

## Chapter 42

### ZONING\*

#### Article I. In General

- Sec. 42-1. Title.
- Sec. 42-2. Authority to enact.
- Sec. 42-3. Purpose.
- Sec. 42-4. Jurisdiction.
- Sec. 42-5. Exemption.
- Sec. 42-6. Interpretation.
- Sec. 42-7. Application of chapter.
- Sec. 42-8. Definitions.
- Secs. 42-9—42-34. Reserved.

#### Article II. Zoning Districts

- Sec. 42-35. Statement of district intent; purpose and zone characteristics.
- Sec. 42-36. Zoning maps.
- Sec. 42-37. Interpretation of district boundaries.
- Secs. 42-38—42-62. Reserved.

#### Article III. Permitted Principal Uses and Structures

- Sec. 42-63. District use regulations.
- Sec. 42-64. Temporary uses.
- Sec. 42-65. Incidental uses.
- Secs. 42-66—42-88. Reserved.

#### Article IV. Special Uses

- Sec. 42-89. Purpose.
- Sec. 42-90. Procedure for obtaining a special use permit.
- Sec. 42-91. Specific conditional uses; requirements.
- Secs. 42-92—42-110. Reserved.

#### Article V. Nonconforming Uses

- Sec. 42-111. Purpose.
- Sec. 42-112. Provisions for nonconforming uses.
- Secs. 42-113—42-137. Reserved.

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\***Federal law references**—Preservation of local zoning authority concerning wireless telecommunications facilities, 47 USC 322(c)(7); limited federal preemption of state and local zoning laws affecting amateur radio facilities, Memorandum Opinion and Order, PRB-1, 101 FCC 2d 952 (1985) and 47 CFR 97.15(b); Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc et seq.

**State law references**—Planning and regulation of development, G.S. 160A-360 et seq.; grant of zoning power, G.S. 160A-381 et seq.

## SPRING LAKE MUNICIPAL CODE

### **Article VI. Conditional Use Districts and Permits**

- Sec. 42-138. Companion District/Conditional Use District.
- Sec. 42-139. Mixed Use Development-Conditional Use District.
- Sec. 42-140. Planned Neighborhood Development/Conditional Use District.
- Sec. 42-141. Density Development-Conditional Use District.
- Secs. 42-142—42-165. Reserved.

### **Article VII. Planned Districts**

- Sec. 42-166. Objectives.
- Sec. 42-167. Contents of development plans.
- Sec. 42-168. Specifications for certain planned districts.
- Secs. 42-169—42-189. Reserved.

### **Article VIII. Lot and Yard Regulations**

- Sec. 42-190. Lot regulations.
- Sec. 42-191. Yard regulations.
- Sec. 42-192. District dimensional provisions.
- Secs. 42-193—42-222. Reserved.

### **Article IX. Landscape Requirements**

- Sec. 42-223. Purpose.
- Sec. 42-224. Application of landscaping standards.
- Sec. 42-225. Definitions.
- Sec. 42-226. Streetscape landscaping.
- Sec. 42-227. Parking lot landscaping.
- Sec. 42-228. Buffers.
- Sec. 42-229. Building yard landscaping.
- Sec. 42-230. Existing trees.
- Sec. 42-231. Planting standards.
- Sec. 42-232. Plan required and information to be submitted.
- Sec. 42-233. Administrative provisions.
- Secs. 42-234—42-259. Reserved.

### **Article X. Off-Street Parking and Loading**

- Sec. 42-260. Provisions for off-street parking and loading.
- Sec. 42-261. Off-street parking requirements.
- Sec. 42-262. Off-street loading.
- Secs. 42-263—42-287. Reserved.

### **Article XI. Sign Regulations**

- Sec. 42-288. Purpose.
- Sec. 42-289. Definitions.
- Sec. 42-290. Signs exempt from regulation.
- Sec. 42-291. Signs permitted in any district.
- Sec. 42-292. General site and sign specifications.

## ZONING

- Sec. 42-293. Signs permitted by districts.
- Sec. 42-294. Billboards (off-premises signs).
- Sec. 42-295. Prohibited signs.
- Secs. 42-296—42-323. Reserved.

### Article XII. Board of Adjustment

- Sec. 42-324. Establishment; membership.
- Sec. 42-325. Proceedings.
- Sec. 42-326. Powers and duties.
- Sec. 42-327. Concurring vote.
- Secs. 42-328—42-357. Reserved.

