use other than the uses allowed by the various districts established herein. The use regulations for the various districts are intended to be permissive in nature and none other than those specifically listed shall be construed as being allowable uses. Some land uses may be allowed through conditional use district and approval of the permit or by issuance of a special use permit only upon findings that certain conditions exist or should be applied, and is requested and agreed to by the property owner. The establishment of these uses shall be allowed only after review through appropriate measures and approval of plans.

Permitted uses in the various districts are indicated in the appropriate column of the following matrix. Special uses, with Board of Adjustment approval and issuance of the permit, and some conditional use districts, after Board of Commissioner approval and issuance of the permit, are also indicated in the matrix. All proposed uses in any planned district require site plan review and approval and shall be in compliance with the standards of this ordinance and Chapter 86.

Sec. 102A-402. Uses by right.

All uses of property are prohibited except those that are permitted or otherwise allowed under the terms of this ordinance.

Sec. 102A-403. Use matrix.

The matrix on the following pages indicates permitted, special and some conditional uses.

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special use (Board of Adjustment approval required)															
LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Accessory uses incidental to any permitted use	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Addressing service												P	P	P	P
Agricultural or rural farm use	P	P	P	P	P	P	P								
Airport operations (minor)														S	S
Airport operations (major) (§102A-1002)															P
Alcoholic beverages, (control sales)													P		
Apparel and accessory sales											P	P	P		
Assemblies (including assembly hall, armory, stadium, coliseum, community center, fairground activities) (§102A-1015)		S	S	S	S	S	S	S	S	P	P	P	P		
Auction sales (excluding livestock auctioning & motor vehicles)													P	P	P
Bakery production and wholesale sales													P	P	P
Baking, on-premises and retail only											P	P	P		
Bank, savings and loan company and other financial activities										P	P	P	P		
Bars & night clubs, not regulated by Sec. 102A-1023													P		
Barbering and hairdressing services												P	P		
Bed and breakfast (§102A-1003)		P	P	P	P	P	P	P	P			P	P		
Billboards (§102A-1407)													S		P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance

P = Permitted use

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LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Bingo											P		P		
Boats and accessories, retail sales and service													P		
Books & printed matter sales										P	P	P	P	P	P
Borrow source operations (§102A-1004)															S
Bottled gas distributing, bulk storage															P
Bottling														P	P
Building supply												P	P	P	P
Bus station activities (storage terminal activities)													P	P	P
Cabinet making and other woodworking														P	P
Call center															P
Carpet and rug cleaning													P	P	P
Catalogue sales													P		
Cemetery, public (§102A-1015)		S								P	P	P	P		
Club or lodge not regulated under Sec. 102A-1023 (§102A-1005)		S	S	S	S	S	S	S	S	S	P		P		
Crematorium														P	P
Day care facility (§102A-1006)		S	S	S	S	S	S	S	S	S	P	P	P	S ¹	S ¹
Delicatessen operations (including catering)										P	P		P		
Dry cleaning/laundry, commercial													P	P	P

¹Only in approved Industrial Parks

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance

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LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Dry cleaning/laundry, self service											P		P		
Dry cleaning and laundry collection, no cleaning on premises except in conjunction with service counter, provided not more than 2,500 square feet is devoted to these processes											P		P		
Dwelling, multiple family		C	C	C	C	P	P	P	P	P ²	P ²	P ²	P ²		
Dwelling, single family		P	P	P	P	P	P	P	P	P ²	P ²	P ²	P ²		
Equestrian facilities		S ³	S ³	S ³											
Exterminating service													P	P	P
Farm machinery sales and servicing													S	P	P
Farm supplies merchandising (excluding farm machinery)												P	P	P	P
Fire station operations/emergency service (§102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Fish hatchery	P													P	P
Florist											P	P	P		
Food processing														P	P
Food production, with on premises retail sales of product												P	P		

²Second floor and above only

³Unless approved in conjunction w/ CUD

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance

P = Permitted use

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S = Special use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Food production/wholesale sales													P	P	P
Food sales/grocery stores											P	P	P		
Funeral home, including incidental crematorium										P	P	P	P		
Golf courses (§102A-1007)		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Group homes, six or less clients (§102A-1008)		P	P	P	P	P	P	P	P						
Group quarters (§102A-1009)		S	S	S	S	S	S	S	S						
Hardware, paint, and garden supply sales											P	P	P		
Home furnishing and appliance sales												P	P		
Industrial operations not otherwise prohibited															P
Industrial sale of equipment or repair service														P	P
Industry, pilot operation														C	C
Janitorial service												P	P	P	
Kennel (§102A-1010)		S										P	P	P	
Laboratory operations, medical or dental										P	P	P	P	P	
Laboratory, research													P	P	P
Library (§102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P		
Locksmith, gunsmith												P	P	P	
Home occupation, incidental (§102A-1102)		P	P	P	P	P	P	P	P	P ²	P ²	P ²	P ²		
Hotel/motel												P	P		
Machine tool manufacturing or welding															P

²Second floor and above only

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance
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S = Special use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Manufactured home, Class A for residential occupancy		P					P								
Manufactured home, Class B for residential occupancy		P					P								
Manufactured home, Class C for residential occupancy (§102A-1011)							P								
Manufactured home park, excluding any manufactured homes sales (Chapter 86)							P								
Manufactured home sales														P	P
Massage & bodyworks therapy											P	P	P		
Milling or grinding grain and seed into food														P	P
Mini-warehousing (self-storage facility) (no outside commercial storage of motor vehicles) (§102A-1012)								S	S			P	P	P	P
Mini-warehousing (self-storage facility) (including outside commercial storage of motor vehicles)													P	P	P
Monument sales													P	P	P
Monument works															P
Motor vehicle storage yard														P	P
Motor vehicle parking lot, commercial										P	P	P	P	P	P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance

P = Permitted use

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S = Special use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Motor vehicle parts and accessories sales, contained within a building and with no outside storage											P	P	P		
Motor vehicle repair and/or body work, excluding commercial wrecking/dismantling/storage of junked vehicles													P	P	P
Motor vehicle rentals												P	P		
Motor vehicle sales, new and used, including motor vehicle auctions													P	P	P
Motor vehicle service station operations											P	P	P	P	
Motor vehicle washing												P	P	P	P
Motor vehicle wrecking yards and junkyards, including sales of parts (§102A-1014)														S	P
Municipal building and activities	P									P	P	P	P		
Nursery operations/plant husbandry/greenhouses (§102A-1015)	P	P										P	P	P	P
Nursing home/convalescent home/hospital/retirement home, etc. (§102A-1016)		S	S	S	S	S	S	S	S	P	P	P	P		
Office supplies and equipment sales and service/mailbox service												P	P		

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special use (Board of Adjustment approval required)															
LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession, clinic										P	P	P	P		
Office use, with no on-premises stock of goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material										P	P	P	P		
Pet sales, excluding kennel activities or outside storage of animals												P	P		
Photography studio												P	P		
Post office										P	P	P	P		
Printing and reproduction small scale, <4000 sq. ft.										P	P	P	P		
Printing and reproduction large scale, =>4000 sq. ft.													P	P	P
Public utility stations or substations (§102A-1015)		S	S	S	S	S	S	S	S	S	S	S	S	P	P
Public utility works, shops or storage yards (§102A- 1017)													P	P	P
Publishing														P	P
Quarry operations (§102A-1018)															C
Radio or television studio activities only										P	P	P	P		
Radio or television transmitting										S	S	S	S		P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special uses (Board of Adjustment approval required)															
LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Railroad yard operations															P
Recreation/amusement indoor (conducted inside building for profit, not otherwise listed & not regulated) (§102A-1019)												P	P		
Recreation/amusement outdoor (conducted outside building for profit, not otherwise listed & not regulated) (§102A-1019)		S										S	P		
Recreation/amusement public/private (not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not otherwise listed) (§102A-1019)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Recreation vehicle park and/or campgrounds (§102A-1020)	S	S										P	P		
Religious worship activities (§102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P		
Repair, rental, or servicing of any product the retail sale of which is a use by right in the same district											P	P	P		P
Residential habilitation support facilities (§102A-1021)		S								S	S	S	S		
Restaurant, operated as commercial enterprise, drive-ins excluded and except as regulated by Sec 102A-1023											P	P	P		

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special use (Board of Adjustment approval required)															
LAND USES	ZONING CLASSIFICATION														
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Restaurant, operated as commercial enterprise, drive-ins included, except as regulated by Sec 102A-1023												P	P		
Retailing or servicing with operations conducted and merchandise stored entirely within a building and not otherwise listed herein												P	P		
Sanitarium													S		
Sawmill or planing activities															P
School, business and commercial for nurses or other medically oriented professions, trade, vocational & fine arts										P	P	P	P		
Schools, public, private, elementary or secondary (§102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P		
Seasonal sales establishments [§102A-1101(f)]												P	P		
Second hand, pawn and flea market (§102A-1022)													P		
Sexually oriented businesses (§102A-1023)															P
Solid waste disposal facilities (§102A-1024)															S
Special informational signs [§102A-1404(g)]	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Storage, flammable															P
Storage, open															P
Storage, warehouse															P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special use (Board of Adjustment approval required)															
LAND USES		ZONING CLASSIFICATION													
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Swimming pools, incidental to a principal use [§102A-1102(c)]	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Tailoring											P	P	P		
Taxicab stand operations													P		
Telephone switching/booster station (§102A-1015)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Theater productions, indoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Sec. §102A-1023											P	P	P		
Theater productions, outdoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Sec. §102A-1023 (§102A-1025)		S										S	P		
Tire recapping															P
Tobacco processing & sales warehouse															P
Towers (§102A-1026)	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P
Trades contractor activities excluding outside storage of equipment or supplies												P	P	P	P
Trades contractor activities with outside storage of equipment or supplies														P	P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use C = Conditional use (Board of Commissioners approval required) S = Special use (Board of Adjustment approval required)															
LAND USES		ZONING CLASSIFICATION													
	CD	RR	R20	R15	R7.5	R6	R6A	R5	R5A	O& I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
Trailer rentals, including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein													P	P	P
Truck terminal activities repair and hauling or storage													S	P	P
Upholstering or furniture refinishing												P	P	P	P
Variety, gift and hobby supply sales											P	P	P		
Vending machines operations outdoor											P	P	P		
Vending machine rental													P	P	P
Veterinarian											P	P	P		
Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise herein													P	P	P
Wireless communications & accessory sales											P	P	P		

ARTICLE V COMPANION DISTRICTS –CONDITIONAL USE DISTRICTS

Sec. 102A-501. General.

The conditional use zoning districts set forth herein are authorized by N.C. GEN. STAT. §160A-382, and are intended to modify the use to which the general zoning district is restricted. Generally, an applicant, by seeking to rezone property to a conditional use district, will propose to restrict or eliminate permitted, conditional or special uses. Request for conditional use district rezoning shall be processed administratively in the same manner as for amendments to this ordinance as established in Article XVI.

Conditional use districts are floating districts that parallel general zoning districts. Conditional use districts are identical to their corresponding general zoning districts in all respects except that a conditional use permit is required as a prerequisite to any use (permitted, conditional or special) or development within them.

Parallel conditional use districts are provided as a voluntary alternative method of petitioning the Board of Commissioners for a zoning map or classification change. The owner may submit conditions that restrict the uses that would otherwise be allowed in the zoning district and only those uses specifically requested in the application shall be considered.

Sec. 102A-502. Restrictions on filing of applications.

A request for a conditional use district rezoning shall be initiated only by an application [petition] signed by all current record owners of the affected property.

Sec. 102A-503. Content of applications and conditions.

A properly submitted application for a conditional use district incorporates a petition for rezoning and an application for a conditional use permit, which may be combined in one application. The conditional use district application shall provide the minimum information requirements set forth below, however, additional information may be required by the staff, Zoning Board or the Board of Commissioners when requested, if any of the aforementioned deem it necessary in order to be able to make a recommendation on, or decision regarding, a required finding. Such requests may include a requirement for a more detailed site plan, or one modified in accordance with additional or modified conditions and other performance criteria.

(a) *Proposed uses.* Proposed uses shall be set forth in detail, including the compatibility with the uses in the neighboring districts. Any limitations or conditions to be placed on the proposed uses to enhance compatibility with and benefit to surrounding areas shall also be set forth.

(b) *Dimensional requirements.* The application shall show that the uses comply with dimensional requirements for the district requested. If the applicant proposes to vary the dimensional requirements for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such dimensional requirement are met to an equal or greater degree.

(c) *Sign requirements.* The application shall indicate the location of signs in accordance with Article XIV. If the applicant proposes to vary the sign provisions for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

(d) *Off-street parking requirements.* The application shall indicate the location of all off-street parking and internal drive areas in accordance with Article XIII. If the applicant proposes to vary the off-street parking provisions of this ordinance for the use requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

(e) *Miscellaneous provisions.* The application for a conditional use permit may also set forth other conditions and performance criteria, such as days and hours of operation, numbers of employees, exterior lighting, and noise, odor and smoke emission controls or other environmental conditions, which might be proposed to make the use of the property compatible with surrounding areas and uses allowed therein.

(f) *Site plan requirement.* The application shall include a site plan drawn to the specifications of Sec. 102A-1502. If the proposed uses involve development subject to Chapter 86, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to Chapter 86, the site plan shall be of sufficient detail to allow the staff, the Zoning Board, and the Board of Commissioners to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings to be placed on the site, the proposed number of stories, and the location and number of off-street parking and loading spaces. The site plan shall show proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences shall be included on the site plan.

Sec. 102A-504. Action by the Zoning Board.

The Zoning Board may hold a public hearing during which the applicant may voluntarily make modifications to the conditional use permit request. The hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, avoiding ex parte contact and bias, and basing findings of fact on evidence in the record. Board members shall disclose on the record at the public hearing any site visit they may have made to the affected property or any incidental ex parte contact he/she may have had with an affected party. The Zoning Board shall review the request for a conditional use permit and conditional use district rezoning and make a recommendation to the Board of Commissioners. When favorably recommending approval of the conditional use district, the Zoning Board shall issue a statement addressing the reasonableness of the proposed rezoning, in addition to addressing the request's consistency with the current Land Use Plan. In recommending the conditional use permit, the Zoning Board shall find that:

(a) The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

(b) The use meets all required conditions and specifications;

(c) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(d) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with the Town's most recent Land Use Plan and adopted planning policies.

Sec. 102A-505. Action by the Board of Commissioners.

The Board of Commissioners shall hold a public hearing to consider the conditional use district rezoning and conditional use permit. The hearing shall follow quasi-judicial requirements including sworn testimony, questioning of witnesses, the reliance on competent evidence, avoiding ex parte contact and bias, and basing findings of fact on evidence in the record. Board members shall disclose on the record at the public hearing any site visit they may have made to the affected property or any incidental ex parte contact he/she may have had with an affected party.

The Board of Commissioners shall review the application, recommendations from the Zoning Board, suggested conditions, and other information presented at the public hearing. If the Board of Commissioners

approves the rezoning application, a statement analyzing the reasonableness of the proposed rezoning along with addressing the consistency of the request with the current Land Use Plan shall be made a part of the record. Only upon approval of the conditional use district shall the Board of Commissioners consider approval of the conditional use permit.

In approving the application, the Board of Commissioners, by separate motion, shall approve the conditional use permit and may attach such reasonable requirements in addition to those specified in the Zoning Board's recommendation, and shall find that the application meets the findings listed in Sec. 102A-504, sub-sections (a) through (d). All conditions shall be stated in the permit and no condition shall be less restrictive than the standards of the parallel general use district. The conditions may include, but shall not be limited to:

- (a) The location of the proposed use on the property;
- (b) The number and location of structures;
- (c) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
- (d) The location and extent of buffer areas and other special purpose areas on the property;
- (e) The height of any structure;
- (f) The phasing of development;
- (g) Other restrictions on the use of the property that adhere to the purposes of this ordinance and maintain the public health, safety and welfare; and
- (h) Such other matters as the applicant shall propose.

The record shall reflect that the applicant voluntarily agrees to all conditions proposed for approval of the conditional use permit.

Sec. 102A-506. Modification to approved conditional use districts and permits.

All modifications, including changes in use and/or increase in density, to approved conditional use districts and permits, other than those listed below, shall be reviewed in the same manner as a new project.

The following minor modifications to the conditional use permit may be approved by the County Planning Staff with the agreement of the Town Staff without approval by the Board of Commissioners, provided no variance is required, the use does not change, the intent and layout of the approved plan is generally followed, density is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:

(a) Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;

(b) Minor changes in parking lot or traffic lane dimensions;

(c) Minor dimensional changes to individual lots;

(d) Minor site modifications due to necessary engineering requirements;

(e) Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan; and

(f) Other similar insignificant changes.

In reviewing such changes, the County Planning Staff and/or the Town Staff may require that the modification be handled in the same manner as a new application.

Sec. 102A-507. Time limit.

Once the conditional use district rezoning and conditional use permit are approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved permit and conditions. Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two years from the date of approval, the Zoning Board may examine progress made to determine if active efforts are proceeding. If the Zoning Board determines that active efforts to develop are not proceeding, it may institute proceedings to rezone the property to its previous zoning classification.

Sec. 102A-508. Failure to comply.

If for any reason any condition imposed pursuant to this article is found to be illegal or invalid, or if the applicant should fail to accept any condition, the

authorization of such conditional use permit shall be null and void and of no effect, and the property shall remain in, or revert to, its previous zoning classification.

Compliance with all conditions of a conditional use permit is an essential element of the conditional use permit's continued validity and effectiveness. If the County Planning Director or the Town Manager determines that a developer has failed to comply with a condition of an approved conditional use permit, the Director and/or Manager shall so notify the developer or the developer's successor in interest in writing and shall place the matter on the Board of Commissioners' agenda, after consideration by the Zoning Board and upon issuance of its recommendation, for the Board of Commissioners' hearing and decision whether or not to revoke the conditional use permit. Such hearing shall be on reasonable written notice to the developer or the developer's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Commissioners shall be a final decision, and a decision to revoke the conditional use permit may be appealed to the Superior Court of Cumberland County within 30 days after the developer or the developer's successor in interest has been served with written notice of the Board of Commissioners' decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Commissioners' approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Commissioners' decision hereunder.

Sec. 102A-509. Validation of existing conditional use overlays.

Nothing in this ordinance shall be interpreted to affect or impair any rights accrued pursuant to any conditional use overlay district and permit, under the Town Zoning Chapter of 1985, and subsequent amendments to said chapter, prior to the effective date of this amendment of the ordinance. All valid and legally approved conditional use overlay districts and permits shall continue to be valid provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with and that the use does not cease for a period of one year. Failure to comply with the conditions of the permit for the conditional use overlays will subject the developer and/or current owner to possible revocation pursuant to Sec. 102A-508 above.

ARTICLE VI MIXED USE DEVELOPMENT – CONDITIONAL USE DISTRICT

Sec. 102A-601. General.

This zoning district incorporates the provisions of Article V, Conditional Use Districts, in its entirety. In addition the restrictions and requirements set forth below shall be considered minimum standards and must be adhered to or exceeded.

Sec. 102A-602. Minimum conditions for application.

The following are the minimum conditions that must be met prior to submission of an application for this district:

- (a) The subject property must be served by public or community water and sewer;
- (b) The subject property must have permitted access to a public paved street that can support the development; and
- (c) The subject property must be at least ten acres.

Sec. 102A-603. Uses allowed.

The intent of this district is to allow for flexibility of development; however, unless a use not listed below is specifically requested by the applicant and receives a favorable recommendation from the Zoning Board and approved by the Board of Commissioners, all uses within the district shall be limited to the following:

- (a) Any residential use except manufactured homes and manufactured home parks;
- (b) Commercial and office uses in the C1(P) planned local business district and O&I(P) planned office and institutional district; and
- (c) Allowed uses from the C2(P) planned service and retail and C(P) planned commercial districts are as follows:
 - (1) Alcoholic beverage control sales;
 - (2) Bed & breakfast (except those regulated by Sec. 102A-1023);

- (3) Food production (with on premises retail sales of product);
- (4) Home furnishings and appliance sales;
- (5) Janitorial service;
- (6) Locksmith, Gunsmith;
- (7) Mini-warehousing with no outside storage of vehicles and if constructed in accordance with Sec. 102A-1012;
- (8) Motor vehicle washing;
- (9) Office supplies and equipment sales and service / mailbox service;
- (10) Pet sales (excluding kennel operations, outside runs, and outside storage of animals);
- (11) Recreation or amusement, indoor (conducted inside a building for profit, and not otherwise listed herein);
- (12) Recreation or amusement, public/private (not operated as a business for profit);
- (13) Retailing or servicing with operations conducted and merchandise stored entirely within a building (Note: The remainder of this use, as listed in Sec. 102A-403, "and not otherwise listed herein" is not included in this section.); and
- (14) Veterinarian.