### Article XIII. Administration and Enforcement

- Sec. 42-358. Enforcement officer.
- Sec. 42-359. Zoning permit required; approval of plans; issuance.
- Sec. 42-360. Certificate of occupancy required.
- Sec. 42-361. Special use permits.
- Sec. 42-362. Fees.
- Sec. 42-363. Amendments.
- Sec. 42-364. Variance.
- Sec. 42-365. Zoning advertisement permits.
- Sec. 42-366. Planned commercial and industrial districts to conform with development plans.
- Sec. 42-367. Hearings.
- Sec. 42-368. Appeals.
- Sec. 42-369. Conflicting regulations.
- Sec. 42-370. Remedies.
- Sec. 42-371. Penalty.



**ARTICLE I. IN GENERAL****Sec. 42-1. Title.**

This chapter shall be known and may be cited as the "Zoning Code."  
(Code 1978, § 12.83; Code 1995, § 156.001; Ord. of 1-10-1972)

**Sec. 42-2. Authority to enact.**

The board of aldermen, pursuant to the authority conferred by G.S. ch. 160A, art. 19, part 4, does hereby ordain and enact into law the following [provisions of this chapter].  
(Code 1978, § 12.82; Code 1995, § 156.002; Ord. of 1-10-1972)

**Sec. 42-3. Purpose.**

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan and are designed to lessen congestion in the street; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; 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 buildings and encouraging the most appropriate use of land throughout the town.  
(Code 1978, § 12.81; Code 1995, § 156.003; Ord. of 1-10-1972)

**Sec. 42-4. Jurisdiction.**

On and after the effective date of this chapter, these regulations shall govern the use of all lands lying within the town.  
(Code 1978, § 12.84; Code 1995, § 156.004; Ord. of 1-10-1972)

**Sec. 42-5. Exemption.**

The provisions of this chapter do not apply to bona fide farms. This chapter does not exercise controls over crop lands, timber lands, pasture lands, or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on such farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this chapter.  
(Code 1978, § 12.85; Code 1995, § 156.005; Ord. of 1-10-1972)

**Sec. 42-6. Interpretation.**

The district regulations shall be enforced and interpreted according to the following rules:

- (1) *Uses by right.* All uses of property shall be prohibited except those which are permitted under the terms of this chapter as permitted uses and nonconforming uses. Special use permits are permitted according to specific criteria and approval of the board of adjustment.

- (2) *Minimum provisions.* Provisions set forth by this chapter shall be minimum provisions. If the district requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher criteria shall govern.
- (3) *Fractional requirements.* When any requirement of this chapter 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 determination of the number of dwelling units permitted on a lot 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.

(Code 1978, § 12.117; Code 1995, § 156.006; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.006, 11-26-2007)

#### **Sec. 42-7. Application of chapter.**

The regulations set forth in this chapter affect all land, every structure and every use of land and/or structures, and shall apply as follows:

- (1) *Zoning affects every building and use.* No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with the provisions of this chapter.
- (2) *Completion of existing buildings.* Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued. If any amendment to this chapter is hereafter adopted changing the boundaries of districts, the provisions of this subsection shall apply in the same manner as when originally adopted.
- (3) *Conforming uses or structures.* After the effective date of this chapter, any existing building or use of land or buildings which conforms with the regulations for the district in which it is located may continue without a specific permit. Any subsequent structural alteration or change in use shall conform with the regulations herein specified.
- (4) *Special developments.* Group developments, zero lot line developments, condominium developments and townhouse developments may be exempt from the district dimensional provisions of this chapter, provided the development conforms with chapter 36, subdivisions, and the overall density is maintained for the district in which it is located.

(Code 1978, § 12.118; Code 1995, § 156.007; Ord. of 1-10-1972; Ord. No. 2007-2, § 156.007, 11-26-2007)

#### **Sec. 42-8. Definitions.**

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

*Abutting/contiguous* means 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.

*Accessory structure or use* means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

*Ancillary use* means that which is commonly subordinate to or incidental to a principal or primary use. Also see *Accessory structure or use*.

*Automobile service station* means a building or lot where gasoline, oil, grease, and accessories are supplied and dispensed to the motor vehicle trade and where battery charging, tire repair, and minor mechanical services are rendered.

*Automobile wrecking yard* means any lot that has three or more unregistered and nonfunctional vehicles for the buying, selling, or dealing in used vehicles of a type required to be licensed under the laws of this state, for the purpose of wrecking, dismantling, [or] disassembling such vehicles to obtain secondhand parts or component materials thereof, in whole or in secondhand parts, including processing automobiles for scrap involving crushing, smashing, baling, burning or reduction of metal for industrial consumption.