Any combination of the above permitted uses shall not exceed 50% of the total land area within the district for non-residential development.

Sec. 102A-604. Development performance standards.

(a) *Calculation of area.* Prior to submission for approval, the developer shall ensure the following calculations for land uses are provided for and clearly shown on the site plan:

- (1) Fifteen percent of the land area for the entire development shall be subtracted out of the overall acreage prior to any other calculations and shall be reserved as open space; and

(2) After deduction of open space is completed, all acreage devoted to vertical mixed use, provided only residential use occurs above the first floor, shall be subtracted out of the remainder; then

(3) The resultant acreage shall be the basis for calculation of the percentages for the fifty percent commercial and residential calculations.

(b) *Open space provisions.*

(1) Fifteen percent of the land area is to remain undeveloped (in its natural state), unless developed recreational facilities are specifically requested in the application and shown on the site plan and approved by the Board of Commissioners upon their consideration of the recommendation from the Zoning Board;

(2) The open space portion of the tract must be in one contiguous piece or if not, receive a favorable recommendation from the Zoning Board and approved by the Board of Commissioners; and

(3) The open space shall be secured by a recorded conservation easement and maintained as common area by an owners' association in the same manner as prescribed in Chapter 86 for common area in zero lot line developments, or owned by a public or non-profit organization (i.e., governmental entity, land trust, conservancy, etc.) provided that this manner of ownership is approved by the Board of Commissioners after their consideration of the Zoning Board's recommendation.

(c) *Development standards.*

(1) A site plan including all information required for detailed site plans enumerated in Sec. 102A-1502 shall be submitted with the application. In addition, the site plan shall include the street layout, all proposed means for pedestrian and vehicle movement, including any alleys, public/private access to open space, etc. The site plan must be detailed and strictly adhered to.

(2) Half of the proposed residential development, excluding vertical mixed use, shall have been issued a *Certificate of Occupancy* or a guarantee has been posted in the form of a bond or irrevocable letter of credit and approved by the Town Attorney, with the estimated cost of construction being approved by the Town, in the same manner as required by Chapter 86 for "Guarantees of improvements," prior to the completion of the approved non-residential portion of the plan. In the event, the developer fails to complete the residential portion of the development, the funds from the guarantee shall be used toward recouping any legal cost associated with enforcement of the permit and toward construction of any improvement within the development

reasonably necessary to provide for the safety, health, and welfare of the public.

(3) All development within the district must meet any height restrictions imposed by airports and the Federal Aviation Administration.

(4) The district dimensional requirements, including minimum lot size, setbacks, and density restrictions, of Article XII shall not apply within the district; however, all periphery setbacks shall be that of any adjoining zoning district.

(5) Sidewalks shall be provided in accordance with the standards of Chapter 86.

(6) The site plan shall indicate the minimum number, size, and location of off-street parking spaces for all non-residential development and comply with the standards of Article XIII.

(7) All utilities except for high voltage electric lines (25kv or greater) shall be placed underground within the district.

(8) Streets and drives will comply with the Town or the N. C. Department of Transportation (NCDOT) standards, whichever is applicable and will be capable of carrying the projected traffic volumes.

(9) All signage within the district shall comply with the sign regulations in Article XIV.

(10) Buffering shall be provided in accordance with the standards of Sec. 102A-1202(g).

(11) Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within Chapter 86.

(d) *Other applicable regulations.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

(1) All provisions of the Town Code shall be complied with, where applicable;

(2) Compliance with the Highway Plan;

(3) The plans must be in harmony with the most current Land Use Plan and current adopted policies; and

(4) All other applicable Federal, State, and local regulations are complied with.

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ARTICLE VII PLANNED NEIGHBORHOOD DEVELOPMENT - CONDITIONAL USE DISTRICT

Sec. 102A-701. Purpose.

This district encourages the development of residential land in such a manner as to provide a more desirable living environment characterized by a variety of housing types in order to best meet the demand of all people, allow new methods by which land and facility costs can be reduced on a per unit basis so that more people can afford better living conditions, and may include limited non-residential facilities to meet the needs of surrounding residents.

Sec. 102A-702. General.

The developer is strongly encouraged to submit a preliminary sketch of the proposed Planned Neighborhood Development (PND) plan and to work closely with the Town and County Planning Staff prior to submission of any application and site plan for rezoning to this conditional use district. This zoning district incorporates the provisions of Article V, Conditional Use Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional use permit and must be satisfied or surpassed.

Sec. 102A-703. Minimum conditions for application.

The following are the minimum conditions that must be met prior to submission of an application for this district:

(a) The subject property must be served by public or community water and sewer;

(b) The subject property must have permitted access to a public paved street that can support the development; and

(c) The subject property must contain at least 50 contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one un-separated continuity of land; or is separated by street rights-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the PND plan.

Sec. 102A-704. Uses allowed.

The following uses are permitted subject to restrictions placed on the PND by the Zoning Board and/or Board of Commissioners, and as agreed to by the record property owner(s):

(a) Any residential use permitted in the R7.5 zoning district, including a variety of single-family, multi-family, patio homes, townhouses, condominiums and zero lot line developments;

(b) Commercial and office uses in the C1(P) planned local business district and O&I(P) planned office and institutional district; and

(c) Allowed uses from the C2(P) planned service and retail and the C(P) planned commercial districts are as follows:

(1) Home furnishings and appliance sales;

(2) Hotel/motel (except as regulated by Sec. 102A-1023);

(3) Janitorial service;

(4) Office supplies and equipment sales and service/mailbox service;

(5) Motor vehicle washing;

(6) Recreation/amusement, indoor (conducted inside a building for profit, not otherwise listed & not regulated by Section 102A-1023);

(7) Recreation or amusement public/private (not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., and not regulated by Section 102A-1023);

(8) Retailing or servicing (with operations conducted and merchandise stored entirely within a building and not otherwise listed herein); and

(9) Veterinarian.

Sec. 102A-705 Development standards.

(a) *Land use proportions.*

(1) *Non-residential uses.* A maximum of five percent of the gross land area of the development may be devoted to such convenience commercial uses as listed above, with no one tract to exceed ten acres.

If more than one tract of land is proposed for commercial uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.

(2) *Residential uses.* The maximum density of residential units per acre of the gross land area shall be six except as provided below. In determining the maximum number of units, the acreage denoted to commercial uses shall not be included.

The commercial land area may be proportioned if the developer wishes, i.e., three and three quarters percent commercial and six and one-half units per acre of gross land area; two and one-half percent commercial and seven units per acre of gross land area; one and one-quarter percent commercial and seven and one-half units per acre of gross land area. In lieu of all commercial development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

(b) *Open space and recreational facilities.* Where the Town's Park and Recreation Master Plan or other comparable plan of the Town adopted after the effective date of this amendment identifies land in the proposed PND as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to a PND shall either be placed in an owners' association, under the same provision and conditions as provided for in Chapter 86, or be dedicated to the Town for use as parks, recreation areas, and open space. At least 50 percent of the area offered for dedication must be suitable for recreational use. The Board of Commissioners', after their consideration of the Zoning Board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND.

The entire dedication may be made when the preliminary plan is presented to the Board of Commissioners; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the PND plan.

No parcel of land dedicated shall be less than one contiguous acre, which shape is acceptable to the Board of Commissioners and all such areas shall be physically a part of the PND. Detached single-family dwelling units are exempt from any further open space dedication requirements of Chapter 86. Residential group developments must provide the recreation areas required by Chapter 86.

When according to adopted Town plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners' association, under the same provision and conditions as provided for in Chapter 86; the land shall be dedicated to the Town for use as parks and recreation and open space; or a fee shall be paid to the Town for the acquisition of land for recreation purposes in accordance with the provisions of N.C. GEN. STAT. § 160A-372 and Chapter 86 of the Town's Code of Ordinances. The Board of Commissioners shall decide which option is appropriate. If a fee is chosen, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the PND. The entire dedication of land or fee may be made at the time the preliminary plan is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the PND. A fee in lieu does not entitle the PND to additional residential units or commercial acreage.

(c) *Buffer requirement.* Buffers meeting the standards of Sec. 102A-1202(g) shall be provided. The Board of Commissioners' upon recommendation from the Zoning Board may require additional buffering, when the proposed non-residential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the non-residential character of the uses.

(d) *Off-street parking and loading spaces.* Off-street parking and loading spaces shall be provided as required for the specific uses as listed in Article XIII.

(e) *Sign regulations.* All signage shall comply with the standards enumerated in Article XIV with non-residential uses not exceeding the signage standards for the C1(P) zoning district.

(f) *Dimensional provisions.* Residential uses shall meet or exceed the minimum standards for setbacks of the R7.5 residential district along all public streets and on the periphery of the development. All non-residential uses shall observe the yard regulations for the C1(P) zoning district along the public streets and on the periphery of the PND.

(g) *Schedule of development.* Development of the commercial portion of a PND shall not commence until the following schedule of the number of residential units approved for the PND have been developed:

<u>Size of PND Units</u>	<u>Approved</u>
50 to 100 acres	50%
Over 100 acres, up to 150 acres	40%
Over 150 acres, up to 200 acres	30%
Over 200 acres	25%

Sec. 102A-706. Contents of application.

In addition to the requirements of Sec. 102A-503, the application shall contain the following items:

(a) General site plan indicating the proposed land use areas including residential, commercial, open space and recreational, and other public facility areas to be developed for the entire site;

(b) The proposed density pattern for the entire area, and the housing type to be used in each area, i.e., multifamily, single-family attached, single-family detached;

(c) The primary and collector streets, including thoroughfares on the adopted Highway Plan and any other adopted plans of the Town;

(d) The proposed uses for the non-residential area(s);

(e) Floodplain areas where applicable;

(f) Written statement or certification from appropriate public authorities that the PND area will be served with public or community water and sewer systems;

(g) Legal description of boundary of PND plan area and each proposed housing area in the PND plan;

(h) The names and addresses of adjoining property owners.

Sec. 102A-707. Site plan and subdivision approval.

After approval of the PND from the Board of Commissioners and prior to issuance of any zoning or building permit, the developer shall submit for preliminary and final approval of each segment of the plan, meeting conditions of the approved permit, in the same manner as for site plan and subdivision approvals in accordance with this ordinance and Chapter 86.

Sec. 102A-708. Amendments.

Amendments to an approved PND plan shall be processed in the same manner as the original application. In considering the approval of an amendment to a permit, consideration shall be given to the effect the amendment may have on any other portion of the PND.

Sec. 102A-709. Abandonment of PND plan.

In the event the developer abandons the PND plan as approved, all undeveloped or un-platted land shall be used further only under the regulations of the R7.5 residential district unless a subsequent application is approved for the remaining land. Such subsequent plans must be based, however, on the overall residential density planned on the original tracts of land and may not include additional non-residential land except if a portion was not developed under the original plan.

Sec. 102A-710. Validation of existing PND plans.

PND plans approved prior to the effective date of this ordinance shall not be affected by this amendment; however, any amendment to any existing approved PND plan after the effective date of this ordinance shall be processed under the amended approval process outlined in this article.

ARTICLE VIII DENSITY DEVELOPMENT- CONDITIONAL USE DISTRICT

Sec. 102A-801. Purpose.

Density development-conditional use districts are intended to promote the preservation of open space and areas within the Town developed at rural densities while at the same time providing for the residential development of land.

Sec. 102A-802. General.

The developer is strongly encouraged to submit a preliminary sketch of the proposed development and to work closely with the County Planning Staff and the Town Staff prior to submission of any application and site plan for rezoning to this conditional use district. This zoning district incorporates the provisions of Article V, Conditional Use Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional use permit and must be satisfied or surpassed.

Sec. 102A-803. Development standards.

(a) *Development area.* All building sites will be restricted to 60 percent of the total tract with the remaining 40 percent designated as open space. Fifty percent of the land designated as open space must not include wetlands, water bodies, or located within the floodway.

(b) *Density.* All developments approved under this article may provide for equal to or less than the density of the requested parallel general zoning district as allowed for in Sec. 102A-1204.

(c) *Building sites.* The building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential structure(s) and shall be sufficient in size to accommodate the structure(s) intended to be constructed thereon; any accessory structures; and provisions for utilities, whether public or private, including sufficient land area for wells, septic tanks and drain fields, if necessary.

(d) *Yard regulations.* The building sites shall be exempt from the yard regulations in Sec. 102A-1204, provided that all sites served by a public street shall provide for the minimum front yard setback and a minimum of a ten foot separation between structures shall be provided for all structures within the development. All periphery setbacks must be met along the perimeter of the

development. Setbacks shall not include any of the open space and/or buffer areas as required by sub-sections (e) and (f) below.

(e) *Perimeter buffer.* The entire development shall be buffered with a minimum of six-foot in height and 20-foot in width vegetative strip of land, as described below, around the periphery and 40-foot in width along the frontage right-of-way. The buffer shall consist of natural topography and/or plantings, as necessary to preserve the rural appearance of the area surrounding the development and the right(s)-of-way fronting the development, provided that:

(1) The application and site plan shall clearly reflect the buffer area and the developer's intentions regarding the buffer, including the location of and type of plant material proposed and assurance that any proposed plantings will be three feet in height at time of planting, to reach a height of six feet within three years, with sufficient plantings along any right-of-way to accomplish complete opacity within three years from time of planting. A berm or combination berm and plantings may also be used provided an initial height of three feet is achieved with a total height of six feet within three years;

(2) Unless expressly agreed upon in advance and approved by the Board of Commissioners after consideration of the recommendation from the Zoning Board, the developer shall not develop or alter the natural topography of the land within the buffer area. There shall be no cutting, removal of trees, or the disturbance of other natural features except as stated herein:

a. As incidental to boundary marking, fencing, signage, installation of utilities, construction and maintenance of nature trails and public access allowed hereunder;

b. Selective cutting as allowed by Section 102A-1202(o) or clearing of vegetation and the application of usual and customary pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; or

c. The developer chooses to use a berm or combination berm and plantings.

(3) The land area containing the perimeter buffer shall be permitted to count toward the 40 percent open space requirement but shall not be considered as any portion of any required yard area;

(4) The perimeter buffer may be reduced in width if adjacent to an existing and properly approved density development provided the combined buffers satisfy the intent of this ordinance and is found to be sufficient by the Zoning Board and the Board of Commissioners;

(5) The final approval of the sufficiency of the perimeter buffer shall rest with the Board of Commissioners after their consideration of the recommendation from the Zoning Board; and

(6) The perimeter buffer shall be in place prior to submission for final plat approval of any lot within the development or the developer may elect to post a guarantee, such as a letter of credit, performance bond or other surety in the same manner as allowed for in Chapter 86 equal to 1.25 times the tax assessed raw land value of the area within the development plus 100 percent of the amount of any improvements proposed to satisfy the buffer requirement.

(f) *Open space.*

(1) The developer shall not develop or alter the natural topography of the designated open space unless improvements are clearly indicated on the application and site plan and approved by the Board of Commissioners after their consideration of a recommendation from the Zoning Board.

(2) The open space land area shall adjoin the largest practical number of lots within the development and may, if proposed to be maintained by the developer or by an owners' association, restrict access to only the residents of the development.

(3) The open space land area shall be interconnected wherever possible to provide for a continuous network with such lands in adjacent developments.

(4) All open space shall be permanently restricted from future subdivision and other forms of development through a perpetual open space or conservation easement running with and appurtenant to title of lots in the development, and recorded in the County Register of Deeds, except where otherwise provided herein. The location of the easement shall be shown on the recorded plat and clearly depicted on the site plan. The conservation easement shall expressly provide that the Town of Hope Mills shall be an intended third-party beneficiary and shall have standing to both enforce any restrictions and to recover the costs of remedying any violation from any party(s) breaching the easement.

(5) Open space shall be preserved and used only for natural scenic, passive recreational, agricultural, pasture and/or meadow, forestry, wetlands, or horticultural uses.

(6) A property owners' association shall be created to maintain the open space and any common areas in the development, unless an alternative method of maintenance is approved by the Board of Commissioners upon

recommendation of the Zoning Board (such as, for instance, if the open space is conveyed by a perpetual conservation easement to a recognized non-profit conservancy organization or other non-profit organization established for ecological and/or environmental preservation). Membership in the property owners' association shall be mandatory for all property owners in the development. The property owners' association shall have the authority and duty to levy assessments, which shall be liens upon and run with the title to every lot within the development, to provide for maintenance of the open space and any other common areas in the development. The documents creating the property owners' association shall provide that they may not be amended except upon a vote of the owners representing at least three-quarters of the lots in the development. The Town Attorney shall approve the property owner's association documents, to include any articles of incorporation, bylaws, and/or declaration of restrictive covenants. The property owners' association documents may provide or include mechanisms to allow the developer and/or seller of the property actively to use the open space for pasture or agricultural uses.

(7) The developer's intentions regarding the open space, e.g., whether to remain in its natural state, provide developed recreation facilities, timber harvesting, farmed, etc., shall be clearly reflected in the application and on the site plan upon formal submission of the application.

(g) *Parks, recreation, and open space exemption.* Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within Chapter 86.

(h) *Subdivision regulations – compliance required.* All pertinent portions of Chapter 86 shall be complied with.

(i) *Other applicable regulations.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

(1) All provisions of the Town Code shall be complied with, where applicable;

(2) Compliance with the Highway Plan;

(3) The plans must be in harmony with the most current Land Use Plan and current adopted policies;

(4) All other applicable Federal, State, and local regulations are complied with.

ARTICLE IX OVERLAY DISTRICTS

Sec. 102A-901. General provisions.

(a) *Establishment of overlay districts.* The Board of Commissioners may from time to time designate, amend or repeal an overlay district; however, no district shall be recommended for designation unless it is deemed to be of special significance to the purpose of the overlay district requested. Also, no overlay district shall be designated, amended or repealed until the specific committee, commission, etc. (for example: *Historic Advisory Committee*) and the Zoning Board have considered the matter and issued a recommendation regarding the designation, amendment, or repealing of the overlay district in question in the same manner as for zoning amendments established by this ordinance.

(b) *Designated overlay district boundaries.* The boundaries of the overlay district(s) as classified in Section 102A-302(g) of this ordinance are hereby established as shown on a map, whether digital or hard copy with the specific overlay district identifier being labeled thereon, which has been officially adopted by the Board of Commissioners and including any subsequent amendments thereto. These maps are incorporated herewith and are declared to be a part of this ordinance. The official copy of any overlay district map shall be that copy on file with the Town Clerk; however, copies of overlay district map(s) shall also be kept on file with the County Planning Department.

(c) *Effect of overlay district designation; limitations.* Any overlay district established in accordance with the terms of this ordinance shall be in addition to those zoning districts already established for the affected property. Property shall not be zoned exclusively to any overlay district.

Sec. 102A-902. Airport overlay district (AOD).

(a) *Applicability.* The provision of this section shall apply to all new development within the area established on the zoning map layer as the airport overlay district (AOD) and any addition, remodeling, relocation or construction requiring a zoning or building permit. These provisions shall also apply to all trees located within the boundary of the AOD.

(b) *Airport overlay district map.* The boundary of the AOD is established as a layer on the *Official Zoning Map, Town of Hope Mills* in digital format and is hereby adopted and made a part of the provisions of this section as if the map itself were contained herein.

(c) *Land uses.* The land uses allowed under the terms of this section shall continue to be allowed in the same manner as established by this ordinance; however, upon the consideration of any petition for the rezoning of property within the AOD, the County Planning and Town Staff, the Zoning Board, and the Board of Commissioners shall give considerable weight to the following factors when formulating their recommendation/ruling:

(1) All allowed uses within the district being requested should be compatible with the continued operation of the airport and consistent with the *2023 Off-Airport Land Use Plan*, or subsequent amendments to said plan, upon the subsequent amendments have been officially adopted by the Board of Commissioners;

(2) Any petition for rezoning of properties located within the *Airport Impact Zones*, a map of which is on file with the Town Clerk and the County Planning Department, should not be favorably considered except where such request is consistent with the following recommended land uses and densities:

a. *Airport Impact Zones 1, 2 and 5* are zones where the recommended land uses should prohibit residential development and allow low impact (less than five people per acre) non-residential development.

b. *Airport Impact Zones 3 and 4* should allow zero to low density residential development or non-residential development ranging from 25 to 40 people per acre.

c. *Airport Impact Zone 6* should generally allow low density residential development and non-residential development accommodating fewer than 100 people per acre.