*Berm* means any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

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

*Building setback* means 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.).

*Buffer* means a dense, evergreen hedge or solid fence or wall used to enclose, screen or separate certain uses as specified in this chapter. The design, composition, height and location of such facilities shall be determined by the zoning administrator.

*Children's day care facility.*

- (1) *Day care home* means a premises regularly used for residential purposes and licensed by the state to provide supervisory care of six, but not to exceed 12, children unrelated to the operator, but not including foster homes.
- (2) *Day care center* means a premises or building regularly used for commercial, recreational or supervisory care of eight or more children unrelated to the operator, but not including foster homes, located outside of a designated residentially zoned district.

*Community water and/or sewer* means municipal, sanitary, district, and privately owned water and/or sewer systems as regulated and controlled by the North Carolina Utilities Commission, the North Carolina State Board [Division] of [Public] Health and the Cumberland County Health Department.

*Conditional use* means 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.

*Condominium development* means 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 when approved under the requirements for condominium developments set forth in chapter 36.

*Conservancy organization* means any legally established incorporated entity, whether for-profit or nonprofit, whose primary mission is dedicated to the protection of the environment and natural resources.

*Density development* means the division of land in such a way as to allow development at the density of the general zoning district while at the same time promoting the preservation of open space by requiring that all development occur on 60 percent of the overall acreage, with open space designation for the other 40 percent.

*Dwelling* means a building designed for or used by one or more families for residential purposes.

*Dwelling, multifamily*, means a residence designed for or occupied by two or more families, with separate housekeeping and cooking facilities for each.

*Dwelling, single-family*, means a detached residence designed for or occupied by one family only.

*Facade* means the exterior wall of a building which is adjacent to or fronting on a public right-of-way or other public area, typically the front of a building, but also includes any side or rear of a building facing a public right-of-way or other public area.

*Family* means one or more persons occupying a single-family housekeeping unit and using cooking facilities; provided that, unless all members are related by blood or marriage, no such family shall contain over five persons.

*Farmers' market, open-air*, means the seasonal selling or offering for sale at retail of locally and self-grown vegetables or produce, items made directly from vegetables or produce, fresh flowers and plants, and/or self-made crafts and sold directly to the consumer at an open-air market in a pre-designated area, where the vendor is generally the individual who raised the vegetables or produce or created the craft.

*Flex office* means a type of development designed to be versatile, which may be used in combination with office (corporate headquarters), research and development, quasi-retail sales, and including, but not limited to, industrial, warehouse, and distribution uses.

*Gross floor area* means 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* means 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* means 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. For the purpose of this definition, the term "handicapped person" means 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 or undisciplined disturbances, and orthopedic impairments, but does not include residents who are dangerous to others as defined in G.S. 122C-3(11)(b). A group home for not more than six resident handicapped persons, any one of whom may be dangerous to others as defined in G.S. 122C-3(11)(b), is not a permitted use in any residential district.

*Group quarters* means and includes roominghouses and boardinghouses, membership lodgings, residence halls and dormitories, retirement houses and/or orphanages and religious quarters.

*Highway plan* means 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, incidental*, means any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof, and in connection with there is no display, no stock in trade or commodity which is not produced on the premises and only one person not a resident on the premises is employed specifically in connection with the incidental home occupation.

*Junkyard or salvage yard* means the use of more than 200 square feet of a lot for the storage, dismantling, wrecking, abandonment, buying or selling or otherwise dealing in either wholesale or retail any cast-off, secondhand salvage or unsalvageable material of any sort. This definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural or other business use permitted in the zone or material or equipment kept on any premises for use in construction of any building on such premises.

*Kennel* means any premises where four or more dogs which are five months old or older are kept commercially or as pets, excluding pet grooming shops, veterinary clinics, and veterinary hospitals.

*Land, gross area*, means 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*, means the land area required to meet the minimum dimensional standards for the zoning districts as required by this chapter.

*Lot* means a parcel of land occupied or intended for occupancy by a principal structure or group of principal structures together with any accessory structures, including such yards, open spaces, width, and area as required by this chapter, either shown on a plat of record or, if created prior to adoption of chapter 36, described by metes and bounds and recorded with the register of deeds.

*Manufactured home* means a dwelling unit that is not constructed in accordance with the standards set forth in the North Carolina State Building Code, is composed of one or more components each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and eight feet in width.