(3) Any district that would allow a use incompatible with the airport operations should not be favorably considered without a favorable recommendation for the Fayetteville Regional Airport Director, this includes uses that would cause the following:

a. A high concentration of residential dwelling units, specifically at a density of more than two dwelling units per net acre;

b. A use that would cause a high concentration of people, such as: indoor recreation, schools, medical facilities and the like;

c. Release into the air any substance that would impair aircraft visibility or otherwise interfere with its operation;

d. Produce light emissions, either direct or reflective, that would interfere with pilot vision, result in glare in the eyes of pilots using the airport or diminish the ability of pilots to distinguish between airport lights and other lights;

e. Create electrical interference with navigational signals or radio communication between the airport and aircraft;

f. Construct tall smokestacks, television, telecommunication and/or radio transmission towers, garbage and

g. Attract birds or water fowl in such numbers as would create a hazard and interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(d) *Height limitations.* Structures shall not be erected, altered, or maintained, and no tree shall be allowed to grow in to a height in excess of the applicable height limits established and regulated by the Federal Aviation Administration (FAA), and prior to application for any building/zoning permit, the developer shall provide to the Chief Building Inspector a copy of the FAA's acknowledgement of receipt of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, as required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77). In the event, the FAA's acknowledgement indicates the proposed development would provide an obstruction and/or a hazard to air navigation, the developer must provide either written consent from the Airport Director as related to the proposed development or seek a variance under the provisions of this ordinance. Notwithstanding the provisions of this section, height limitations shall not apply to any structure or any vegetation that is 35 feet or less in height, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits of the FAA. The FAA height limitations generally include the following:

(1) *Approach zone.* Height limitations for approach zones shall be determined by measuring outward and upward at a 50:1 slope for Runway 4/22 and a slope of 50:1 for Runway 10/28. This measurement is commenced from the end of and at the same elevation as the end of the respective runway centerline to the prescribed horizontal distance.

(2) *Transitional zone.* Height limitations for the transitional zone shall be determined by measuring outward and upward at a 7:1 slope from the sides of and at the same elevation as the approach surface, and extending to the point of intersection with a horizontal surface or conical surface.

(3) *Conical zone.* Height limitations in the conical zone are established by measuring from the periphery of the horizontal zone and at

150 feet above elevation outward and upward at a 20:1 slope to a height of 350 feet above airport elevation.

(4) *Horizontal zone.* Height limitations in the horizontal zone are established at 150 feet above airport elevation (190 msl).

(e) *Notice and disclosure of noise impact.* Any site plan, preliminary or final plat for property located within the AOD that is submitted for review and approval under the terms of this ordinance and/or Chapter 86 shall contain the following notice:

Property shown on this plan/plat is within the Town of Hope Mills Airport Overlay District and all or a portion of the property described hereon is within an area that is subject to an average noise level near to or exceeding 65 dnl.

(f). *Lighting/marketing.*

1. Any allowed use, subdivision, or other development located within the AOD shall not have outdoor lighting or illumination arranged and/or operated in such a manner as to be misleading or pose a danger to aircraft operations and in no case shall lighting be in contradiction to the provisions of Section 102A-1202(m) of this ordinance.

2. The owner of any existing structure or vegetation that is currently penetrating any referenced surface within the AOD shall permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration or by the Director of the Fayetteville Regional Airport to indicate to the operators of aircraft in the vicinity of the airport the presence of an airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the Fayetteville Regional Airport Director.

(g) *Avigation easement.* Property owners and residents of properties in which is encumbered by the avigation easement, recorded in Deed Book 520, page 186, at the County Register of Deeds, shall not restrict the access of the Fayetteville Regional Airport Director or the director's designee to enter said properties for purposes of carrying out the provisions of the easement.

(h) *Nonconformities.* The regulations prescribed in this section shall not be construed to require the removal, lowering or other change or alteration of any existing structure that is found to be nonconforming to the provisions of this section as of the effective date of this section, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alternation of which valid permits have been issued prior to

the effective date of this section, and is diligently exercised. The provisions of this sub-section do not apply to any tree, which may be trimmed in the event the tree is found to be encroaching into the airspace zones established in sub-section (d) above.

Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 50% percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations within the AOD.

(i) *Conflicting regulations.* Where the provisions of this section conflict with the remaining provisions of this ordinance and any other provision of the Town Code of Ordinances or other Federal, State or local regulation, the more restrictive regulation shall apply.

Sec. 102A-903. Reserved for future use.

Sec. 102A-904. Historic overlay district (HOD).

(a) *Purpose and intent.* The historic overlay district is created for the purpose of promoting the general welfare, education, economic prosperity, and recreational pleasure of the public, through the identification, preservation, and enhancement of those buildings, structures, neighborhoods, landscapes, places and areas that have special historical significance and which have been officially designated by the Board of Commissioners. The regulations herein are intended to protect against destruction of or encroachment upon such areas, structures, and premises; to encourage uses which will lead to their continuance, conservation and improvement; and to promote the upkeep and rehabilitation of significant older structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.

(b) *Designated district area.* The provisions of this section shall apply within the area designated by the Board of Commissioners after their determination of the area that is intended to be preserved due to the area's historical significance and as may be amended from time to time, is hereby officially adopted, as shown on a map entitled: *Hope Mills Historic Overlay District*, and is incorporated herewith.

(c) *Allowed uses.* All uses, including signs, allowed in the underlying zoning district under the provisions of this ordinance and in the district as shown on the officially adopted zoning map are allowed uses within the

historic overlay district; however, before any exterior structural changes, modifications, additions or demolitions are made to any property within this overlay district or a new structure is built, a *Certificate of Appropriateness* issued through the auspices of the Town's Historic Advisory Committee must first be obtained signifying that the proposed exterior structural changes, modifications, additions or demolitions and/or new construction is consistent with the provisions of the *Hope Mills Heritage Preservation Plan* (September, 1995) or subsequent comparable document, specifically the provisions of the ordinance entitled *Rehabilitation Guidelines for Properties in the Historic District*. In the event, the proposed development requires approval from the Board of Commissioners, the *Certificate of Appropriateness* must be obtained prior to presentation of the plan for the Commissioners' consideration.

(d) *Dimensional requirements and exceptions.* In addition to the provisions of the *Hope Mills Heritage Preservation Plan*, or subsequent comparable amendment, development shall comply with the regulations of the underlying zoning district, except as follows:

(1) Structures erected in the historic overlay district shall use the prevailing setback of structures in the same underlying zoning district on the same side of the street;

(2) All applicable zoning regulations shall apply to property within a historic overlay district unless a variance is approved by the Board of Adjustment. The said variance shall be granted only if the request complies with the intent of the architectural and historic guidelines of the historic overlay district, if the request first receives a favorable recommendation from the Historic Advisory Committee and the request is not for a use of the property.

(e) *Certain Changes Not Prohibited:* The provisions of this section shall not be construed to prevent the following:

(1) The ordinary maintenance or repair of any exterior architectural feature in a historic district which does not involve a change in design, material, or outer appearance thereof;

(2) The construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the Chief Building Inspector or the inspector's designee shall certify in writing to the committee is required to protect the public safety because of unsafe or dangerous conditions; and

(3) The ordinary maintenance or repair of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs and/or replacement of street light fixtures in the event of equipment failure, accidental damage or natural occurrences such as electrical storms tornadoes, ice storms, and the like.

(f) *Appeal of Historic Advisory Committee decision.* In any action granting or denying a *Certificate of Appropriateness*, an appeal by an aggrieved party may be taken to the Board of Adjustment. Written notice of the intent to appeal and the reasons therefore must be delivered to the County Planning Department and the appeal shall be scheduled for the next available Board of Adjustment meeting. The appeal process shall be the same as for an appeal of an administrative officer's decision as established in this ordinance.

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ARTICLE X INDIVIDUAL USES

Sec. 102A-1001. Development standards for individual uses.

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XV unless the use specifically requires approval of a special use permit or conditional use permit. Those uses requiring approval as a special use permit (Section 102A-1706) or a conditional use permit (Article V) shall also be subject to these standards and any additional standards or conditions required by the permit.

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

(a) All parking and loading areas shall comply with the minimum provisions established in this ordinance, Article XIII, Off-Street Parking and Loading;

(b) All lighting shall be directed internally and shall comply with Section 102A-1202(m);

(c) Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 34, Town of Hope Mills Code of Ordinances, Article II, entitled: "Noise" (also referred to as the 'Noise Ordinance');

(d) When any non-residential use is adjacent to property zoned for residential, a buffer shall be provided in accordance with Section 102A-1202(g);

(e) Unless otherwise specified within these individual sections, all signage shall be in compliance with this ordinance (Article XIV, Sign Regulations) for the specific district in which the subject property is located;

(f) All new non-residential development shall comply with the landscaping provisions of Section 102A-1202(n); and

(g) Compliance with all applicable Federal, State, and local regulations, including Chapter 86, is mandatory.

Sec. 102A-1002. Airport operations (minor).

(a) Airport size and layout shall conform to current Federal Aviation Administration (FAA) design standards, if applicable.

(b) There shall be a minimum of 300 feet between any runway or taxiway to the nearest property used or zoned for residential purposes, except that a residence may be located on the property of a small private airfield.

(c) Hangars, storage buildings, terminals, loading docks and parking lots, when located within 100 feet of the property line or street right-of-way and abutting property used or zoned for residential uses, shall be screened with a vegetative buffer.

(d) The site plan shall include the location and size of landing strips and the location of landing lights (if applicable).

(e) A map of all property within 500 feet of the proposed airfield or airstrip property lines and within 1,500 feet of each end of the runway, including names and addresses of property owners, as given in the tax listings and existing land use for each property shall be submitted as part of the application.

(f) A map depicting the location, type and height of any structure, including towers, over 200 feet in height and within a five-mile radius shall be submitted as part of the application.

(g) In order to grant approval of the use, additional conditions that the Zoning Board or staff deem appropriate and reasonably necessary for the protection and safety of nearby property may be required.

Sec. 102A-1003. Bed and breakfast.

(a) The use must be located in a structure originally constructed for use as a single family dwelling.

(b) The operation may consist of a maximum of nine guestrooms.

(c) Each room must have access to a hall or exterior door.

(d) One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.

(e) There shall be no less than one bathroom, consisting of a bath or shower and lavatory, for each two guestrooms.

(f) Guestrooms shall not be equipped with cooking facilities.

(g) There shall be no other bed and breakfast within 400 feet of the property.

(h) Parking shall be provided at the rate of one space for each room to be rented and one space for each employee/owner. No off-street parking shall be permitted any closer to the right-of-way than the principal structure.

(i) A fire protection plan approved by the Town Fire Marshal must be submitted at the time of permit application.

(j) The required site plan shall depict neighboring properties and buildings within 200 feet of all property lines.

(k) Meals served on the premises to guests shall be limited to breakfast and no meals shall be served to the general public.

(l) All State requirements shall be complied with and all required State permits are to be acquired and maintained.

Sec. 102A-1004. Borrow source operations.

(a) The applicant shall provide a list of all property owners within 1,000 feet of the exterior boundaries of the lot of record to the site of the borrow source operation. This information shall be provided from the current Tax Administrator's property tax listing of property according to the tax administration office.

(b) Applicants shall identify the size and location of operating, or permitted, borrow source operations within a 1 ½-mile radius as measured from the centroid of the parcel within which the borrow pit is located. The scope and density of these operations within a 1 ½-mile radius shall be considered in making the final determination.

(c) While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation.

(d) Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion, shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public.

(e) Hours of operation shall be sunrise to sunset, Monday through Saturday, unless otherwise stated in the permit.

(f) The applicant shall provide to the County Planning Staff, at the time the application is submitted, documentation from the N. C. Department of Transportation (NCDOT) and/or from the Town Street Department that the public thoroughfare to which the borrow source operation has access, has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable.

(g) The applicant shall provide to the County Planning Staff, at the time the application is submitted, proof of legal access, for the Town Attorney's approval, from the borrow source operation to a public thoroughfare if the subject property does not have direct access to a public thoroughfare.

Sec. 102A-1005. Club or lodge (not regulated by Section 102A-1023).

(a) The intensity of the use shall not have a significant adverse impact on adjacent properties due to traffic, parking, noise, refuse, or similar factors.

(b) Additional setbacks and buffering may be required in the case of facilities for outdoor functions, such as outdoor arenas, if reasonably necessary to protect adjacent properties from noise, light, and glare.

(c) Parking, loading and outdoor activity areas, such as outdoor exhibition areas, picnic areas, amphitheaters and outdoor stages and seating areas, must be buffered from view from adjacent properties. These buffers must meet the requirements of this ordinance.

(d) The site plan shall indicate the style and location of all outdoor lighting.

(e) There shall be no outdoor loudspeakers or public address system other than in an outdoor arena.

Sec. 102A-1006. Day care facilities.

(a) For day care facilities located within any residential zoning district, the following provisions must be complied with:

- (1) Minimum lot size shall be 20,000 square feet.
- (2) The required minimum setbacks shall be as follows:
 - a. Front yard: 30 feet from any public or private street;
 - b. Rear yard setback: 35 feet;
 - c. Side yard setbacks: 20 feet; and
 - d. Corner lots: a minimum of 30 feet from each street.

(3) Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.

(b) Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district.

(c) Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XIII of this ordinance.

(d) There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.

(e) All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG. CODE § R312.2 (2006) or subsequent amendments thereto.

Sec. 102A-1007. Golf courses.

(a) The following setbacks include any permanent or temporary structure such as, but not limited to, clubhouse, equipment storage, green house, swimming pool, tennis courts and restaurant:

- (1) Front yard setback from any public street: 100 feet;
- (2) Rear yard setback: 200 feet;
- (3) Side yard setback: 200 feet; and

(4) Corner lot setback from side street lot lines: 200 feet.

(b) Minimum off-street parking spaces: four per hole, plus one per 200 square feet of restaurant and/or retail space, and one space per employee.

(c) Incidental uses to a golf course may include pro shop, eating establishment, drinking establishment when in conjunction with an eating establishment (not including those operating under Section 102A-1023 of this ordinance), tennis courts, swimming pools, and practice area. Permitted incidental uses may continue only as long as the golf course is in operation and open.

(d) Signs as permitted in the C1(P) planned local business district are allowed.

Sec. 102A-1008. Group homes.

A group home may not be located within a one-half mile radius of an approved or existing group home or approved or existing residential habilitation support facility, regardless of the jurisdiction of the approved or existing home or facility. A group home for not more than six resident handicapped persons any one of whom may be dangerous to others as defined in N.C. GEN. STAT. §122C-3(11)(b) is not a permitted use in any residential district.

Sec. 102A-1009. Group quarters.

(a) Each room must have access to a hall or exterior door.

(b) One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.

(c) There shall be no less than one bathroom, consisting of a bath or shower, and lavatory, for each two guestrooms.

(d) Guestrooms shall not be equipped with cooking facilities.

(e) Parking shall be provided at the rate of one space for each room to be utilized and one space for each employee/owner. Parking shall not be permitted in any front yard.

(f) A fire protection plan approved by the Town Fire Marshal must be submitted at the time of permit application.

(g) The required site plan shall depict neighboring properties and buildings within 200 feet of property lines.

(h) The site shall have direct vehicular access to a public street or an approved private street.

Sec. 102A-1010. Kennel operations.

(a) The site plan for kennel operations shall include information as to any outside pen area, shelters, fencing, runs, etc. pertaining to the kennel operations.

(b) Shelters, runs, and pen areas shall not be located any closer than fifteen feet to any property line for kennels located in residentially-zoned districts.

(c) The required shelter shall be fully enclosed on three sides, roofed, and have a solid floor.

(d) A vegetative buffer shall be required along the side and rear property lines and must comply with the provisions of Section 102A-1202(g). In addition, a privacy fence may be required if it is determined the fence would alleviate any detrimental effects on neighboring properties.

(e) Kennel operations shall not be allowed in residential districts if the minimum lot size required by the zoning district of the subject tract has been compromised or otherwise reduced in area as required by the zoning district, i.e., zero lot line developments.

(f) Kennel operations including all pens, shelters, etc., are required to meet the setbacks as required by the zoning district.

Sec. 102A-1011. Manufactured homes.

Manufactured homes placed, erected or located on any parcel or lot, must have been constructed after July 1, 1976 (Class A or B manufactured homes) and meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction in order to qualify for any permits under the terms of this ordinance and all other provisions of the Town Code of Ordinances, to include Chapter 50, Housing, and Chapter 86, Subdivisions. A pre-1976

manufactured home is further defined in this ordinance as a Class C manufactured home.

This section shall not apply to “properly set up”, pre-1976 manufactured homes requiring relocation when a manufactured home park owner or a government agency, such as the County Public Health Department, has mandated the closure of a previously approved or pre-existing nonconforming manufactured home park provided that the pre-1976 manufactured home is owner-occupied and shall only be relocated to an approved manufactured home park or a pre-existing nonconforming manufactured home park.

For purposes of this section, “properly set up” means:

- (a) In actual use for residential purposes;
- (b) Lawfully connected to electricity, water and sewer or septic service;
- (c) In compliance with Chapter 50 of the Town Code of Ordinances; and
- (d) Listed for property taxes and having property taxes paid as of the most recent listing period and the previous five calendar years.

Sec. 102A-1012. Mini-warehousing in residential districts.

For all mini-warehousing units constructed in residential districts, the following standards shall apply:

- (a) The units shall only be constructed in conjunction with multi-family housing units and the number of individual storage units shall not exceed the number of multi-family dwelling units within the development;
- (b) The façade of the mini-warehousing site shall be constructed with decorative and permanent material, such as brick, stone, etc., and be of the same type of material as the exterior of the multi-family units; and
- (c) The sides and rear perimeter of the mini-warehousing site shall be buffered and landscaped in such a manner as to blend in with the surrounding development and to not be visible to adjacent residential areas.

Sec. 102A-1013. Mixed use building.

- (a) Mixed use buildings are allowed uses in the O&I(P) planned office & institutional, C1(P) planned local business, C2(P) planned service and retail and C(P) planned commercial districts with the ground floor non-residential use determining the method of approval, as specified in Section 102A-403,

required for the entire structure (i.e., site plan review, special use permit or conditional use district and permit).

(b) Residential uses are restricted to the second floor and above with the ground floor use being an allowed non-residential use in the specific zoning district of the property.

(c) All “for sale” residential units are subject to the provisions governing unit ownership (condominium developments) in Chapter 86.

(d) The development must be served by public or community water and sewer.

(e) The subject property must have direct vehicular access to a paved public right-of-way.

(f) Off-street parking shall be provided in accordance with Article XIII of this ordinance for the non-residential use, and one and one-half off-street parking space for each residential unit. Shared parking shall be encouraged and permitted when it can be substantiated that the hours of operation of the non-residential use are restricted to daylight hours and will not adversely affect the residential parking needs.

(g) The minimum lot area per residential unit shall be 1,000 square feet not including the lot area utilized by the non-residential use. The site plan must provide the calculations indicating compliance with this provision.

(h) Sidewalks are required in accordance with the standards of Chapter 86.

(i) A fee in lieu of dedication of on-site parks, recreation, and open space is mandatory. This fee is to be calculated in the same manner as established in the provisions governing parks, recreation and open space in Chapter 86.

Sec. 102A-1014. Motor vehicle wrecking yards and junkyards.

(a) All fluids from vehicles, transmission, brake fluid, gasoline, etc. shall be drained from any vehicle before the vehicle is stored. The fluids shall be drained into approved containers and be disposed of according to approved environmental procedures and Environmental Protection Agency (EPA) regulations.

(b) A cement pad shall be installed for fluid drainage to prevent soil pollution or contamination.

(c) If at any inspection, fluids are determined to have been placed or drained in the ground/soil, the permit shall be revoked immediately.

(d) Unless specifically approved otherwise, vehicles shall not be stacked.

(e) If stacking is specifically approved, the stacked vehicles are to be shielded in such a manner that they cannot be seen from any adjacent residentially zoned or residentially- used properties.

(f) The vehicle storage area shall be contained entirely within a six-foot high solid fence with a vegetative buffer planted along the outside of the fence along the entire perimeter of the property.

(g) The maximum number of vehicles stored on the site at any one time may be restricted to a specific number.

(h) The vehicle storage area shall not exceed more than 50 percent of the property.

(i) Appropriate insect and rodent control procedures shall be adopted that comply with County Public Health Department procedures.

Sec. 102A- 1015. Non-residential use as a permitted use in a residential or conservancy district (and not otherwise listed within this article).

(a) Site plan review and approval in accordance with Article XV of this ordinance and providing for the specific information required by this section.

(b) The minimum yard requirements shall meet or exceed those required in the C1(P) zoning district.

(c) Required parking shall be paved if otherwise required to be paved by this ordinance. In these circumstances, paved parking shall be provided with all parking areas and internal drives being clearly marked. In addition, no parking shall be permitted in the required front yard.

(d) Buffering and/or landscaping for the use shall be provided and maintained in such a manner as to comply with the standards of this ordinance (Section 102A-1202) and is dependent upon the zoning and nature of the surrounding area. The site must provide ample area and adequate open space on all sides of the structure so that the character of the neighborhood is preserved.

(e) The subject property shall have direct access to a public right-of-way. Also, the plan shall include proposed points of access, ingress, and egress and the pattern of internal circulation. Points of ingress and egress shall be

located so as to minimize traffic hazards, inconvenience and congestion. The existing access streets must be able to handle the anticipated increase in traffic volume, or the developer shall cover the costs of upgrading the streets; such as, but not limited to, the addition of a turning lane.

(f) Signage for the development shall not exceed the standards allowed by Article XIV of this ordinance for the C1(P) district.

(g) Noise levels shall not exceed 60 dB(A) between the hours of 10:00 p.m. and 7:00 a.m. In any case, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the Town's aforementioned "Noise Ordinance" is required. (Note: dB(A) refers to the sound pressure level in decibels as measured on a sound level meter using the A weighting network.)

Sec. 102A-1016. Nursing home/convalescent home/ hospital/sanitarium/ retirement home, etc.

(a) The facility shall not cover more than 50 percent of the tract.

(b) Must meet all requirements for licensing by the State of North Carolina.

(c) In addition to basic requirements for site plans as required in Article XV, the plan shall include proposed points of access, ingress and egress, the pattern of internal circulation, and the layout of parking spaces.

(d) All facilities shall be solely for the use of residents and their guests.

(e) Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site.

Sec. 102A-1017. Public utility works, shops or storage yards.

(a) All structures shall be designed and landscaped in a way as to blend in with the surrounding area.

(b) A chain link fence shall enclose all dangerous apparatuses and shall be at least eight feet in height.

(c) All motor vehicle parking shall be located within the area circumscribed by the buffered/screened area.

(d) Such facilities shall be located on a public street or an approved private street.

Sec. 102A-1018. Quarry operations.

(a) No minimum lot area is required but, the lot shall be adequate to provide the yard space required for the M(P) planned industrial district and meet the standards of this section.

(b) The temporary erection and operation of plants and equipment necessary for crushing, polishing, dressing or otherwise physically or chemically processing the material extracted on the site shall comply with the district dimensional requirements of the M(P) zoning district.

(c) All equipment used for excavation, quarrying and permitted processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which would injure or annoy persons living or working in the vicinity.

(d) Access ways or drives within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.

(e) No excavation shall be made closer than 200 feet from the banks of any river, stream, creek or waterway except by documentation, signed and sealed by a certified and registered professional engineer, that such excavation or quarrying shall not impair the existing lateral support needed for permanence of the water body.

(f) All excavations shall be made either to a depth of five feet below a water producing level, or graded or back-filled with non-noxious and non-flammable solids to assure that the excavated area will not collect and retain stagnant water or that the graded or back-filled surface will create a gentle rolling topography to minimize erosion by wind or rain and substantially conform with the contour of the surrounding area.

(g) Whenever the floor of a quarry is five feet or more below the grade of adjacent land, the property containing the quarry shall be completely enclosed by a barrier either consisting of a mound of earth not less than six feet high located at least 25 feet from any street right-of-way and planted with a double row of quick growing vegetative landscaping, or shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of six feet along the property line.

(h) An excavation shall be located 100 feet or more and back-filled to 150 feet from a street right-of-way line. Quarrying operations shall be located 50 feet or more from a street right-of-way line and to any property boundary line. With approval by the Town Board of Commissioners, such excavation or

quarrying may be permitted inside these limits in order to reduce the ground elevation to the established street grade.

(i) More intensive buffering than the normal standard may be required when the development is near or adjacent to residentially-zoned areas.

(j) A reclamation plan shall be submitted along with the site plan and the application. All such reclamation plans shall include the following:

(1) A grading plan showing existing contours in the area to be extracted and proposed future contours showing the topography of the area after completion. Such plans shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less;

(2) Existing and proposed drainage of the area; and

(3) Details of re-grading and re-vegetation of the site during and at conclusion of the operation. The following are the minimum requirements to be met at the conclusion of the operation:

a. The banks of all extraction, when not back-filled, shall be sloped at a grade of not less than two feet horizontal to one foot vertical. This slope shall be maintained 20 feet beyond the water line if such exists;

b. Spoil banks shall be graded to a level suiting the existing terrain; and

c. All banks and extracted areas shall be surfaced with at least six inches of suitable soil, except exposed rock surfaces, and shall be planted or seeded with trees, shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the Chief Building Inspector.

(k) When any extraction has been completed, such area shall either be left as a permanent spring-fed lake or the floor thereof shall be leveled in such manner as to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion.

(l) All equipment and structures shall be removed within three months of the completion of the extraction of materials.

(m) The facility must be permitted by the N. C. Department of Environment and Natural Resources (NCDENR) and/or other applicable Federal, State, and local agencies.

Sec. 102A-1019. Recreation or amusement, public/private and indoor/outdoor.

(a) One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) zoning district.

(b) The site shall have direct vehicular access to a major or minor thoroughfare or higher-level street.

(c) When the facility is operated outdoors, the hours of operation shall be between sunrise and sunset.

(d) All outdoor lighting shall comply with the standards of Section 102A-1202(m).

(e) If the facility is of such a use that would be conducted on dirt (i.e., ball fields, go cart tracks, etc.) measures shall be taken to minimize the creation of dust.

(f) Fencing, netting, or other control measures shall be provided around the perimeter of any areas used for hitting, flying, or throwing of objects to prevent the object from leaving the designated area.

Sec. 102A-1020. Recreation vehicle park and/or campground.

(a) Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.

(b) The area of the park/campground shall be at least three acres. Each recreation vehicle/camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material.

(c) All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.

(d) Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets. A driveway permit must be

obtained from the N. C. Department of Transportation (NCDOT) for connection to a public street.

(e) The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days.

(f) Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:

(1) Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

(2) The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.

(3) Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the N. C. Building Code.

(g) Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.

(h) Internal drives shall be constructed to a minimum of 18 feet in width if providing two way streets and 12 feet in width for one way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.

(i) Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscape screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment, and complies with the buffering requirements for non-residential uses adjacent to residential uses and/or districts.

(j) In addition to the requirements required to be shown on the site plan as required by the Article XV of this ordinance, the site plan shall include the name and address of the applicant, the location and dimensions of each

recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this section shall also require approval from the County Public Health Department.

(k) When permitted, recreation vehicle parks/campgrounds within the CD conservancy district shall be subject to the following requirements:

(1) No individual recreation vehicle/camping site shall have individual on-site septic systems; and

(2) Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.

(l) All Federal, State and other local regulations shall be complied with.

Sec. 102A-1021. Residential habilitation support facility.

(a) Minimum lot size: 20,000 square feet.

(b) The structure must pass all health and fire inspections.

(c) The property must be at least a one-half-mile radius of distance separation from an existing or approved residential habilitation support facility or an existing or approved group home, regardless of the jurisdiction of the existing or approved facility or home.

(d) The following setbacks shall be minimum yard requirements, except where the zoning district in which the facility is located has greater dimensional requirements the zoning district setbacks apply:

(1) Front yard: 50 feet from any public or private street;

(2) Rear yard: 35 feet; and

(3) Side yard: 25 feet.

(e) Paved off-street parking shall, at a minimum, be provided at the rate of two spaces plus one space for each caregiver.

(f) The facility shall have direct access to a paved public street meeting Town and/or N. C. Department of Transportation (NCDOT) standards, whichever is applicable.

(g) The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.

Sec. 102A-1022. Second hand, pawn and flea market.

(a) Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted during the hours when the commercial operation is open for business. No storage or display shall be permitted within a public right-of-way.

(b) Vehicle parking shall be provided entirely on site. Traffic generated by the business shall not impede the normal flow of traffic on any public right-of-way.

Sec. 102A-1023. Sexually oriented business.

Sexually oriented businesses are some of the uses which, because of their very nature, may have serious objectionable characteristics, particularly when several of them are concentrated in one area, thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. Special regulation of sexually oriented businesses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and applicable criteria are contained in this section.

Sexually oriented businesses shall be allowed in the C(P) planned commercial district subject to the following:

(a) Sexually oriented businesses shall not be located within 2,500 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the building(s) containing such regulated use.

(b) Sexually oriented business shall not be located within 1,500 feet of any area zoned for residential use or from the property line of residential unit(s), religious worship activity, nursery school, day care facility, any recreation and amusement not regulated herein, and any public or private school regardless of the zoning district, and shall be measured from the property line(s) containing such regulated use.

(c) Buffering, complying with the standards of Section 102A-1202(g), shall be placed around the entire perimeter, including road frontage but excluding the entrance drive, for all sexually oriented businesses.

(d) Nude or semi-nude service or entertainment of any kind shall not be allowed outside the building of such use.

(e) The provisions of this article shall not apply to “massage and bodyworks therapy” as defined in Article II and to the extent regulated by N.C. GEN. STAT., Chapter 90.

Sec. 102A-1024. Solid waste disposal facility.

(a) Such facility shall not be located within 2,500 feet of an existing residential structure or of residentially-zoned property.

(b) Material shall not be stored outside of appropriate waste containers, and all such containers shall be located on a solid impervious surface such as concrete pads.

(c) All structures on the site shall comply with the dimensional requirements for the zoning district.

(d) The site shall be maintained to prevent odors, rodents and any other nuisances.

(e) The site shall have direct access to a paved public street.

(f) Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

(g) All environmental health rules and regulations, including Federal and State laws, shall be complied with.

(h) One identification sign, as defined in Section 102A-1402, shall be permitted in accordance with Article XIV.

Sec. 102A-1025. Theater productions, outdoor.

(a) One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) planned local business district.

(b) The site shall have direct vehicular access to a minor or major thoroughfare or higher-level classification of street.

(c) In residential districts, hours of operation shall be between sunrise and sunset. Noise levels shall not pose a nuisance to neighboring properties.

(d) All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots and security. In these cases, fully shielded lights must be used.

Sec. 102A-1026. Towers.

(a) A communication tower and associated equipment totally concealed within a building or structure so as to be architecturally indiscernible shall not be regulated as a tower under this section.

(b) The applicant, owner, or developer of a tower that is to be at least 75 feet in height shall submit a site plan with the application for permits to authorize construction or erection of the tower. The site plan shall include:

(1) Identity of the proposed or intended user(s) of the tower;

(2) The certification of a registered engineer that the tower has the structural integrity and/or capacity to support or to accommodate more than one use or user;

(3) The statement and supporting information and documentation by the applicant, owner, or developer that no structures or facilities suitable for collocation are available within the coverage area;

(4) The statement of the owner indicating the intent and willingness to permit shared use of the tower and the potential for or limitations on the number of other users that the proposed tower can accommodate; and

(5) Elements and design that meet all requirements of this ordinance and Chapter 86.

(c) Setbacks:

(1) *Residential/Conservancy zones.* Any tower in the residential and/or conservancy zoning districts shall be set back from all adjacent property lines and/or lease lines a distance not less than the height of the tower.

(2) *Commercial/Industrial zones.* Any tower shall be set back from property and/or lease lines a minimum of 50 feet or one foot of setback for each two feet of tower height, whichever is greater.

(d) Structures located near towers shall not encroach upon the setbacks of the towers, unless such towers are of monopole design and construction, in which case buildings and structures may be located within the setback distances.

(e) A chain link fence at least ten feet in height and located at least ten feet from the base of the tower shall enclose the tower base.

(f) A buffer area at least 25 feet in width shall surround the tower compound. The buffer shall shield the compound area from the entire tract. No structures, including guyed wires or anchors, may be constructed or located within the buffer. The buffer area shall be planted with vegetation that shall have an initial height of at least three feet and an expected attainment of six feet in height within four years of planting. The vegetation shall be planted with such type and in such number so as to constitute a complete shield or visual blockage of the tower compound area year round. If the Chief Building Inspector determines that a natural buffer already exists on site that substantially complies with the purpose and intent of this performance standard to an equal or greater degree, such an alternative natural buffer shall be considered adequate. If an alternative natural buffer is used, the user shall be responsible to ensure that the buffer remains compliant for as long as the tower remains. If a buffer is altered to an extent where it no longer serves to shield or obscure the compound from view, the applicant or tower user(s) shall install buffers as required by this section.

(g) The applicant, owner or developer shall certify that the proposed tower will be constructed and operated in accordance with all applicable Federal, State and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

(h) Prior to the issuance of a building permit for a tower, the applicant, owner or developer shall submit drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards.

(i) The tower's height shall not exceed 450 feet. When a tower is located on a building or structure, the combined height of the building or structure and the tower shall not exceed 450 feet

(j) The exterior appearance of any building or structure associated with a tower and located in a residential zone shall maintain a residential architectural quality including, without limitation, a pitched roof and frame or brick veneer construction.

(k) Buildings or structures associated with a tower and located in a residential zone may not be used as a work site for any worker. However, periodic maintenance, inspection and renovation of the facility shall be permitted.

(l) Each applicant, owner or developer shall demonstrate that the use will not be detrimental or injurious to the property values of the surrounding neighborhood. In zoning districts where the tower is a use by right, the applicant, owner or developer may satisfy the requirement by submitting a statement signed by a licensed appraiser or real estate broker which expresses an opinion that the use will not be detrimental or injurious to the property values of the surrounding neighborhood.

(m) To protect the public from unnecessary exposure to electromagnetic radiation, the applicant, developer, owner or operator of the tower shall document that the power density levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever is stricter.

(n) If lighting is required by the FAA, it shall meet or exceed the FAA standards. To the extent allowed by FAA regulations and standards, strobes shall not be used for nighttime lighting. To the extent permitted by Federal statutes, regulations and standards, the lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant, developer or owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA.

(o) A tower not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Chief Building Inspector may establish a shorter period of time for the removal of a tower that is structurally unsound.

(p) The owner or operator of a tower shall submit a statement signed and sealed by a licensed engineer that the tower will be structurally sound.

(q) If the Chief Building Inspector determines a tower is not structurally sound, the owner or operator of the tower shall, within 60 days or a shorter time period if required by the inspector, complete repairs to restore the structural soundness of the tower.

(r) The owner, applicant, or developer shall camouflage the tower so that it blends into the surrounding area. Methods of camouflage include paint, architectural design or structure, and other means.

- (s) Outside storage on the site of the tower shall not be permitted.
- (t) All tower sites shall comply with the provisions of Chapter 86.

ARTICLE XI OTHER USES

Sec. 102A-1101. Temporary uses.

The Chief Building Inspector may issue a temporary *Certificate of Occupancy* for the following uses in accordance with the provisions of this section. In cases where the desirability of permitting the use is questionable and the application for the temporary *Certificate of Occupancy* is denied, the matter shall be appealed to the Board of Adjustment for a decision in accordance with Article XVII.

(a) *Temporary events.* A temporary occupancy permit may be issued for bazaars, carnivals, religious revivals, sports events, circuses, festivals and similar uses for a limited fixed period of time not to exceed 30 days in any one calendar year, and subject to limitations as the Chief Building Inspector may impose based on the character of the district affected.

(b) *Temporary construction offices.* A temporary occupancy permit may be issued for construction offices in any district at any site where erection, addition, relocations and/or structural alterations are taking place, provided that such construction office shall be removed immediately upon completion of the project.

(c) *Temporary office and exhibition.* A temporary occupancy permit may be issued for non-residential mobile or modular structures used solely as offices or for purposes of exhibition in any district for a fixed period of time not to exceed six months and only upon satisfactory evidence that the use of such mobile or modular structure shall not violate any code or regulation or the intent of this ordinance. The temporary permit may be renewed upon similar evidence of use of such mobile structure.

(d) *Mobile storage units.* Temporary self-contained storage units shall be permitted to be located between a principal structure and the street for a period of time not to exceed 14 calendar days.

(e) *Seasonal sales establishment.* Establishments that sell fireworks, pumpkins and Christmas trees may be permitted as a temporary use on a lot subject to the following requirements:

(1) A seasonal sales establishment may be permitted in the specified commercial zoning districts but shall not be permitted in any conservancy, residential, office, or industrial zoning district.

(2) A seasonal sale establishment shall observe all minimum required yards when such yards abut a residential lot. No merchandise or business activity may be permitted in the required yard area.

(3) No operations or display shall occur in any street right-of-way. All activities shall take place on the lot.

(4) Sufficient off-street parking shall be provided in order to accommodate the sales establishment.

(5) One travel trailer, for temporary living and security purposes in association with the seasonal sales establishment, may be permitted provided the travel trailer satisfies any public service corporation, public utility and/or Town requirements for proper connection to water, sewer, electrical and other utility service connections, if applicable.

(f) *Yard sales.* A permit is required under the provisions of Section 74-26, Town Code of Ordinances. The person conducting the yard sale (tenant or property owner) shall be responsible for the prevention of any negative effects on neighboring properties and prevention of impeding the normal flow of traffic on public rights-of-way. Also, the person conducting the sale shall ensure that all property being sold is personal property, as defined in Article II, and that any residual items at the conclusion of the sale are not stored outside the residential dwelling in a permanent or semi-permanent manner.

Sec. 102A- 1102. Incidental uses.

(a) *Home occupations.* A home occupation shall be permitted as an accessory use to any dwelling unit and may be conducted in the principal structure or an accessory structure provided that:

(1) The principal person or persons providing the business or service resides in the dwelling on the premises and such dwelling is the primary residence of the person or persons providing the business or service;

(2) The area used for the business or service does not exceed 25 percent of the combined floor area of the structure(s) or 500 square feet, whichever is less;

(3) All work associated with the home occupation is conducted inside the designated structure(s), except that which would normally being carried on in an outdoor setting in a residential district, such as gardening, provided that sub-section (5) below is complied with;

(4) An attached sign not exceeding two square feet in area is allowed;

(5) The property contains no outdoor display or storage of goods or services associated with the home occupation;

(6) The home occupation causes no change in the external appearance of the existing building and structures on the property;

(7) One additional parking space is allowed;

(8) Wholesale sales of goods do not occur on the premises;

(9) The home occupation employs no more than one person who does not reside on the premises;

(10) The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;

(11) One vehicle, no heavier than $\frac{3}{4}$ ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner, so as not to disrupt the quiet nature and visual quality of the neighborhood;

(12) A small home day care shall be permitted as incidental to any dwelling unit, provided that all provisions of this section are complied with in addition to the following:

a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and

b. No more than five children who are unrelated to the operator can be cared for during any 24-hour period.

(13) All Federal, State, and local regulations, including the County Public Health regulations are complied with in the conduct of the home occupation.

(b) *Outside storage and display.* Outside storage of goods, equipment and material shall be prohibited in any O&I(P), C1(P), C2(P) or C(P) district unless otherwise specifically authorized in Section 102A-403. Outside display of merchandise which is typical in conducting the commercial operation is permitted in any of the above named districts except the O&I(P) district

(c) *Swimming pools.* Every swimming pool, public and private, as defined by this ordinance is permitted as an incidental use and shall be regulated as follows:

(1) The minimum setback for a swimming pool from any side and/or rear lot line shall be ten feet.

(2). A fence shall be erected to a minimum height of four feet to completely enclose the portion of yard containing the pool and shall include a gate with a locking device that can be securely closed and fastened. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG CODE § R312.2 (2006) or subsequent amendments thereto. The required fence shall be constructed of such materials and erected in such a manner so that small children and domestic pets and animals shall be unable to enter the enclosed area without the assistance of an adult.

(3) All mechanical equipment shall be located a minimum of five feet from any property line.

(4) All floodlights shall be shielded from adjacent properties to reduce offensive glare.

(5) All electrical wiring shall be in conformance with the National Electrical Code.

(6) A water discharge plan for the proposed use shall be submitted showing the location of buildings, yard dimensions and other pertinent data. This plan shall also stipulate the type of system used for disposal of de-chlorinated waste water (only) from the site and shall be in compliance with Chapter 67 of the Town Code of Ordinances. A permit shall not be issued until the Chief Building Inspector determines that the water discharge plan is adequate and meets one or more of the following criteria:

a. The discharge system shall drain directly into the street storm drainage system, other public storm drainage systems or natural stream; or

b. Adequate hose is made available to discharge such water into one of the above public ways; or

c. The water discharge can be accomplished on the lot on which the swimming pool is located without threat of discharge onto adjacent lots.