*Manufactured home, Class A*, means a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (1) The manufactured home has a length not exceeding four times its width;
- (2) The manufactured home has a minimum of 1,200 square feet of enclosed living area;
- (3) 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;
- (4) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss and white paint), wood, or hard board, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (5) The home is set up in accordance with the standards set forth in the State of North Carolina Regulations for Mobile [Manufactured] Homes, published by the North Carolina Department of Insurance, has a continuous, permanent masonry foundation or permanent masonry curtain wall, unpierced except for required ventilation and access, and is installed under the perimeter of the manufactured home;
- (6) Stairs, porches, entrance platforms and other means of entrance and exit to the home shall be installed or constructed in accordance with the North Carolina Building Code, Volume VII, Residential;
- (7) The moving hitch, wheels and axles, and transporting lights have been removed; and
- (8) The manufactured home is appraised and listed as real property.

*Mixed use* means:

- (1) A single building containing more than one type of land use where the residential use occupies no more than 40 percent of the total building floor area and the nonresidential use occupies a minimum of 60 percent of the total floor area; or
- (2) 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 home* means a dwelling structure designed to be transported after fabrication on its own wheels, or on a flat board or other trailer on detachable wheels and which is designed for long-term occupancy and contains all of the following, or facilities like the following: sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

*Mobile home park* means any site or tract of land upon which are located two or more single-family mobile home dwellings or one or more multiple-family [mobile] home dwellings, or any combination thereof, capable of being occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such service.

*Modular dwelling* means a factory-manufactured dwelling structure designed for yearround living with major components or modules preassembled and transported to a site for final assembly and utility connections. All exterior walls are supported by a permanent foundation, approved by the building inspector, enclosing the area between the ground and the floor. A modular dwelling has an average width of at least 16 feet, and average length of at least 40 feet and at least 1,000 square feet of living area.

*Nonconforming structure* means an existing structure which does not comply with the dimensional requirements of this chapter for the district in which it is located either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments thereto.

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

*Open fence or wall* means one in which the openings through which clear vision and the free passage of air are possible from one side to the other on a horizontal plane occupying 75 percent or more of the side area of the fence or wall. All others are solid fences or walls.

*Open space* means 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.

*Overlay district* means a zoning district created for [a] special purpose, such as manufactured housing, which shall be superimposed over already existing zoning districts.

*Parking space* means the standing storage space for one automobile, plus the necessary driveway access space.

*Person* means a firm, association, corporation, trust and company, as well as an individual.

*Planning board* means the Cumberland County Joint Planning Board.

*Premises* means a lot and the structure or structures located on it.

*Principal structure/principal use* means the primary building, purpose or function that a parcel or structure serves or is intended to serve.

*Principal use* means the primary purpose or function that a parcel or structure serves or is intended to serve.

*Recreation vehicle* means a vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation, including tents designed for camping.

*Recreation vehicle park* means an area of ground where one or more lots or spaces are rented, leased or held out for rent or lease to owners or users of recreation vehicles.

*Religious worship activity* means a church, temple or synagogue, 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 room, kitchen, library room or reading room, recreation hall and a one-family dwelling unit, but excluding day care nurseries and facilities for residence or training of religious orders.

*Residential habilitation support facility* means 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. The term "handicapped person" means 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 sign [sight] impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others, as defined in G.S. 122C-3(11)(b).

*Sexually oriented business* means 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 G.S. 14-202.10.

*Site plan* means a scaled drawing depicting uses and structures proposed for a parcel of land as required by this chapter and chapter 36. It includes such things 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.

*Solid waste disposal facility* means any depository of solid waste, excluding earth for fill.

*Special use* means 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 county board of adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions.

*Street* means a dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

*Street centerline* means a dedicated and accepted public right-of-way.

*Street line* means the dividing line between a street or road right-of-way and the contiguous property.

*Structure.* See *Building*.

*Subdivision* means a division of five acres or less of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development, whether immediate or future, with certain modifications as more particularly defined in chapter 36.

*Therapeutic foster care home* means 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.

*Transient lodgings* means land used or intended to be used or occupied by a group of two or more detached or semidetached buildings, except mobile homes, or by a multiple building containing guest rooms, with automobile parking space and incidental utility structures which are provided in connection therewith, all of which is used or designed for use primarily by automobile transients.

*Used or occupied* means and includes the words "intended," "designed," or "arranged" "to be used or occupied."

*Variable lot residential development.* A variable lot residential development consists of single-family residential structures on individual lots where the developer may reduce the size of such lots in accordance with certain standards defined in chapter 36, while maintaining applicable overall density standards for the zoning district in which it is located.