(7) In any zoning district, a swimming pool may not be located in a required front yard, including residential corner lots subject to Section 102A-1201(g).

(8) The owner of any property on which a swimming pool is located or on which the swimming pool already exists upon the effective date of this sub-section, shall be required to comply with the provisions of this sub-section within 60 calendar days after the effective date of this sub-section or within 60 calendar days of being made subject to the terms of this ordinance.

(d) *Accessory retail uses.* Accessory retail uses include shops incidental to a hospital or clinic, variety, book, cafeterias, soda bars, coffee shops, beauty shops, and barbershops incidental to institutional or professional office buildings or manufacturing facilities. Accessory retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students or visitors and not the general public. Such retail use, which is conducted wholly within the principal building without access thereto other than from within the building, without exterior advertising display, shall be permitted.

(e) *Accessory structures.* The following provisions apply to all accessory structures:

(1) Accessory structures shall not be rented or occupied for gain or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.

(2) Accessory buildings to be used for living quarters shall not be constructed or placed upon a lot until the construction of the principal building has commenced.

(3) Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure, regardless of the zoning district.

(4) Accessory structures shall not be constructed or placed within any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any other principal or accessory building or other structure. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope of the lot for the zoning district in which the lot is located.

Sec. 102A-1103. Nonconforming uses.

(a) *General provisions.* Any structure or use of land, existing at the time of the enactment of this ordinance, or any amendment thereto, used for a purpose not permitted in the zoning district in which it is located shall be considered a nonconforming use and shall be regulated as provided in this section.

(b). *Discontinuance/buffering of open-air outside uses.* All nonconforming uses not carried on within a structure, except those which are incidental and necessary to activities within a structure, shall be discontinued within three calendar years from the effective date of this ordinance or any amendment thereto unless they can be adequately buffered so that the nonconforming use is not visible to the surrounding properties and any public street, and these such uses shall be buffered in accordance with Section 102A-1202(g) within two calendar years from the effective date of this ordinance. Uses to be discontinued or buffered under this section shall include outdoor sales areas, motor vehicle parking lots not immediately adjacent to and used in conjunction with a structure that the parking lot serves, storage yards, signs, billboards and similar uses. Where nonconforming use status applies to structure(s) and premises in combination, if the structure(s)/building(s) are removed or destroyed, the nonconforming use of the land shall cease and any subsequent use of the land structure(s) or building(s) placed thereon shall conform with the provisions of this ordinance.

(c) *Continuance of nonconforming uses.* A nonconforming use may not be changed, expanded or resumed to any other nonconforming use, unless the Board of Adjustment finds that such use is no more detrimental to the neighborhood than the initial nonconforming use of the property in question. A change of title or possession or right to possession of property with a nonconforming use shall not be construed to prevent the continuance of such nonconforming use.

(d) *Continuance of nonconforming structures.* A structure that is nonconforming due to noncompliance with dimensional requirements, and which is a permitted use in the district, may continue, provided that its nonconformity is not increased. Structural changes which decrease or do not affect the degree of nonconformity, regardless of cost and/or increase in value, shall be permitted. Routine repairs, maintenance, rehabilitation and renovations, regardless of value, shall be permitted.

(e) *Reconstruction prohibited.* Any nonconforming structure or any structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and its use resumed if that occurs within one year of such damage, unless such structures have been determined by the building inspector to have been damaged to an extent exceeding 50

percent of its then reproducible value or its bulk, exclusive of foundations, in which case any repair, reconstruction or use shall conform with the provisions of this ordinance.

(f) *Resumption of nonconforming use prohibited.* Resumption of a nonconforming use of a structure shall not be permitted if such nonconforming use is discontinued or ceases, regardless of intent, for a continuous period of one calendar year.

Sec. 102A-1104. Nonconforming manufactured home lots and parks.

Notwithstanding any other provisions of this section to the contrary, the continuance of the use of land and structures for individual manufactured home or manufactured home park purposes in zoning districts in which individual manufactured homes or manufactured home parks are not a permitted use shall be regulated as follows:

(a) *Individual nonconforming manufactured home uses.* Individual lots in districts not zoned for manufactured home use on which there is located a preexisting (i.e., thereon at the time of such zoning) nonconforming manufactured home may continue to be used as an individual manufactured home lot, subject to the following conditions:

(1) In the event that the use of the nonconforming individual lot as a site for a preexisting individual manufactured home is discontinued for a period of one calendar year or more, such use of the lot shall not be resumed, and only the uses permitted for the zoning district in which the lot is located shall be allowed.

(2) A manufactured home that was located on a nonconforming individual manufactured home lot at the time the district in which the lot is located was zoned shall not be replaced except in accordance with the provisions of sub-section (c) below.

(b) *Continuance of pre-existing nonconforming manufactured home park uses.* Tracts or parcels of land in districts not zoned for manufactured home park use on which there is located a preexisting nonconforming manufactured home park may continue to be used as a manufactured home park, subject to the following conditions:

(1) In the event that the use of a tract or parcel of land, or part thereof, as a manufactured home park is discontinued for a period of one calendar year or more, such use of the land, or part thereof, shall not be resumed, and only the uses permitted for the zoning district in which the land is located shall be allowed.

(2) A manufactured home that was located in a pre-existing nonconforming manufactured home park at the time the district in which the park is located was zoned shall not be replaced except in accordance with the provisions of sub-section (d) below.

(c) Replacement of pre-existing manufactured homes on individual nonconforming lots. A pre-existing manufactured home on an individual nonconforming manufactured home lot may be replaced by another manufactured home during the period in which the pre-existing nonconforming use of the lot is allowed to continue, provided that the replacement structure, as newly positioned on the lot, conforms to the following requirements:

(1) The replacement structure in any residentially zoned district shall be a Class A manufactured home, and the replacement structure in any of the following non-residential zoning districts: O&I(P) planned office and institutional, C1(P) planned local business, C2(P) planned service and retail, C(P) planned commercial, M1(P) planned light industrial, and M(P) planned industrial shall be a Class A or Class B manufactured home as defined in this ordinance, provided that such replacement structures are used exclusively for residential purposes.

(2) The replacement structure shall meet the minimum dimensional requirements and other applicable provisions of this ordinance for the zoning district in which the lot is located.

(3) The replacement structure shall meet the current County Public Health Department regulations pertaining to sewage and water systems; the current requirements of the Town's Fire Prevention and Protection regulations; and the current requirements of the Town's Housing regulations.

(4) In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

(d) Replacement of pre-existing manufactured homes in nonconforming manufactured home parks. A pre-existing manufactured home in a nonconforming manufactured home park may be replaced by another manufactured home during the period in which the pre-existing nonconforming use of the land on which the park is located is allowed to continue, provided that the replacement structure, as newly positioned in the park, conforms to the following requirements:

(1) The replacement structures shall be placed in the manufactured home park so that the structure in place is set back from the external boundaries of the park a distance that meets the dimensional requirements

and other applicable provisions of this ordinance for the zoning district in which the park is located, as though the park were a single lot or tract within such district. For the purposes of this section, front yard setback requirements shall be measured from a public street constituting an external boundary of the park, if any. Other setback requirements shall be treated as rear and side yard setbacks, as appropriate, and be measured from the boundary of the park other than a public street.

(2) The replacement structure and the manufactured home space on which it is placed shall meet the current internal dimensional requirements for a manufactured home park as defined and set forth in Chapter 86, to include without limitation: lot area, density and yard space requirements.

(3) The replacement structure shall meet the current requirements of the County Public Health regulations pertaining to manufactured homes and manufactured home parks; current requirements of the Town's Fire Prevention and Protection regulations; and the current requirements of the Town's Housing regulations.

(4) The replacement structure shall be a Class A or Class B manufactured home and shall otherwise meet the current construction and other standards for manufactured homes established by applicable Federal, State, and local regulations.

(5) In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

(e) *Map of pre-existing nonconforming manufactured home lot or park.* Every owner of land on which a pre-existing nonconforming manufactured home lot or park is located shall file with the Chief Building Inspector and the County Planning Department, a map or site plan of the land area of such lot or park showing the dimensions to scale of the area at the time of the zoning of the land on which the lot or park is located, showing the location and external dimensions to scale of each manufactured home existing therein at such time, and showing such other pertinent information as the staff may and require.

(f) *Zoning permit required.* Replacement of a pre-existing nonconforming manufactured home hereunder shall not be permitted unless the owner of such replacement unit has made application to the Chief Building Inspector for a zoning permit for such replacement, and the permit has been issued. The application shall describe the proposed replacement manufactured home by manufacturer's name, model and serial number, year of manufacture and dimensions and shall show the proposed manufactured home space for the replacement on a copy of the map of the manufactured home lot or park on file with the staff as required by sub-section (e) above.

The inspector shall issue a zoning permit for the replacement only upon a determination that the replacement and its location meet the requirements for replacing a pre-existing nonconforming manufactured home set forth above. The inspector may require any additional information reasonably necessary to make such determination and may deny a permit if such information is not submitted. No provision herein shall waive or release other requirements for a permit pertaining to the replacement or lot or park in which the manufactured home is to be located that may be set forth in this ordinance, Chapter 86 or other Federal, State, or local laws.

ARTICLE XII LOT AND YARD REGULATIONS

Sec. 102A-1201. Lot regulation.

Unless otherwise established elsewhere within this ordinance or in Chapter 86, the general lot regulations shall apply as herein set forth.

(a) *One principal structure per lot.* Every principal structure hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one main residential building and its accessory buildings on one lot of record unless otherwise provided for in this ordinance and Chapter 86. Uses that are considered accessory to the principal bona fide farming use are not limited in number when associated with the farm use as exempted by Section 102A-109

(b) *Street access.* No structure shall be erected on a lot, subject to regulation under Chapter 86, which does not abut a public street or approved private street (see Chapter 86 for private street provisions) for at least 35 feet, such frontage (abutting) to be continuous from the property line to the front yard building setback line. Those lots or tracts, not regulated by Chapter 86 shall provide, at a minimum proof of a 35-foot deeded access easement, which has been properly and legally recorded with the County Register of Deeds, to serve the said lot or tract.

(c) *Reduction of lot size prohibited.* No lot shall be reduced in area so that lot and/or yard areas below the minimum required under this ordinance shall result. Lots 50 feet or more in width may be treated as recorded lots less than minimum requirement.

(d) *Recorded lots less than minimum requirement.* Where any lot of record on the effective date of this ordinance or amendment thereto for the zoning area in a district which allows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent.

(e) *Lots without community water or sewer.* Any lot that is not served by public or community water and/or sewer, in addition to the regulations of the district in which said lot is located, must be certified by the County Public Health Department to be large enough to meet all applicable regulations regarding water supply and/or sewage disposal prior to application for a zoning permit.

(f) *Building lines on irregularly shaped lots.* The Chief Building Inspector shall determine locations of front, side, and rear building lines on irregularly shaped lots. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and location of buildings or groups of buildings on individual lots. Unless specifically allowed otherwise within this ordinance, setback lines shall not be measured from any part of any tract that does not meet the minimum width requirement for the individual district as listed in Section 102A-1204.

(g) *Corner lots.* Principal structures on corner lots shall observe the front yard requirements on each of the intersecting streets if the principal structure is constructed and located within developments recorded after the effective date of this ordinance, or any amendment thereto. Except for lots located within the R6A residential district, principal structures on corner lots in residential districts that observe the front yard requirements from the two intersecting streets may reduce the required rear yard by 20 feet.

(h) *Lot area exception in conservancy districts.* In the CD conservancy district, the area may be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD district shall only be used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable Federal, State, or local regulations.

Sec. 102A-1202. Yard regulation.

(a) *Projection into yard space.* Every part of a required yard shall be open from its lowest point (grade level) to the sky, unobstructed except for the ordinary projections of sills, belt courses, buttresses, cornices, ornamental features, sundecks, balconies, open porches, and eaves; provided that none of the above projections shall project into a required yard more than four feet. Canopies, eaves, and marquees may extend into a required yard in a commercial or industrial district provided that no more than ten percent of the square footage within the required yard is covered by such canopies, eaves, and marquees, and provided further that supports for such canopies, eaves, and marquees shall not be solid and shall not interfere with the free movement of traffic, the required off street parking, and the sight view of adjacent properties.

Open fire escapes, outside stairways, open wheelchair ramps, the ordinary projections of chimneys and flues, swimming pools, flag poles, decorative fountains, and other similar items may be erected in required yards when placed so as not to obstruct light and ventilation necessary for the

structure. To minimize encroachment of wheelchair ramps into the required yard, turning platforms are encouraged.

(b) *Determination of front yard setback.* The front yard requirements of this ordinance shall not apply on lots where the average depth of existing front yards on developed lots, located within 100 feet on each side of a lot, within the same block and zoning district as such lot, is greater or lesser than the minimum required front lot depth. In such cases, the depth of the front yard on such lot shall not be less than the average front yard depth on such developed lots. This provision shall not require a structure to set back from the street or road a greater distance than that distance set forth in this ordinance or the setback line observed by the closer of the two existing principal structures on immediately adjoining lots. In no case, however, shall any residential structure be placed closer than 50 feet from the centerline of a street on which it faces or within 40 feet from the centerline of a side street. The location of a residential structure with respect to the street line in any commercial or industrial district shall not be used as a factor in determining the required setback from the street line for any new structure to be erected in such districts.

(c) *Fences and walls.* The setback requirements of this ordinance shall not apply to any retaining wall. Open fences and walls may be erected to any height. Solid fences and walls shall be limited to three feet in height when projecting into or enclosing a minimum front yard and shall be limited to seven feet in height when projecting into or enclosing a minimum side yard or rear yard. When a corner lot follows two front yard setbacks, as determined by the Chief Building Inspector, a solid fence or wall greater than three feet in height, but not exceeding seven feet in height, may not be erected within 20 feet of the right-of-way on the street deemed the secondary front yard by the Chief Building Inspector. Solid fences enclosing a rear or side yard of a corner or through lot that are constructed of wood slats shall not construct the wood fence so that any horizontal supports used for vertical wood slats are located on the exterior (street) side of the solid fence. All fences shall be installed and maintained in a safe condition and kept in good repair. The street on which the house is addressed is usually considered the primary street on which the house must follow the full front yard setback unless otherwise determined by the Chief Building Inspector. Exceptions to location criteria are as follows:

(1) Fences or walls that are within or enclose the minimum side and/or rear yard of a subdivision lot which is situated on a peripheral boundary of a subdivision in which it is a part;

(2) Rear yards on through lots may have a privacy fence erected up to the rear property line, as determined by a platted "no access easement" or up to 15 feet from that line in the absence of a "no access easement";

(3) Fences erected in conjunction with a buffer, as required by subsection (g) below, shall be set back a sufficient width from the property line to allow for the proper maintenance and upkeep of any required on-site vegetation; and

(4) When a principal structure is permitted closer than 25 feet to a public right-of-way line, the fence or wall will be permitted no closer to the road right-of-way than the permitted location of the principal structure.

(d) *Corner visibility.* In all districts, no fence, wall, shrubbery, sign, or other obstruction to vision between the heights of three feet and 15 feet shall be permitted within 20 feet of the intersection of two streets.

(e) *Rear yards on through lots.* The depth of rear yards on through lots shall be at least equal to the minimum required front yards for the district in which it is located and no accessory buildings shall be located in the rear yard on through lots.

(f) *No other building in required yard space.* No part of a yard or other open space required about any structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required under this ordinance for another structure. When two or more uses occupy the same building, sufficient parking areas, yard widths, lot area, open space, and such, must be provided so that the dimensional requirements pertaining to each of the uses will be met in full.

(g) *Buffer requirements.*

(1) A solid buffer shall be installed when:

a. A non-residential use abuts a residential or agricultural zoned property along the side and/or rear property lines;

b. Any commercial off-street parking or loading space abuts a residential or agricultural district along the side or rear property lines;

c. Any use permitted in a residential or conservancy district other than a single- or multi-family dwelling abuts a residential or conservancy district along the side or rear property lines;

d. Any multi-family development of more than three residential units abuts a residential district or an existing single-family dwelling along the side or rear property lines;

e. Any outside storage of materials, equipment or products is visible and/or abutting any residential district and/or public street; and

f. Any off-street parking facility serving a non-residential use abuts a residential district.

(2) Governmental uses as defined herein and including public and private elementary, junior high/middle, and high schools, accredited by the State of North Carolina, shall be exempt from the buffer requirements of this ordinance.

(3) All uses existing at the time of the adoption of this ordinance and classified under “a – e” above shall provide and maintain a solid buffer completely surrounding the development within two calendar years of said use being subject to this ordinance in accordance with the standards of this sub-section or Chapter 86.

(4) When required by this ordinance and/or Chapter 86, the following standards shall apply:

a. A vegetative buffer shall be a minimum of three feet at time of planting to reach a height of six feet within three calendar years;

b. Solid non-vegetative fencing shall have a minimum height of six feet;

c. Buffer vegetation shall be located between any fence and the common property line.

d. Chain link fencing shall not be permitted as a screening alternative, regardless of type of modifications made to the chain link fence.

(h) *Reserved for future use.*

(i) *Building height.* Multiple-family dwellings and office, commercial, and industrial buildings shall not be limited to height except that for each one foot of height greater than 35 feet, the side and rear yard setbacks shall be increased by one foot. In any district, if the structure is a combination of a one-story portion and multi-story portion, the side yard setbacks for the structure shall be determined by the number of stories in the structure closest to the side yard.

(j) *Side yard exception.* In the C1(P) planned local business district, the C2(P) planned service and retail district and the C(P) planned commercial district, where the lot has a width of 150 feet or less at the front yard setback line, the minimum side yard width requirements shall apply only to one side if the opposite side is also zoned for commercial or industrial uses.

(k) *Rear yard exception for manufactured homes in a R6A residential district.* In a R6A residential district where a single manufactured home, as

herein defined, is to be placed on an individual lot and no other principal structure exists, and the lot adjacent to the subject lot is also zoned R6A, the rear yard requirement may be reduced to five feet as long as such manufactured home shall be at least 25 feet from any other manufactured home located on an adjoining lot to the rear of the subject lot.

(l) *Reserved for future use.*

(m) *Outdoor lighting.* The purpose of this section is to reduce glare, to reduce light trespass, to decrease the expense of lighting, to decrease light pollution, and to improve the aesthetics of the Town while still providing adequate nighttime safety and security. The following standards are applicable to all properties:

1. All lights shall be shielded in such a way as to direct all light toward the earth's surface and away from reflective surfaces;

2. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property and any light on a pole, stand, or mounted on a building must have a shield, and adjustable reflector and non-protruding diffuser;

3. Any facilities, which may require floodlighting, may not arrange the light in such a way that it will shine toward roadways, onto adjacent residential property or residentially-zoned property or into the night sky;

4. Any interior lighted signs may not be lit at night when any face of the sign is removed or damaged in such a way that the light may distract pedestrians or drivers or become a nuisance to adjacent or nearby residences;

5. Any light fixture must be located in such a manner that no light-emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at ground level.

(n) *Landscaping.* All requirements as set forth herein shall be applied to non-residential and mixed use developments requiring site plan approval prior to zoning permit application for which a zoning permit is issued on or after the adoption date of this amendment.

(1) *Purpose and intent.* The purpose and intent of this sub-section is to:

a. Enhance the community appearance and improve air quality within the Town.

b. Conserve energy and retard stormwater runoff while aiding in noise, glare and heat abatement;

c. Safeguard and enhance property value and to protect public and private investment through the protection of significant existing trees;

d. Provide visual buffering and enhance Town beautification through new landscaping standards; and

e. Prevent the indiscriminate removal of trees and facilitate their replacement on public and private property for new and existing developments.

(2) *Minimum criteria.* The detailed site plan shall include the following upon submission for preliminary review and approval:

a. *Streetscape provisions.* All developments abutting a public street shall provide within the front yard setback area a minimum of one large shade tree, ten feet in height at time of planting, or three flowering or ornamental trees per each 50 linear feet of street frontage or fraction thereof. The classes of trees shall be as specified by the latest edition of *American Standard for Nursery Stock* published by the American Association of Nurserymen. Existing trees within the front yard setback area can be credited toward compliance with this provision provided the caliper of the existing tree(s) is a minimum of two inches. Trees shall be planted within the front yard setback, not within the right-of-way, and may be clustered.

b. *Yard space.* Landscaping shall be installed for all non-residential and mixed use development building areas where the lot is adjacent to a public street, regardless of whether or not access to the public street is permitted. At a minimum, one ornamental tree for every 50 linear feet of building length and/or width and two shrubs for every ten linear feet of building length and/or width. The measurement is to be taken from the side of the building facing toward any public street. The required plant materials must be located between the structure and the required setback line and contained within the buildable envelope, excluding the parking areas addressed below. The development must have a yard space sufficient in size to accommodate the required plantings and to allow room for flexibility in the landscape design.

c. *Off-street parking areas.* Trees and shrubbery planted pursuant to this section shall provide at least one tree a minimum of eight feet in height and six shrubs at least 18 inches in height at time of planting for every 15 off-street spaces or fraction thereof. All plantings shall be evenly distributed throughout the parking facility; curbed or otherwise physically protected from

motor vehicles; and landscape peninsulas, a minimum of 100 square feet in area, shall be located no more than 15 spaces apart.

(3) *Maintenance.* Responsibility for maintenance and upkeep of the required plant materials shall be the burden of by the property owner, including replacing dead or unhealthy trees and shrubs. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.

o. Tree preservation.

(1) *Preservation of existing trees.* Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees may be credited towards required streetscape, yard and parking area trees required in sub-section (n) above.

(2) *Pre-clearing inspection required.* The property owner/developer must schedule with the Chief Building Inspector an inspection of any site to be developed prior to the clearing and grading of the site. At the time of the inspection, all trees intended for preservation must be marked or identified in such a manner so that it is clear which trees are to be preserved.

(3) *Failure to obtain pre-clearing inspection.* In the event, a site intended for development or sale is cleared of existing trees, upon submission for development approval and subsequent issuance of permits, the site must be developed with, at a minimum, double the number of trees required by sub-section (n) above. In the event the site is intended for residential development and has been pre-cleared of existing trees without approval from the Chief Building Inspector, the developer must plant or assure for plantings in the same manner as for other improvements under the provisions of Chapter 86, one tree for each lot proposed. Trees planted as satisfying this sub-section shall be a minimum of two inch caliper and a minimum of eight feet in height at the time of planting.

(4) *Credits for preservation of existing trees.* In order to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site/landscape plans in

accordance with the site plan requirements of this ordinance. Preserved trees may be credited at the rate of:

2" to 6" caliper tree	=	1 tree
7" to 12" caliper tree	=	2 trees
13" to 18" caliper tree	=	3 trees
19" to 24" caliper tree	=	4 trees
25" and up caliper tree	=	5 trees

(5) *Protection of preserved trees during construction.* Grading or other land-disturbing activities shall not occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the developer and approved by the Town inspector. Trees designated for preservation which are credited toward the landscape provisions must be protected by barriers, while other trees intended to be preserved which do not count toward the landscape requirements are encouraged to be protected by barriers. The barriers shall be placed around the critical root zone of any preserved tree located within 50 feet of any grading or construction activity.

Sec. 102A-1203. Special developments.

Special developments governed elsewhere in this ordinance and those governed by the Chapter 86 may be exempt from the lot and yard requirements of this article, provided the development conforms with the special provisions of this ordinance and the Chapter 86 and the overall dwelling unit density is maintained for the district in which it is located except where specifically exempted elsewhere. This section shall include, but not be limited to, Article VI, Mixed Use Developments-Conditional Use Districts and Article VIII, Density Development-Conditional Use Districts, contained within this ordinance, and zero lot line developments, unit ownership developments (condominiums and townhouses), and manufactured home parks, which are regulated in Chapter 86.

Sec. 102A-1204. District dimensional provisions.

The provisions on the following pages shall be complied with except where specifically exempted by Section 102A-1203. This section is in "chart" format and begins on the next page.

Sec. 102A-1204 (continued). District dimensional provisions¹

Except for the special provisions as previously noted in this article and any special provisions provided for elsewhere with this ordinance, the following district dimensional requirements shall be complied with:

District	Density ²				Minimum Yard Setback Regulations ²					
	Minimum Lot Size	Square Feet per Dwelling Unit for Condos & Group Developments			Width (in feet)	Front Yard Setback (in feet)	Side Yard Setback (in feet)			Rear Yard Setback (in feet)
		First Dwelling Unit	2 nd , 3 rd & 4 th Dwelling Units	5 or more Dwelling Units		(measured from R/W line)	1 Story	2 Story	For each additional story greater than 2, add:	Rear Yard Setback (in feet)
RR	20,000	20,000	20,000	20,000	100	30	15	15	10 ft/story	35
R20	20,000	20,000	20,000	20,000	100	30	15	15	10 ft/story	35
R15	15,000	15,000	15,000	15,000	75	30	10	15	10 ft/story	35
R7.5	7,500	7,500	7,500	7,500	75	30	10	15	10 ft/story	35
R6	6,000	6,000	5,000	4,000	60	25	10	12	6 ft/story	30
R6A	6,000	6,000	5,000	4,000	60	25	10	12	6 ft/story	30 ³
R5A	5,000	5,000	3,000	3,000	60	25	10	12	4 ft/story	30
R5	5,000	5,000	3,000	2,500	60	25	10	10	4 ft/story	30

¹All signs are regulated by Article XIV.

²Exceptions: See Section 102A-1203 for special exceptions to this chart.

³See Section 102A-1202(k) for rear yard exception for manufactured homes in the R6A district.

Sec. 102A-1204 (continued). District dimensional provisions¹

<i>District</i>	<i>Minimum Yard Regulations²</i>			
	<i>Front Yard Setback in feet</i>		<i>Side Yard Width (feet)</i>	<i>Rear Yard Depth In Feet</i>
	<i>Measured from R/W Line</i>	<i>Measured from Street Centerline</i>		
CD	50	80	50	50
O&I(P)	35	65	15	20
C1(P)	45	75	15	20
C2(P)	50	80	30	30
C(P)	50	80	30	30
M1(P)	50	80	30	30
M(P)	100	130	50	50

¹ All signs are regulated by Article XIV.

² See § 102A-1203 for special exceptions to this chart.

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ARTICLE XIII OFF-STREET PARKING AND LOADING

Sec. 102A-1301. Minimum standards.

All uses of land and building shall be provided with adequate off-street parking and loading space to meet the minimum standards in accordance with the provisions of this section.

(a) *Plan approval.* Each application for a zoning permit, conditional use permit, special use permit, or certificate of occupancy shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Chief Building Inspector to determine whether or not the requirements of this article are met.

(b) *Certificate of Occupancy.* The *Certificate of Occupancy* for the use of any building, structure, or land where off-street parking space is required shall be withheld by the Chief Building Inspector until the provisions of this article are fully complied with. If at any time such compliance ceases, any certificate of occupancy previously issued for the use of the property shall immediately become void and further use of the premises shall cease until the property is brought into compliance with this article.

(c) *Permanency.* The off-street parking and loading space required by this article shall be permanent spaces and shall not be used for any other purpose unless other spaces are provided which will fully meet the requirements of this ordinance. Except for businesses where vehicle sales is either permitted or incidental, including but not limited to sales lots, repair establishments, personal residences, and financial institutions parking a vehicle for the purpose of display for sale shall be prohibited. Nothing in this section shall be construed as preventing an employee or proprietor or patron of a business establishment from displaying one private motor vehicle for sale during normal working hours or in the course of conducting personal business or shopping.

(d) *Permissive parking and loading facilities.* Off-street parking or loading facilities which serve any existing non-residential use of land or buildings are permitted in any commercial or industrial district provided that all regulations herein governing the location, design and operation of such facilities are adhered to and provided further that whenever a parking facility serving a non-residential use abuts a residential district, a vegetative buffer at least six feet in height shall be established between the parking facility and the residential district.

(e) *Increased intensity of existing use.* When the intensity of use of any building or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, or other units specified herein for the computation of required parking and loading facilities, parking and loading facilities shall be provided for such increase in intensity of use.

(f) *Change of existing use.* Whenever the existing use of a structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the structure was erected prior to the effective date of this ordinance, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use shall exceed those for the existing use.

Sec. 102A-1302. Off-street parking.

(a) *Minimum requirements.* Off-street parking spaces shall be provided and permanently maintained by the owners or occupants of the following types of property uses on the basis indicated:

<i>Uses</i>	<i>Required Parking</i>
All dwelling units	Two spaces for each dwelling unit, except one and one-half space for each dwelling unit in a multi-family complex located in R6, R5A and R5 districts.
Art galleries, libraries, museums	One space for each 400 square feet of net floor area
Banks	One space for each 200 square feet of net floor space, plus one space for each two employees
Commercial amusement	One space for each four persons in design capacity
Detention facilities	One space for every three beds, up to 500 beds; one space for every five beds above 500 beds
Funeral homes	One space for each four seats in chapel
Furniture stores	One space for each 500 square feet of net floor area

Uses (continued)

Required Parking (continued)

Hospitals	One space for each two beds intended for patient use, plus one space for each employee on the largest shift
Lodges, fraternal, and social organizations	One space for each 300 square feet of net floor area
Manufacturing, processing, fabrication, assembly, construction, contracting building trades	One space for each vehicle used directly in the conduct of the use, plus two additional spaces for each three employees on the largest shift
Manufactured home and travel trailer sales lot	One space for each employee & one space for each 3,000 square feet of display area
Medical clinics, doctors' and dentists' offices	Five spaces for each doctor practicing on the premises
Motel, hotel, tourist home	One space for each room or unit to be rented; plus one space for each three employees; plus one space for each 100 square feet of floor area utilized for meeting rooms
Motor vehicle gas stations	Ten spaces
Motor vehicle repair and/or sales garage	One space for each 200 square feet of net floor area
Nursery, kindergarten, elementary, and junior high/ middle schools	One space for each employee
Nursing homes, convalescent and senior citizens homes	One space for each four beds intended for resident use, plus one parking space for each employee on the largest shift
Religious worship facility	One space for each five seats

<i>Uses (continued)</i>	<i>Required Parking (continued)</i>
Retail stores, service shops, food & beverage establishments including planned shopping centers	One space for each 200 square feet of net floor area
Rooming or boarding house	One space for each bedroom
Senior high schools	Four spaces for each classroom and administrative office
Veterinary clinics	Four spaces for each veterinarian
Vocational and business schools	One space for each 300 square feet of gross floor area
Wholesale establishments	One space for 900 square feet of gross floor area

(b) *Computation.* When determination of the number of off-street parking spaces required by this section results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(c) *Size.* All required off-street parking spaces shall be at least nine feet in width and at least 20 feet in length measured at right angles to the axis of the vehicle exclusive of access drives, aisles, or ramps. Such space shall have a vertical clearance of at least six feet, six inches. For parallel parking, the length of the parking space shall be increased to 23 feet. Compact parking spaces, measuring seven and one-half feet wide and 16 feet in length, are permitted provided that the compact spaces do not exceed more than 25 percent of the total required parking.

(d) *Design.* All off-street parking areas, except for single family group developments and unless otherwise regulated by another Federal, State or local ordinance, shall be surfaced with a permanent material such as asphalt or concrete up to the required paved driveway or entrance to the property and the individual parking spaces shall be clearly marked or striped.

(e) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or an alley in a manner that least interferes with traffic movement. All commercial and industrial off-street parking areas and all off-

street parking lots for residential use where three or more spaces are required shall be so arranged that egress from the parking space is by forward motion of the vehicle.

(f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be subject to the same standards as listed in Sec. 102A-1202(m).

(g) *Public area.* No portion of any street right-of-way or public parking facility shall be considered as fulfilling or partially fulfilling area requirements for off-street parking space required by the provisions of this article.

(h) *Combination and shared parking.* The required parking space for any number of separate uses may be combined in one lot as long as the minimum number of spaces for each separate use is provided, except that the required space assigned to one use within a shopping center may be assigned to another use provided that the hours of operation for each use do not coincide or overlap and one-half of the parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

(i) *Remote parking space.* If the off-street parking space required by this article for non-residential uses cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main pedestrian entrance to such principal use, provided such land is in the same ownership, by deed or long term, recorded lease, and that such land is zoned for commercial or industrial uses. In such cases, the applicant for a permit for the principal use shall submit with his application an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use.

(j) *Existing parking facilities.* Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same lot as the use served shall not hereafter be reduced below the minimum requirements of this article.

(k) *Residential parking limitation.* Where parking for more than five cars is permitted or required in residential districts, the lot may be used only for parking and not for any type of loading, sales, repair work, dismantling, servicing, or long-term storage, either of merchandise or vehicles.

(l) *Handicap parking.* Handicap parking shall be provided in accordance with the standards of the North Carolina Building Code and any other applicable Federal and/or State

Sec. 102A-1303. Off-street loading.

Off-street loading spaces accessory to uses permitted in any district shall be provided in accordance with the following regulations. The Chief Building Inspector shall determine the sufficiency of loading spaces permitted or required by this section.

(a) *Minimum requirements.* Off-street loading spaces shall be provided and permanently maintained by the owners or occupants of the following types of land uses on the basis indicated:

<i>Use</i>	<i>Required Space</i>
Retail operations with a gross floor area of less than 20,000 square feet, and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet	One loading space
Retail operations, (including restaurant and dining facilities within hotels and office buildings) with a total usable floor area of 20,000 square feet or more devoted to such purposes	One loading berth for every 20,000 square feet of floor area requiring not more than seven spaces
Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes	One loading space for every 100,000 square feet of floor area
Industrial and wholesale operations with a gross floor area of 10,000 square feet or over and as follows:	Minimum number of loading spaces required:
10,000 to 40,000 square feet	One loading space
above 40,000 to 100,000 square feet	Two loading spaces
above 100,000 to 160,000 square feet	Three loading spaces
above 160,000 to 240,000 square feet	Four loading spaces
above 240,000 to 320,000 square feet	Five loading spaces
above 320,000 to 400,000 square feet	Six loading spaces
each 90,000 above 400,000 square feet	One additional loading space

(b) *Location.* One or more loading berths or other space shall be provided for standing, loading, and unloading operations either inside or outside a building and on the same or adjoining premises with every structure erected after the enactment of this ordinance.

(c) *Screening.* All motor vehicle loading spaces abutting any residential district shall be completely screened.

(d) *Size.* A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and 14 feet overhead clearance. A loading berth shall be sufficient to allow normal loading operations of a kind and magnitude appropriate to the use served thereby.

(e) *Access.* Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley, without hindering the movement of vehicles over a street or alley, and of pedestrians over a sidewalk.

(f) *Utilization.* Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking spaces or access drives or aisles.

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ARTICLE XIV SIGNS

Sec. 102A-1401. Purpose.

The purpose of this article is to minimize any detrimental effects of signs on adjacent land uses, and to ensure that permitted signs do not become a public nuisance or hazard. All signs erected, altered, relocated, or maintained shall be in accordance with the provisions of this article. Where there is conflict between the provisions of this article and the provisions for signs elsewhere within the Town's Code of Ordinances, the more restrictive standard shall apply.

Sec. 102A-1402. Sign definitions.

For purposes of interpreting this article, the following words and terms are herein defined:

(a) *Attached sign*: A sign connected to or painted on a wall and including signs connected to or other-wise displayed on or through a façade window. The following are not attached signs: wall identification signs and commemorative plaques not more than two square feet in area, memorial cornerstones or tablets providing information on building erection or commemorating a person or event, or unit identification signs.

(b) *Billboard*: A sign which directs attention to a business, industry, profession, commodity, service, or entertainment not conducted, sold, produced, or offered upon the premises upon which such sign is located.

(c) *Bulletin board*: A sign used to announce meetings, programs, occupants, purposes, operating hours, and other such information on the premises of churches, schools, auditoriums, libraries, recreation areas, and other such non-residential uses permitted in residential districts and on the premises of uses when located within the O&I(P) district.

(d) *Business sign*: A sign that directs attention to a business, industry, profession, commodity, service, or entertainment sold, produced, or offered upon the premises where such sign is located or to which it is attached.

(e) *Flashing sign*: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this article, any moving, illuminated sign shall be considered a "flashing sign." Such signs shall not be deemed to include time and temperature signs or public message displays using

electronic switching, provided the message remains displayed for a minimum of eight seconds.

(f) *Freestanding sign*: Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains. For purposes of this article, this definition shall not include “billboard” which is defined above.

(g) *Governmental sign*: Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(h) *Ground sign*: A freestanding sign suspended or supported by one or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.

(i) *Identification sign*: A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises; the profession of the occupant, the name of the building on which the sign is displayed, or the name of the owner(s) or developer(s). A directory sign is an identification sign with information on multiple occupants.

(j) *Informational sign*: Any on-premises sign containing no other commercial message, copy, announcement or decoration other than instruction or direction to the public. Such signs include, but are not limited to, the following: identifying restrooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction and prices.

(k) *Mechanical/Digital sign*: Any sign with changeable copy and the message changes in increments of at least eight seconds shall be allowed as a “sign” under the provisions of this article.

(l) *Obscene matter*: Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

(m) *Pole sign*: A freestanding sign that is mounted on a pole or other support and does not meet the definition of “ground sign” above.

(n) *Portable sign*: Any sign not permanently attached to the ground or to a building or other structure and which, because of its relatively light-weight is meant to be transported from place to place. Such sign may or may not have changeable copy, may or may not be wired for lighting and may or may not have wheels. “Sandwich boards” are considered as portable signs.

(o) *Public information sign*: A sign usually erected on public property or right-of-way and maintained by a public agency that provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, city limit signs, street name signs and directional signs.

(p) *Roof sign*: A sign displayed on and above the eaves of a building.

(q) *Sign*: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, trade names, or trademarks by which anything is made known, such as the designation of any individual, business, commodity, product, service, or entertainment, which are visible from any public way and used to attract attention. The word sign does not include official notices posted by any public officer in performance of a public duty, or by any person in giving legal notice; nor does it include directional, warning, traffic, or informational structures required by or authorized by law, or by Federal, State or local authority.

(r) *Sign area*: The area of a sign mounted on a board or within a frame or box shall be the area of the board, frame or box. The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area. Sign area does not include support structures unless the coloration, lighting, etc. is designed to attract attention.

(s) *Sign height*: The vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within this ordinance. In the case of a sign not adjoining a street or highway, the "height of a sign" is the vertical distance of the average elevation of the ground immediately adjoining the sign to the level of the highest point of the sign.

(t) *Special information sign*: A device used to give direction, without elaboration or advertising to a business or public use not located on the same premises as such use.

Sec. 102A-1403. Exempt signs.

The following signs are exempt from regulation under this ordinance, except that lighted signs require an electrical permit:

(a) Governmental signs;

(b) Lights and decorations with no commercial message temporarily displayed on traditionally-accepted civic, patriotic or religious holidays;

(c) Signs located on the interior of buildings, courts, lobbies, stadiums or other structures which are not intended to be seen from the exterior of such buildings or structures;

(d) Signs affixed to motor vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;

(e) Signs affixed to windows of vehicles displaying information on the terms of sale for such vehicles;

(f) Signs not legible from a public or private street;

(g) Flags of the governmental jurisdictions of the United States of America or the State of North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the Town Board of Commissioners, subject to U.S. Congressional protocol; and

(h) Public information signs.

Sec. 102A-1404. Signs permitted in any district.

The following types of signs are permitted in all zoning districts subject to any specific requirement or prohibition provided herein for any particular zoning district.

(a) *Temporary real estate sales sign.* For the purpose of advertising a specific lot, building, or premises for sale, lease, or rent, temporary real estate sale signs, are permitted not exceeding eight square feet in area and provided only one such sign shall be displayed for each street abutting the lot, building or premise and set back at least five feet from any property line.

(b) *Temporary off-site real estate directional sign.* For the purpose of giving direction to property offered for sale, lease or rent that is located on a dead end street or cul-de-sac, a temporary directional real estate sign not exceeding two square feet in area is permitted after the real estate agent or property owner selling, leasing or renting his property obtains a permit for posting such sign. Only one double-faced directional real estate sign shall be permitted at the nearest intersection of the dead end street or cul-de-sac with a through street and such sign shall be set back at least five feet from the street right-of-way. The permit shall specify the address of the real estate offered for sale, lease or rent and shall expire 30 days after the date the

permit is issued. A permit may be renewed for an additional 30 days at the discretion of the Chief Building Inspector provided that the renewal request is received by the Chief Building Inspector prior to the expiration of the initial permit and that the permit shall be renewed only once. Failure to obtain a permit prior to posting a directional real estate sign or failure to remove such sign as specified on the permit may be grounds for the denial of a permit or future permits under this provision. Signs permitted under this provision shall be subject to all other applicable provisions of this ordinance.

(c) *Temporary signs advertising real estate subdivisions.* For the purpose of advertising real estate subdivisions for which a plat has been officially approved and recorded, one sign is permitted at each main entrance to the development named on the sign, such sign not to exceed 32 square feet in area.