*Vertical mixed use* means buildings erected for two or more different uses, providing space for nonresidential 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* means 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,* means a yard extending across the full width of the lot adjoining the street on which the lot fronts.

*Yard, rear,* means a yard extending across the full width of the lot adjoining the rear lot line.

*Yard, side,* means a yard adjacent to any side lot line extending from the front yard to the rear yard.

*Zero lot line development* means a single development including, but not limited to, patio houses, townhouses, condominiums, businesses, and 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 36.

*Zoning* means a police power measure, enacted by the board of aldermen pursuant to G.S. 160A-381, 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 district* means an area established by this chapter where the individual properties are designed to serve compatible functions and to be developed at compatible scales. (Code 1978, §§ 12.111, 12.112; Code 1995, § 156.008; Ord. of 1-10-1972; Ord. 2-12-1990; Ord. of 10-10-1994; Ord. of 9-11-1995; Ord. of 11-25-2002(01), § 156.008; Ord. of 3-13-2006, § 156.008; Ord. No. 2007-2, § 156.008, 11-26-2007; Ord. No. 2007-5, § 156.008, 11-26-2007; Ord. No. 2009-11, § 1, 5-26-2009; Ord. No. 2009-19, § 156.008, 12-14-2009; Ord. No. 2011-1, § 156.111, 2-14-2011)

**Secs. 42-9—42-34. Reserved.**

## ARTICLE II. ZONING DISTRICTS

### **Sec. 42-35. Statement of district intent; purpose and zone characteristics.**

For the purpose of this chapter, the areas affected are divided into the following classes of districts:

- (1) *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 commercial or industrial 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, facilitating the adequate provision of transportation and other public facilities.

- a. *RR Rural Residential District.* A district for traditionally 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.
  - b. *R-15 Residential District.* A district designed primarily for single-family dwelling units with a lot area of 15,000 square feet or above.
  - c. *[Family care home location.]* No family care home may be located within a one-half mile radius of an approved or existing group home or approved or existing residential habilitation support facility.
  - d. *R-10 Residential District.* A district designed primarily for single-family dwellings on medium-sized lots with area of 10,000 square feet or above.
  - e. *R-6A Residential District.* A district designed for a mix of single- and multi-family dwellings including the use of mobile homes in mobile home parks only.
  - f. *R-6 Residential District.* A district designed for a mix of single- and multi-family dwellings.
  - g. *R-5A Residential District.* A district designed primarily for multi-family housing with a maximum of 13.5 dwelling units per net acre.
  - h. *R-5 Residential District.* A district designed primarily for multi-family dwelling units with a density greater than that allowed in R-5A.
  - i. *PND Planned Neighborhood District.* A district for the planned development of various residential densities concurrent with neighborhood-oriented uses in a single project.
- (2) *O & I 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 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.
- (3) *HS(P) Planned Highway Service District.* This district is designed for commercial establishments serving transients using only the major highway systems traversing the county. The range of retail and service uses in this district are restricted to those essential to the traveler and therefore, by nature, are inhibiting the generation and

potential congestion of local traffic. The district is customarily located near the intersection of limited access facilities and major arterial streets. Plan approval is a requirement for developments proposed for the district.

- (4) *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, plan approval is required. Any site plan shall assure traffic safety and the harmonious and beneficial relations between the commercial area and contiguous land.
- (5) *C-1 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 any arterial street and generally surrounded by residential areas.
- (6) *C-3 Heavy Commercial District.* This district is designed primarily for a wide variety of retail and wholesale business, commercial and contract services, commercial recreation and amusement, public assembly and office uses. Since this district has such a wide selection of uses, it will not be expanded without consideration as to its effect on surrounding lands and is limited to those areas of mixed commercial activity which lie adjacent [to] or at the intersection of major arterials and those areas which exhibit a highly mixed composition of commercial land uses.
- (7) *CB Central Business District.* This district is intended to preserve the original downtown area as a compact, viable and convenient location for a wide variety of commercial and office uses. Residential uses developed to R-5A standards are also permitted. To preserve the compactness of the area and to lesson congestion, the display, sales and storage of goods is predominantly conducted entirely within enclosed buildings. The yard requirements are based generally on the pattern of existing development so as to minimize dimensional nonconformities and to preserve the continued usefulness and essential character of the existing buildings located in the downtown area. In order to promote coordination and the compatible intermixture of residential and commercial development, a site plan review is required. The mixture of residential and nonresidential uses on the same floor of any building is not permitted.
- (8) *M(P) Planned Industrial District.* This district is designed primarily as a restricted industrial and wholesale area which by location and design is compatible with surrounding or abutting residential, commercial, or light industrial areas. The general intent of this district is to permit uses confined to service, wholesaling, manufacturing, fabrication and processing activities that can be carried an in an unobstructed manner characterized by low concentration and limited external effects with suitable open spaces, landscaping, parking and service areas. The district is customarily located between other industrial areas and residential uses or in locations which are served by



major roads but are not feasible for other industrial districts because of proximity to residential uses. To promote the essential design features within the M(P) District, plan approval is a requirement.

- (9) *M-1(P) Planned Light Industrial District.* This district is designed for a wide variety of light industrial operations involving manufacturing, processing, and fabrication of material; operations involving wholesaling and bulk storage; accommodating a limited range of administrative offices, institutional and commercial services; a variety of research and development uses; and certain public assembly and recreational uses with all operations conducted entirely within a structure. The general intent of the district is to prohibit residential 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 the light industrial districts. In addition, by allowing a wide range of permitted uses, this district is intended to accommodate the development of "flex space" arrangements, where at the time of initial site plan approval by the board of aldermen, the developer can establish different combinations of allowable uses on a site over time. For assurance of conformance to the standards established by this ordinance [chapter], this district should only be considered for tracts of land five acres or greater in size and staff level site plan approval is required for any change in use.
- (10) *M-2 Heavy Industrial District.* This district is designed primarily for basis manufacturing and processing industries, all of which normally create a high degree of nuisance and are not generally compatible with residential or commercial and service use. The general intent is to encourage the continued use of certain lands in the town for heavy industrial purpose. 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 same of merchandise at retail except for items produced on the premises or for the purpose of serving employees, guests, and other person who are within the district with an industrial activity.
- (11) *Companion District/Conditional Use District (CD/CUD).* Each zoning district ordained by this chapter includes a companion conditional use district (e.g., R15 has R15/CUD) where no uses are permitted by right. All uses in the companion conditional use districts also require a conditional use permit. (See section 42-138.)
- (12) *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. (See section 42-139.)

- (13) *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. (See section 42-140.)
  - (14) *Density Development/Conditional Use District (DD/CUD)*. The purpose of this district is to promote and encourage 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. (See section 42-141.)
  - (15) *Dormant zoning districts*. This amendment of the zoning chapter makes dormant certain previously existing zoning districts created under the town's Code of Ordinances, zoning chapter of January 10, 1972, and subsequent amendments. The PND Planned Neighborhood District is now dormant and development shall either comply with the standards of R-10 or shall be submitted for approval under section 42-140.
  - (16) *Recreation Vehicle Park District (RVP(O))*. A district designed to be an overlay district for the purpose of allowing recreation vehicles as temporary living quarters for recreational camping or travel use. The intent of the district is to provide adequate opportunities for the location of planned parks. The district shall be applied as an overlay in the RR, R-6A, HS(P), C-3 and C(P) districts only.
- (Code 1978, § 12.20; Code 1995, § 156.020; Ord. of 1-10-1972; Ord. of 9-11-1995; Ord. of 4-23-2001; Ord. of 11-25-2002(01), § 156.020(A)(2); Ord. No. 2007-2, § 156.020, 11-26-2007; Ord. No. 2009-11, § 2, 5-26-2009)

#### **Sec. 42-36. Zoning maps.**

All the territory included in the town is hereby classified into one or more zoning districts and the boundaries of each of these districts are hereby adopted as shown on a series of map sheets entitled "Zoning Maps, Spring Lake, North Carolina." The zoning maps and all notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this chapter, the same as if such information set forth in the map were all fully described and set out herein. The zoning maps, properly attested, shall be kept on file with the planning board and 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 board and amendments thereto entered in the minutes of the board of aldermen shall be final authority as to the current zoning status of lands, buildings, and other structures in the zoning areas.

(Code 1978, § 12.87(a); Code 1995, § 156.021; Ord. of 1-10-1972)

#### **Sec. 42-37. 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, 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) *Unsubdivided property.* In unsubdivided 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 subsections (a) and (b) of this section, the board of adjustment shall interpret the district boundaries.

(Code 1978, § 12.87(b); Code 1995, § 156.022; Ord. of 1-10-1972)

**Secs. 42-38—42-62. Reserved.**

### **ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES**

#### **Sec. 42-63. District use regulations.**

(a) Within the various zoning districts, as established in section 42-35, and subject to the requirements of this chapter, 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 permitted by the various districts as 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 an allowable use. Some land uses may be allowed through conditional use district or special use and permits 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.