(d) *Temporary signs pertaining to construction.* For the purpose of identifying the firm or company involved in construction taking place on the lot, temporary signs are permitted for the duration of such construction, limited to one sign for each firm, company, or use, not exceeding 20 square feet for each sign and set back at least five feet from any property line.

(e) *Traffic control signs.* Signs which only regulate traffic on private property are permitted.

(f) *Transportation facilities signs.* For the purpose of identifying public transportation facilities, signs are permitted provided that such signs shall not contain advertising or related messages.

(g) *Special information signs.* For the purpose of giving directions and information, on-site signs pertaining to special uses where not otherwise permitted, and off-premises signs may be approved by the Board of Adjustment subject to a special use permit specifying the size, location, lighting, materials to be used, design, and display in accordance with Section 102A-1706. Such signs shall be limited to those which are necessary to inform the public as to location and information concerning facilities, institutions, business districts, fraternal orders and service clubs, or such other activity as the Board of Adjustment may judge to be beneficial to the total community.

(h) *Temporary political signs.* Temporary signs for political campaigns may be permitted in any district subject to the following conditions:

(1) No political campaign sign shall exceed 32 square feet in area and no freestanding sign shall exceed eight feet in height.

(2) Except for municipal campaign signs, no political campaign sign shall be erected for more than 75 days prior to the nomination, election or referendum which they purport to advertise. No municipal campaign sign shall be erected for more than 30 days prior to these same events.

(3) All political campaign signs shall be removed within seven days after the nomination, election or referendum.

(4) Nothing in this provision shall be construed to authorize the posting of political campaign signs upon trees, utility poles, traffic-control or street name signposts, lights or devices, or in any place or manner prohibited by the provisions of Section 102A-1408 or other provision of this ordinance.

(5) Political campaign signs shall not be erected on Town owned or other public property except as authorized by sub-section (6) below.

(6) Political campaign signs erected on Election Day at officially designated polling places are permitted for a period not to exceed 24 hours provided the signs are located in accordance with regulations of the Board of Elections.

(7) All political campaign signs shall be located no closer than 15 feet from edge of pavement of any right-of-way.

(i) *Temporary sign; failure to comply.* If the Chief Building Inspector shall find that any temporary sign as authorized by this section, is in violation of this section, the Chief Building Inspector, or the inspector's designee, shall give written notice of such violation to the owner of the sign. If, upon receipt of same notice, the owner of such sign fails to remove or alter the sign so as to comply with the required standards within ten days of said notice, such sign may be removed by the Chief Building Inspector, or the inspector's designee, at the expense of the owner of the sign. The Chief Building Inspector may cause any sign or other advertising structure which creates an immediate risk of peril to persons or property to be promptly removed.

(j) *Special gate signs.* A permanent sign is permitted as an integral part of a gate or entrance structure which identifies a subdivision, group development or other special development approved under the provisions of this ordinance or Chapter 86, estate, farm, or other residential entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet. Under this provision, if such a special gate sign is utilized no other main entrance identification sign is permitted.

Sec. 102A-1405. General site and sign specifications.

(a) *Zoning permit required.* No sign requiring a permit shall hereafter be erected or attached to, suspended from or supported on a structure nor shall any existing sign be enlarged, replaced, or relocated until a zoning permit has been issued by the Chief Building Inspector.

(b) *Measurement of sign area.* The measurable area of the sign mounted on a board or within a frame box shall be the area of the board, frame or box. The measurable area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter is the measurable sign area. Signs that employ moving or extending parts shall be measured when moved or extended to form the largest possible silhouette. The total sign area for a double-faced or "V" type sign shall be measured on the largest face of the sign; however, advertising matter may be posted on both sides of such permitted signs, provided that any "V" type sign with a "V" angle of greater than 45 degrees shall be subject to measurement of sign area on both sides. Sign area does not include support structures unless the coloration, lighting, etc. is designed to attract attention.

(c) *Freestanding sign location – all districts (excluding billboards).* Freestanding signs shall be set back from the existing road right-of-way (normally the front property line) or proposed future road right-of-way, whichever is the greater distance, according to the tables below. Freestanding signs shall be set back from all other property lines a minimum distance of five feet. In no instance shall a sign between the heights of three and 15 feet be permitted within 20 feet of the right-of-way line at the intersection of two streets. Freestanding signs may be placed on the same or separate support structures.

(1) *Ground signs.* The following table establishes the minimum setback requirements for ground signs provided that all other requirements of this article are complied with:

Sign Height	Minimum Setback from R/W Line
0-15 feet	5 feet
Greater than 15 feet and up to 30 feet	10 feet
Greater than 30 feet	10 feet, plus 1 foot for each foot of height exceeding 30 feet

(2) *Pole signs.* Pole signs, in addition to all other requirements of this article, shall be setback a minimum of five feet from the existing or proposed right-of-way line provided that no portion of the sign projects any closer than

two feet, measured in horizontal distance, from the proposed or existing right-of-way line. Also, pole signs shall maintain a minimum clearance of nine feet over any pedestrian areas and 14 feet over any vehicular paths. Pole signs shall not exceed a maximum sign height of 30 feet unless specifically otherwise allowed within this article. Pole signs more than 100 feet in height shall be set back from any property line a distance of one foot for each foot of height above ground level when otherwise allowed within this article.

(d) *Maintenance and appearance.* All signs together with braces, guys, and supports shall at all times be maintained in a safe condition and kept in good repair, free from excessive rust, corrosion, peeling paint, or other surface deterioration.

(e) *Signs facing residential districts.* Illuminated signs shall be so placed as not to be a nuisance to residents of neighboring residential property.

(f) *On-site interference.* The location and structural design of freestanding signs shall be such as to not interfere with the safe and efficient use of off-street parking and loading areas including aisle ways and access driveways.

(g) *Unsafe and unlawful signs.* If the Chief Building Inspector shall find that any sign is unsafe or is a menace to the public or has been constructed, erected or is being maintained in violation of this ordinance, the inspector shall give written notice of such violation to the owner of the sign or the owner of the property where the sign is located. If the owner of the sign, or the property owner, fails to remove or alter the structure so as to comply with the required standards within 30 days after such notice, such sign may be removed or altered to comply by the inspector at the expense of the owner of the sign or the property owner. The Chief Building Inspector may cause any sign or other advertising structure which is an immediate peril to persons or property to be promptly removed by the sign owner or the property owner.

(h) *Cessation of purpose and removal.* Any sign now or hereafter existing which no longer advertises any bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or land or structure upon which such sign may be found. Such sign shall be removed within 30 days after written notification from the Chief Building Inspector except that temporary activities sign posting shall be removed by the permittee within seven days following the date of termination of such events. Upon failure to comply with any notice within the time specified the zoning inspector is authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the sign or the property owner of the land on which the sign is located.

(i) *Signs permitted in conjunction with legal nonconforming uses.* Any legal nonconforming use in any district may maintain such business signs as would be allowed for such use in the most restrictive district in which the use

would be permitted, or such signs as are existing at the time the use becomes nonconforming, whichever is the most restrictive with regard to sign size.

Sec. 102A-1406. Signs permitted by district.

In addition to the aforementioned signs the following are also permitted:

(a) *Residential and conservancy districts.*

(1) *Dwelling identification sign.* One identification sign not exceeding two square feet in area is permitted for each residential dwelling unit. For one- and two-family dwelling units identification signs shall be at least five feet from any street or property line. For multi-family dwelling units, identification signs shall be mounted flat to the main wall of the building. Identification signs may be illuminated but non-flashing and motionless.

(2) *Large scale residential development signs.* A permanent sign is permitted as an integral part of an entrance structure which identifies a subdivision, group development or other special development, estate, farm or other residential entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet in area. Such signs may be lighted, but non-flashing and motionless and located according to the criteria in Section 102A-1405, but not less than five feet from any street right-of-way line.

(3) *Agricultural product signs.* In the zoning districts that allow agriculture or rural farm use, signs advertising agricultural products produced on the premises are permitted, provided there are no more than two such signs, each of which shall not exceed 12 square feet in area. In any instance where the products sold are seasonal or temporary, such signs shall be removed within 30 days of cessation of the activity advertised. This section shall not apply to any property exempt under the bona fide farm provisions of Section 102A-109.

(4) *Institutional, commercial and industrial signs located in residential and conservancy districts.* Any institutional, commercial or industrial use, which is a permitted, special or conditional use in a residential or conservancy district, may erect and maintain signs as follows:

a. One freestanding sign not to exceed 100 square feet in area shall be permitted. If more than one principal use is conducted on the same site, or in the same building, each additional principal use shall be permitted one freestanding sign not to exceed 50 square feet in area.

b. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

c. Attached signs for all principal uses on the site shall not exceed 50 square feet in area. If there is more than one principal use, the property owner will determine the allocation of attached sign area.

(b) Professional, commercial and industrial districts.

(1) Signs for uses permitted in the O&I(P) district shall be regulated as follows:

a. One freestanding sign not to exceed 50 square feet in area will be allowed per building. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign not to exceed 20 square feet in area will be allowed per building. Attached signs may be placed on any side of the building.

(2) *C1(P) planned local business district.* Signs in the C1(P) district shall be regulated as follows:

a. One freestanding sign not exceeding 100 square feet in area is allowed for sites with a maximum of five occupants. Sites with more than five occupants may have an additional 10 square feet maximum area for each occupant over five, with a total maximum freestanding sign area not to exceed 200 square feet. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign per occupant is allowed. Attached signs shall not exceed one square foot in area for each front foot of structure the occupant occupies. Attached signs may be placed on any side of the building.

(3) C2(P) planned retail and service district and C(P) planned commercial district. Except for billboards (off-premises) signs which are regulated by Section 102A-1407, signs in the C2(P) and C(P) districts shall be regulated as follows:

a. Sites with no more than two occupants may have one freestanding sign. This sign shall have a maximum size of 100 square feet in area. Sites with more than two occupants but less than ten occupants may have two freestanding signs. Each sign shall have a maximum size of 100 square feet in area. Sites with more than ten occupants may have two freestanding signs, each with a maximum size of 100 square feet in area; or

one freestanding sign with a maximum size of 200 square feet in area. Sites with more than ten occupants may have an additional ten square feet of freestanding sign area for each occupant over ten, with a total maximum freestanding sign area not to exceed 400 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

c. Detached business signs with no height limitation are allowed when located within 1,500 feet of an interstate (I-95) and when said signs are in excess of 100 feet in height these signs shall not be limited in area when located within 1,500 feet of an interstate (I-95) exit ramp, measured at the ramp's outer intersection with a town or state road.

(4) M1(P) planned light industrial district. Signs in the M1(P) district shall follow the same dimensional and setback criteria as for signs being located in the C(P) planned commercial district.

(5) M(P) planned industrial district. Except for billboards (off-premises signs) which are regulated by Section 102A-1407, signs in the M(P) district shall be regulated as follows:

a. One freestanding sign is allowed at each main entrance to the site. The total entrance signage shall not exceed a maximum sign area of 500 square feet with each individual entrance sign not exceeding a maximum sign area of 300 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 120A-1405.

b. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

Sec. 102A-1407. Billboards (off-premises signs).

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

a. General provisions.

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares;

2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;

3. Billboards shall not exceed a sign height of 35 feet;

4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) planned commercial district, upon approval of a special use permit (Section 102A-1706), and M(P) planned industrial district, upon approval of the site plan (Article XV) as a permitted use, provided that the dimensional criteria outlined below is complied with; and

5. All Federal, State, and other local regulations shall be complied with.

b. Dimensional criteria by district.

1. *C(P) planned commercial districts.* Billboards constructed and located in this zoning district shall have a maximum sign area of 500 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from any property line not a right-of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

2. *M(P) planned industrial district.* Billboards constructed and located in this zoning district shall have a maximum sign area of 700 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from a property line, not a of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

Sec. 102A-1408. Signs prohibited.

Erection or maintenance of signs having any of the following characteristics is prohibited:

a. *Signs not to constitute traffic hazards.* No sign or advertising structure shall be erected or maintained at the intersection of any street or road so as to obstruct free and clear vision; or at any location where, by reason of the position, illumination, shape or color, it may impair, obstruct the view or be confused with any authorized traffic sign, signal or device; or that makes use of the words "stop," "look," "drive-in," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. In any case, signs shall be prohibited within 20 feet of a street intersection measured to the intersection of the two nearest street lines.

b. *Signs erected on public streets.* No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend over or into any public street, provided that this section shall not apply to public signs necessary in the performance of a governmental function or required to be posted by law.

c. *Object or device attached to items for sale.* Any object or device made of any material that is displayed, affixed, attached, in any manner on items that are intended for sale, including, but not limited to, banners, official or unofficial flags, pennants, balloons, and streamers.

d. *Obstruction of ingress or egress of building.* No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.

e. *Obscene matter prohibited.* No sign shall be erected or maintained which bears or contains statements, words or pictures of an obscene character.

f. *Signs on private property; consent required.* No sign may be erected by any person on the private property of another person without first obtaining the verbal or written consent of such owner.

g. *Portable signs.* Portable signs as defined in Section 102A-1402.

h. *Flashing signs.* Flashing signs as defined in Section 102A-1402.

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ARTICLE XV PLANNED DISTRICTS

Sec. 102A-1501. General objectives.

This article recognizes that through ingenuity, imagination, and quality design community development can be improved. All planned zoning districts shall be subject to site plan review and approval prior to application for any permits. The careful review of development plans by the Town and County Planning Staff is a process that will:

- (a) Permit creative approaches to the development of land, reflecting changes in the technology of land development;
- (b) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower development costs;
- (c) Provide and ensure an environment of stable character compatible with surrounding land uses;
- (d) Accomplish a more desirable environment than would otherwise be possible; and
- (e) Enhance the appearance of the community.

Sec. 102A-1502. Detailed site plan specifications.

In any planned district, permits shall not be issued by the Chief Building Inspector except in conformance with a detailed plan submitted to the County Planning Staff, reviewed by the Town and County Planning Staff and approved by the Board of Commissioners. Plans for approval shall be in the number as required by the County Planning Director, drawn to an engineering scale of not less than one inch equaling 200 feet, and shall show all information necessary for proper evaluation of the plan, including:

- (a) The dimensions and location of the property, all existing and proposed structures, including any existing and/or proposed freestanding signs, and existing and proposed rights-of-way;
- (b) The parking and general circulation plan, including entrances, exits, pedestrian ways, and lateral access to adjoining commercial or industrial properties where practical.

(c) The service area, including off-street loading facilities, service drives, and dimensions thereof and proposed uses of all structures;

(d) The proposed location and material of fences, walls, buffer and landscaping; and

(e) The name of the developer, the date, the scale, the north arrow Parcel Identification Number, general vicinity sketch map, and the person or firm preparing the plan.

Sec. 102A-1503. Site plan review.

Plans for development shall be submitted to the County Planning Staff and shall be processed in accordance with the schedule adopted by the Board of Commissioners. The County Planning Staff shall ensure the plan is in compliance with this ordinance and Chapter 86 if applicable, and shall provide copies to the Town Staff for their review and comment.

The burden shall be on the developer to show that their plans are in the best interests of the community and the users of the proposed developments. Site planning of the proposed development shall provide protection of the development from potentially adverse surrounding influences, and protection of surrounding areas from potentially adverse influences within the development. The development plan shall show, and careful review shall be given to, the following information:

(a) Proposed land uses, the location of various land uses, their types, and densities;

(b) Proposed circulation pattern for vehicles and pedestrians including providing for the interconnectivity of drives and parking areas by means of lateral access;

(c) Proposed parks, and other common open space areas, proposed means of dedication of any common open space areas and organizational arrangements for the ownership, maintenance, and preservation of common open space;

(d) Delineation of the units or phases to be constructed in progression;

(e) Relation to land uses in surrounding areas and to the general development plan;

(f) The layout of motor vehicle parking and loading areas, service areas, entrances, exits, yards, courts, landscaping, location of freestanding signs,

and method control of lighting, noise or other potentially adverse influences in order to protect the residential character within and/or adjacent to the planned development;

(g) The yard setbacks and type of buffering and/or screening various land uses;

(h) The plan shall note and the developer shall ensure that all utilities are placed underground, except for 25kv or greater electrical lines; and

(i) Extension and connection to public water and/or sewer, if extension and connection would be required under the provisions of Chapter 86. If the development consists of non-residential uses or mixed use and utilities are present within the right-of-way or if any adjacent lot is served by utilities, extension and connection is mandatory.

Upon the Planning and Town Staff review, the combined staff recommendations shall be forwarded to the Board of Commissioners; the staff shall either recommend approval of the site plan and state the conditions of recommendation, if any, or shall recommend disapproval of the site plan and state its reasons.

Sec. 102A-1504. Board of Commissioners' consideration.

The Board of Commissioners shall hear and approve the plan and state the conditions of the approval, if any, or shall disapprove the plan and state its reasons. Where a development plan meets the provisions of Chapter 86, approval of the development plan shall constitute preliminary subdivision plan approval for the purposes of Chapter 86. The decision of the Board of Commissioners shall be the final decision on the plan. The approved plan shall be filed with the Chief Building Inspector and may be amended in the same manner as provided for original plan approval.

The Board of Commissioners may approve alternate yard setbacks for developments in any planned zoning district if such approval will provide a more logically planned development. The Board shall give careful consideration to the relation and effect on the surrounding properties and the intent of this ordinance prior to granting such approval.

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ARTICLE XVI AMENDMENTS

Sec. 102A-1601. Submission of amendments and changes.

The Board of Commissioners may amend, supplement, change, modify, or repeal the provisions of this ordinance, including but not limited to: its regulation of, or the number, area, boundaries and classifications of the zoning districts, upon petition, recommendation of the Zoning Board, or on its own motion, after public notice and hearing as provided by law. No amendment shall become effective unless and until it is first submitted to, considered by and reported on from the Zoning Board and thereafter approved by the Board of Commissioners. The following provisions shall govern submissions for amendment of this ordinance.

(a) *Submission of petition.* Petitions for amendments to this ordinance shall be submitted in the form prescribed by the County Planning Staff. Submissions by the Board of Commissioners, Zoning Board or the Town Manager on their own initiative shall state the proposed amendment succinctly.

(b) *Schedule for public hearings.* All petitions for amendments may be set for public hearing to be considered for recommendation by the Zoning Board, and then shall be heard at public hearing and decided by the Board of Commissioners according to their adopted regular meeting schedule.

(c) *Revisions to petitions.* Once the initial review of the petition for amendment has been reviewed by the County Planning Staff or the Town Staff, and the petition is found to be inaccurate, incomplete or requires revision, or if the applicant of his own accord desires to make a change in the application for the petition, the petition may be rescheduled to the next available scheduled hearing.

(d) *Notice to military bases.* All requests for amendments that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of Fort Bragg, Pope Air Force Base, and/or Simmons Army Airfield shall be provided to the Commander of said bases.

Sec. 102A-1602. Planning and Town Staff recommendation.

Upon submission of a complete petition for amendment of this ordinance, the County Planning Staff and the Town Staff shall review the petition and the request and make a recommendation to the Zoning Board. The staff shall

take into consideration, among other related issues, the following factors when considering criteria for their recommendation:

(a). The appropriateness of the request in relation to, and the request's consistency with the current Land Use Plan for the subject area;

(b) The availability of public services, to include utilities, schools, fire, police, recreation, etc.;

(c) The suitability of the request as related to the nature of the surrounding land area and any foreseeable effects on the surrounding area;

(d) The policies of the Zoning Board and Board of Commissioners in similar cases;

(e) The effect of the request regarding environmental concerns;

(f) Any changed conditions or circumstances in the area of a proposed change since any previous zoning action;

(g). Whether the proposed amendment would correct an inadvertent mistake; and

(h) The reasonableness of the proposed request for all small-scale rezonings.

Sec. 102A-1603. Zoning Board hearing and recommendation.

(a) The Zoning Board, upon receipt of a proposed amendment, by petition or otherwise, and upon a recommendation from the County Planning Staff and the Town Staff, shall consider each proposed amendment and may hold public hearing, public notice of which shall be given, for such consideration. Upon petition or other proposal for an amendment of the ordinance for the purpose of establishing a conditional use district or specifically changing the classification of an existing district or part thereof, the Zoning Board may consider amending the ordinance to provide a classification or reclassification other than that specifically requested or recommended, provided that the notice to landowners and notice of public hearing state that classifications or reclassifications other than that requested may be considered. If, upon receipt of a proposal to reclassify one type of general zoning district to another, or the Zoning Board proposes, or has a proposal from the Board of Commissioners, to consider establishment of a conditional use district, it must refer such proposal to the owners of the property to be included in such district for submission of a petition in accordance with the provisions of Article V hereof; no consideration of such a proposal shall occur unless and until such a petition is received.