(b) 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 aldermen approval and issuance of the permit, are also indicated in the matrix.

(Table begins on the next page.)

TABLE OF PERMITTED AND CONDITIONAL USES

| <i>Permitted Uses</i>   | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|---|-----------|--|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Automobile washing  |           |  |                           |             |                  |            | X         |              | X                         |            | X                         |
| Automobile wrecking yards and junkyards                       |           |  |                           |             |                  |            |           |              | C                         |            | C                         |
| Baking, on-premises and retail only                           |           |  |                           |             |                  | X          | X         |              | X                         |            |                           |
| Bakery production and wholesale sales                         |           |  |                           |             |                  |            |           |              | X                         | X          | X                         |
| Bank, savings and loan company and other financial activities |           |  |                           |             | X                | X          | X         |              | X                         |            |                           |
| Barber or beauty college instruction                          |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Barbering and hairdressing services                           |           |  |                           |             |                  | X          | X         |              | X                         |            |                           |
| Bicycle sales and repairing                                   |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Blacksmith services   | X         |  |                           |             |                  |            |           |              | X                         |            | X                         |
| Boarding house operations                                     |           | C  | C                         | C           | C                |            |           |              |                           |            |                           |
| Boats and accessories, retail sales and service               |           |  |                           |             |                  |            |           |              | X                         |            |                           |
| Bookbinding   |           |  |                           |             |                  |            | X         |              | X                         | X          | X                         |
| Books and printed matter, distribution                        |           |  |                           |             | X                | X          | X         |              | X                         | X          | X                         |
| Bottled gas distributing, bulk storage                        |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Bottling  |           |  |                           |             |                  |            |           |              |                           | X          | X                         |
| Builders' supply (no outside storage)                         |           |  |                           |             |                  |            |           | X            |                           | C          | X X                       |
| Builders' supply (with outside storage)                       |           |  |                           |             |                  |            |           |              |                           | X          | X                         |
| Bus repair and storage terminal activities                    |           |  |                           |             |                  |            |           |              | X                         | X          | X                         |
| Bus station activities  |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Cabinet making  |           |  |                           |             |                  |            |           |              |                           | X          | X                         |
| Candy or confectionery making, on premises and retail only    |           |  |                           |             |                  | X          | X         |              | X                         | X          |                           |
| Carpet and rug cleaning                                       |           |  |                           |             |                  |            |           |              | X                         | X          | X                         |
| Catalogue sales   |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Cemetery  | C         | C  | C                         | C           |                  |            |           |              |                           |            |                           |

| <i>Permitted Uses</i>  | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i>     | <i>CB</i>      | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|--|---------------------------|-------------|------------------|----------------|----------------|--------------|---------------------------|------------|---------------------------|
| Children's day care homes  | C         | C  | C                         | C           | C                |                |                |              |                           |            |                           |
| Children's day care centers  |           |  |                           |             | C                | C              | C              |              | C                         |            |                           |
| Clinic services, medical and dental                                    |           |  |                           |             | X                | X              | X              |              | X                         |            |                           |
| Club or lodge  | C         | C  | C                         | C           | X                | X              |                |              | X                         |            |                           |
| Coal sales and storage   |           |  |                           |             |                  |                |                |              |                           |            | X                         |
| Construction storage (outside)   |           |  |                           |             |                  |                |                |              |                           |            | X                         |
| Convalescent home  | C         | C  | C                         | C           | X                |                |                |              |                           |            |                           |
| Curio and souvenir sales   |           |  |                           |             |                  |                | X              | X            | X                         | X          |                           |
| Dairy products sales and processing                                    |           |  |                           |             |                  |                |                |              |                           |            |                           |
| Dairy products sales on-premises, retail sales only                    |           |  |                           |             |                  | X              | X              |              | X                         |            |                           |
| Delicatessen operations (including catering)                           |           |  |                           |             | X                | X              | X              | X            | X                         |            |                           |
| Dry cleaning, commercial   |           |  |                           |             |                  |                |                |              |                           | X          | X                         |
| Dry cleaning and laundry collection (no cleaning on premises)          |           |  |                           |             |                  | X              | X              |              | X                         |            |                           |
| Dwelling, multiple-family  |           | X  | X                         | X           | S <sup>1</sup>   | S <sup>1</sup> | S <sup>1</sup> |              | S <sup>1</sup>            |            |                           |
| Dwelling, single-family  | X         | X  | X                         | X           | S <sup>1</sup>   | S <sup>1</sup> | S <sup>1</sup> |              | S <sup>1</sup>            |            |                           |
| Eating or drinking facilities (drive-ins excluded)                     |           |  |                           |             |                  | X              | X              | X            | X                         |            |                           |
| Eating or drinking facilities (drive-ins included)                     |           |  |                           |             |                  |                |                | X            | X                         |            |                           |
| Employee's service (not designed for or available to public customers) |           |  |                           |             |                  |                |                |              | X                         | X          | X                         |
| Exterminating service  |           |  |                           |             |                  |                |                |              | X                         | X          | X                         |
| Fairground activities (including carnivals and circuses)               | C         |  |                           |             |                  |                |                |              | C                         |            |                           |
| Farm machinery sales and servicing                                     |           |  |                           |             |                  |                |                |              | C                         | X          | X                         |
| Farmer's market, open-air  | C         |  |                           |             |                  | C              |                |              | C                         |            |                           |
| Farm supplies merchandise (excluding farm machinery)                   |           |  |                           |             |                  |                | X              |              | X                         | X          | X                         |