(b) Following consideration of proposed amendments, supplements, changes, modifications or repeal of provisions of this ordinance, the Zoning Board shall report all proposals it has considered to the Board of Commissioners along with a statement addressing consistency of the request with the current Land Use Plan and with its recommendation thereon. Failure of the Zoning Board to make a report and recommendation within 30 days after hearing a petition for a specific amendment shall constitute a favorable report and recommendation for such amendment.

Sec. 102A-1604. Board of Commissioners' hearing and final disposition.

(a) Upon receipt of reports and recommendations from the Zoning Board concerning proposed amendments, supplements, changes, modifications or repeal provisions of this ordinance, the Board of Commissioners shall schedule a public hearing, upon notice to landowners of proposed action and notice of the public hearing as required by law, and therefore shall approve or deny the proposed action. A failure to approve a proposed action shall constitute a denial of the proposal.

(b) The Board of Commissioners may approve an amendment of this ordinance to provide a classification or reclassification of a zoning district or part thereof, other than that specifically requested by a petitioner, provided that the notice to landowners and the notice of public hearing required by law states that classifications or reclassifications other than that requested will be considered and further provided that the Zoning Board has considered other such classifications or reclassifications and reported on them to the Board of Commissioners. If such notice or such consideration has not been accomplished, the Board of Commissioners shall refer its proposal to amend this ordinance in a way other than that proposed by the petitioner to the Zoning Board for further action in accordance with this ordinance.

(c) To approve any amendment, supplement, change, modification or repeal of any provisions of this ordinance, the Board of Commissioners shall address the consistency of the action with the current Land Use Plan; and make a finding and determination, entered in the minutes of the meeting, that such action is reasonable, neither arbitrary or unduly discriminatory and in the public interest. Consideration of any conditional use district is governed by Article V of this ordinance.

D. Notice of approval of any amendment for an industrial zoning district within 660 feet of the right-of-way of interstate or primary highways shall be sent by registered mail to the North Carolina Department of Transportation in accordance with N. C. GEN. STAT. § 136-153.

Sec. 102A-1605. Petitions for amendments limited; reapplication limited.

After the initial zoning process in a zoning area, a petition to amend this ordinance so as to reclassify property in that area may be submitted at any time. After the first such petition has been submitted, regardless of the outcome thereof, no subsequent petition, by the same or other persons, to reclassify the same property or any portion thereof, whether in conjunction with other property or not, shall be considered earlier than one full calendar year after the date of the last public hearing before the Board of Commissioners on the most recent prior application to reclassify such property or portion thereof. A petition to amend this ordinance so as to reclassify property may be withdrawn without establishing a new one year time limit only by a written instrument submitted to the County Director of Planning or the Town Manager prior to the first official notification to the public concerning the petition. If the instrument withdrawing a petition to reclassify property is received after such first notification of the public, the decision to allow the withdrawal without further hearing must be voted on by the Zoning Board or the Board of Commissioners, dependant upon the status of the application at the time the instrument requesting withdrawal is received. The foregoing time limits on petitions to reclassify property shall not apply to amendments of any nature initiated by the Zoning Board or Board of Commissioners.

Sec. 102A-1606. Protest petitions.

In the event of a qualified protest against a zoning map amendment, the amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. For the purposes of this sub-section, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority. To qualify as a protest under this section, the provisions of N. C. GEN. STAT. § 160A-385 shall apply.

ARTICLE XVII BOARD OF ADJUSTMENT

Sec. 102A-1701. Establishment.

The Board of Commissioners, pursuant to N.C. GEN. STAT. §160A-388, does establish a Board of Adjustment. Such board shall consist of at least five members appointed by the Board of Commissioners, with membership providing for a means of proportional representation of the Town's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Board of Commissioners shall also appoint three alternate members to serve on the Board of Adjustment in the absence of any regular member. Alternate members shall be appointed in the same manner as regular members and at the regular time for appointment. Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting. All members and alternate members shall be residents of the Town and shall serve without pay.

Sec. 102A-1702. Proceedings.

The Board of Adjustment shall elect a chairman and vice-chairman from among its members, who in turn may appoint a secretary. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman is authorized in his official capacity to administer oaths and compel the attendance of witnesses in any matter coming before the board. Any member of the board while temporarily acting as chairman shall have and exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

Sec. 102A-1703. Powers and duties.

The Board of Adjustment shall have the powers, authority and duty to:

(a) Act in all matters relating to the administrative review of any order, requirement, decision or determination made by the Town Manager, Chief Building Inspector or other administrative official regarding enforcement of this ordinance;

(b) Vary or modify any of the provisions of this ordinance relating to the use, construction, or alteration of buildings or structures and minimum standards of individual uses contained within this ordinance, in accordance with Section 102A-1705, where there are unnecessary hardships in the way of carrying out the strict letter of this ordinance, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done;

(c) To grant permit exceptions, called "special uses," in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in Section 120A-1706;

(d) Interpret the official zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in administration of this ordinance;

(e) Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with this ordinance;

(f) Rule on matters related to the Phase II Stormwater Post-Construction as provided for in Section 67-91 of the Town's Code of Ordinances;

(g) Rule on matters related to Floods as provided for in Section 42-110 of the Town's Code of Ordinances; and

(h) Rule on matters related to Housing as provided for in Chapter 50, Town Code of Ordinances.

Sec. 102A-1704. Administrative review.

Appeals may be taken to the Board of Adjustment by any person aggrieved or by an officer, department, committee or board of the Town affected by any decision of an administrative official charged with the enforcement or interpretation of this ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within 30 days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken, together with any additional written reports or documents, as he deems pertinent. The Board of Adjustment may after public hearing, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determinations as ought to be

made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

Sec. 102A-1705. Variance.

The Board of Adjustment may authorize in specific cases such variances from the terms of this ordinance upon request of a property owner or his authorized agent and may require any evidence necessary to make a determination of the case. Before the board may grant any variance, the board must find that all of the following conditions exist for an individual case:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;

(c) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;

(d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;

(e) The special circumstances are not the result of the actions of the applicant;

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;

(g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries; and

(h) The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of the requested variance. In granting a variance, the board may attach and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The record

shall also state in detail any exceptional difficulty or unnecessary hardship upon which the request was based and which the board finds to exist.

Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to a conditional use permit issued in conjunction with a conditional use district rezoning or to the specific conditions or other performance criteria imposed upon such use. If the board denies the variance request, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider re-submission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

Sec. 102A-1706. Special use permits.

The various special uses set forth in the use matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and conditions as set forth in this section.

(a) *Purpose.* Permitting special uses adds flexibility to this ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

(b) *Procedure.* Special use permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 102A-403 (use matrix) as special uses. Uses specified as a special use in Section 102A-403 shall be permitted only upon the issuance of a special use permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a special use permit shall submit a complete application and five copies of a detailed site plan (drawn in accordance with the specifications listed in Section 102A-1502) to the County Planning Staff. The staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Town Clerk shall also notify the commanders of the military bases of any application affecting the use of property located within five or less miles of the perimeter boundary of said bases.

Developers are encouraged to discuss their special use plans with the County Planning and Town Staff prior to submission of the application. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

(c) *Consideration of application.* The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the special use permit requested. In granting a special use permit, the board shall find that:

(1) The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;

(2) The use meets all required conditions and specifications;

(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Hope Mills' most recent and officially adopted land use plan, either comprehensive or a detailed area plan.

(d) *Final disposition.* In granting approval of a special use permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a special use permit, the Board of Adjustment shall give due consideration to:

(1) The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

(2) The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

(3) The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

(4) The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

(5) The added noise level created by activities associated with the proposed use;

(6) The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

(7) Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

(8) The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

(9) The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

(10) The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

(11) The availability of public facilities and utilities;

(12) The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

(13) The reasonableness of the request as compared to the purpose and intent of the most recent land use plan, this ordinance, and officially adopted policies, for the physical development of the district, and protection of the environment.

All such additional conditions shall be entered in the minutes of the meeting, at which the special use permit is granted, on the special use permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns. The applicant for the special use permit is responsible for the recordation of the *Notice of Special Use Permit* with the County Register of Deeds prior to application for any zoning/building permit.

If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider re-submission of the

application for the same special use permit on the same property without a substantial material change concerning the property and the application.

(e) *Expiration of permits.* Any special use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval. Furthermore, once the *Certificate of Occupancy* has been issued for a special use and then the special use ceases to exist for a time period of one calendar year or more, a re-submittal of the special use application for the same use may be required if there has been a material change in the ordinance standards.

(f) *Modifications to plans.* The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a special use application, and new conditions may be imposed where findings require. The County Planning and Town Staff may approve minor modifications of the approved plans in the same manner as authorized in Section 102A-508 for conditional use permits, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

(g) *Noncompliance.* If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the County Planning or Town Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a special use permit is an essential element of the special use permit's continued validity and effectiveness. If the Chief Building Inspector determines that a permittee has failed to comply with a condition of an approved special use permit, they shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the board's decision whether or not to revoke the special use permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the special use permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Adjustment's decision hereunder.

(h) *Appeals.* No appeal may be taken from the action of the Board of Adjustment in granting or denying a special use permit except through the

Superior Court of Cumberland County in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

Sec. 102A-1707. Hearings.

Any variance or special use permit application considered by the Board of Adjustment requires a quasi-judicial hearing. All other applications considered by the board shall be considered in the manner in which the governing regulation establishes. The board shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. Each quasi-judicial hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, the right to question witnesses, avoiding ex parte contact and bias and matching up evidence to findings of fact. At the hearing, any person or party may appear in person or by agent or attorney. The board shall take action on all matters within a reasonable time after the termination of the proceedings.

Sec. 102A-1708. Required vote.

The concurring vote of four-fifths of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this ordinance and to decide in favor of an applicant on any matter, including variances from the provisions of this ordinance, except for matters relating to special use permits, which the board is required to pass. Decisions for issuance of a special use permit shall be made by the majority vote of the board members present at the meeting in which the request is heard.

Sec. 102A-1709. Reversal of decision.

After a public hearing has been held and approval granted for a special use or variance, the Board of Adjustment may reverse any decision without a public hearing upon finding that the:

- (a) Approval was obtained by fraud;
- (b) Use for which such approval was granted is not being executed;
- (c) Use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- (d) Permit granted is being, or recently has been, exercised contrary to the terms of conditions of such approval or in violation of any regulation or statute; or

(e) Use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

Sec. 102A-1710. Appeal of final decision.

Any decision of the board is subject to review by the Superior Court by proceedings in the nature of certiorari. The aggrieved party shall file a *Notice of Intent to Appeal* with the County Planning Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof and delivery is made to every aggrieved party, whichever is later. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 calendar days after the decision of the board is made final. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail, return receipt requested.

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ARTICLE XVIII LEGAL PROVISIONS

Sec. 102A-1801. Severability clause.

If any article, section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each article, section, sub-section, sentence, clause and phrase thereof individually, irrespective of the fact that any one or more articles, sections, sub-sections, sentences, clauses, or phrases be declared invalid.

Sec. 102A-1802. Vested rights.

The purpose of this section is to implement the provisions of N. C. GEN. STAT. 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan. 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 development plan.

(a) Establishment zoning vested right.

(1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Board of Commissioners or Board of Adjustment, as applicable, of a site specific development plan, following notice and public hearing.

(2) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(3) Notwithstanding sub-sections (1) and (2) of this sub-section, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(4) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action relating thereto.

(5) The establishment of a zoning vested right shall not preclude the application of conditional use zoning that imposes additional requirements

attached to the permit 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 Town, 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 development plan upon the expiration or termination of the vested right in accordance with this article.

(6) 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 development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(b) Approval procedures and approval authority.

(1) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(2) Notwithstanding the provisions in this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by code to a board, committee or administrative official other than the Board of Commissioners or the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners or Board of Adjustment, following notice and a public hearing as provided in N. C. GEN. STAT. § 160A-364.

(3) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.

(4) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation:

“Approval of this plan establishes a zoning vested right under N. C. GEN. STAT. 160A-385.1., unless terminated at an earlier date, the zoning vested right shall be valid until _____.”

(5) Following approval or conditional approval of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approval are not inconsistent with the original approval.

(6) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this ordinance.

(c) *Duration.*

(1) A zoning right that has been vested as provided in this section shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to subsection (2) of this subsection. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(2) Notwithstanding the provisions of sub-section (1) of this subsection, 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 development plan is approved.

(3) Upon issuance of a building permit, the expiration provisions of N. C. GEN. STAT. § 160A-418 and the revocation provisions of N. C. GEN. STAT. § 160A-422 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) *Termination.* A zoning right that has been vested as provided in this section shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

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

(3) Upon findings by the Board of Commissioners, after notice and 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 development plan;

(4) 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 Town, 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 such action;

(5) Upon findings by the Board of Commissioners, after notice and hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(6) Upon the enactment or promulgation of a State or Federal law or other regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law or other regulation has a fundamental effect on the plan, after notice and hearing.

(e) *Voluntary annexation.* A petition for annexation filed with the Town under N. C. GEN. STAT. § 160-31 or N. C. GEN. STAT. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under N. C. GEN. STAT. § 160A-385.1 or N. C. GEN. STAT. § 153A-344.1. A statement declaring that no zoning vested right has been established under N. C. GEN. STAT. § 160A-385.1 or N. C. GEN. STAT. § 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 such zoning vested right shall be terminated.

(f) *Limitations.* Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to N. C. GEN. STAT. § 160A-385.1.

Sec. 102A-1803. Violations.

(a) *Statutory authority.* This ordinance may be enforced by any appropriate equitable action, including but not limited to, injunction and abatement, in addition to any other remedy authorized by N. C. GEN. STAT. § 160A-389.

(b) *Notice of civil citation.* If the Chief Building Inspector determines that any provision of this ordinance is being violated, the inspector shall cause to be served upon the offender or its agent, by certified mail, return receipt requested, or by personal service, a notice of civil citation. The notice of civil citation shall indicate the nature of the violation and order the action

necessary to correct it. The citation shall also state the monetary penalty and the right of the offender to appeal the violation that is the basis of the citation to the Board of Adjustment within ten days from the date of service of the citation.

(c) *Responsible parties.* The owner, lessee, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains any violation of the provisions of this ordinance may be held responsible for the violation and be liable for the penalties and be subject to the remedies provided below.

(d) *Separate offense.* Each day that any violation continues after notification by the Chief Building Inspector that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

(e) *Appeal of citation.* If the offender files notice of appeal to the Board of Adjustment within the ten-day time period established in (b) above, the appeal shall stay the collection of the penalty so imposed as well as the corrective action prescribed in the citation. Appeals to the Board of Adjustment shall be administered as provided in Article XVII; however, the time for perfecting the appeal shall be ten days as hereinbefore stated. A violation of this ordinance may not be appealed to the Board of Adjustment if the offender did not perfect an appeal to the Board of Adjustment within the ten-day time period set forth herein.

(f) *Emergency enforcement.* Notwithstanding the forgoing, in cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Chief Building Inspector may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

Sec. 102A-1804. Penalty.

A person who violates any of the provisions of this ordinance shall be subject to revocation of any permits and a civil penalty in the sum of \$500.00 following the issuance of a civil citation. The penalty shall be recovered by the Town in a civil action if the offender fails to pay the penalty to the Finance Director, Town of Hope Mills, 5770 Rockfish Road, Hope Mills, North Carolina 28348, within ten calendar days after being cited for the violation. The civil action of recovery shall be in the nature of an action to recover a debt and shall include as an additional sum to be recovered the full costs of the action, including but not limited to, filing, service and attorney fees. Second and subsequent violations shall subject the offender to a \$500.00 penalty. Nothing

in this section shall preclude the enforcement of this ordinance pursuant to the all of the provisions of N.C. GEN. STAT. §14-4 where appropriate.

Sec. 102A-1805. Amendment clause.

This ordinance, upon its effectiveness as provided by law, amends in its entirety the previously existing Town of Hope Mills, Code of Ordinances, Chapter 102, Zoning (*circa* 1985), including all subsequent amendments to said previously existing ordinance, except where otherwise expressly stated within this ordinance.

Sec. 102A-1806. Effective date.

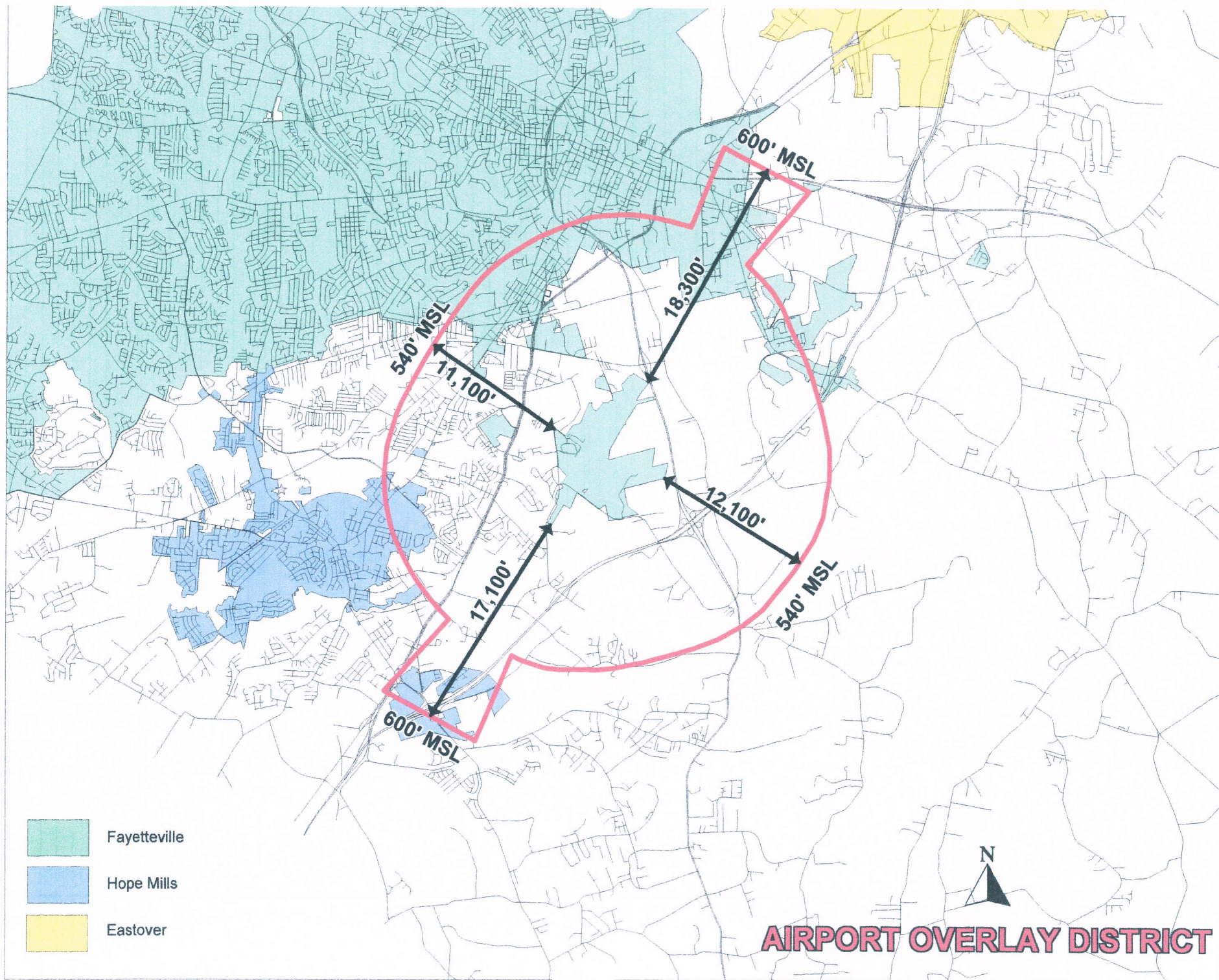
This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the Town of Hope Mills, this the ____ day of _____, 2008.

APPENDIXES

Exhibit 1: Airport Overlay District Map

Exhibit 2: Historic Overlay District Map

Disclaimer: The material contained with the appendixes is for general reference, informational and illustrative purposes only and is not to be construed or used in place of the officially adopted regulations, policies or plan nor does it replace any officially adopted regulations, policies or plans. While the information contained herein is believed to be accurate, the Town of Hope Mills nor the County of Cumberland assume any responsibility for the information and the users of this manual should contact the County Planning & Inspections Department to verify the contents prior to relying on this information.



Hope Mills Historic Overlay District