| <i>Permitted Uses</i>                            | <i>RR</i> | <i>R-15</i><br><i>R-10</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|----------------------------|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Fire station operations                          | C         | C                          | C                         | C           | X                | X          |           |              | X                         |            | X                         |
| Flower shop                                      |           |                            |                           |             |                  | X          | X         |              | X                         |            |                           |
| Food freezer operations                          |           |                            |                           |             |                  |            |           |              | X                         | X          | X                         |
| Food sales                                       |           |                            |                           |             |                  | X          |           |              | X                         |            |                           |
| Funeral home                                     |           |                            |                           |             | X                |            |           |              | X                         |            |                           |
| Fur sales, including cold storage                |           |                            |                           |             |                  |            |           |              | X                         | X          |                           |
| Greenhouse operations, commercial                | X         |                            |                           |             |                  |            |           |              | X                         | X          | X                         |
| Hardware, paint, and garden supply sales         |           |                            |                           |             |                  | X          | X         |              | X                         |            |                           |
| Hatchery operations                              |           |                            |                           |             |                  |            |           |              |                           |            | X                         |
| Home care unit                                   | C         | C                          | C                         | C           |                  |            |           |              |                           |            |                           |
| Home for the aged                                | C         | C                          | C                         | C           | X                |            |           |              |                           |            |                           |
| Home furnishing and appliance sales              |           |                            |                           |             |                  |            | X         |              | X                         |            |                           |
| Home occupation, incidental                      | X         | X                          | X                         | X           |                  |            | X         |              |                           |            |                           |
| Hospital or sanitarium                           | C         | C                          | C                         |             | X                |            |           |              |                           |            |                           |
| Ice manufacturing                                |           |                            |                           |             |                  |            |           |              |                           | X          | X                         |
| Industrial operations not otherwise prohibited   |           |                            |                           |             |                  |            |           |              |                           |            | X                         |
| Industrial sales of equipment or repair service  |           |                            |                           |             |                  |            |           |              |                           |            | X                         |
| Industry, pilot operation                        |           |                            |                           |             |                  |            |           |              |                           | X          | X                         |
| Janitorial service                               |           |                            |                           |             |                  |            |           |              | X                         | X          |                           |
| Laboratory operations, medical or dental         |           |                            |                           |             | X                |            | X         |              | X                         |            |                           |
| Laboratory, research                             |           |                            |                           |             | X                |            | X         |              | X                         |            | X                         |
| Laundering, commercial                           |           |                            |                           |             |                  |            |           |              | X                         | X          |                           |
| Laundering or dry cleaning customer self-service |           |                            |                           |             |                  | X          | X         |              | X                         |            |                           |
| Library  | X         | X                          | X                         | X           | X                | X          | X         |              | X                         |            |                           |
| Livestock sales and auctioning                   | C         |                            |                           |             |                  |            |           |              |                           |            | X                         |
| Locksmith, gunsmith                              |           |                            |                           |             |                  |            | X         |              | X                         |            |                           |
| Machine tool manufacturing or welding            |           |                            |                           |             |                  |            |           |              |                           |            | X                         |

| <i>Permitted Uses</i>  | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i><br><i>X*</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|---|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Manufactured home, Class A   |           |   |                           |             |                  |            |           |              |                           |            |                           |
| Manufacturing (See Industries)   |           |   |                           |             |                  |            |           |              |                           |            |                           |
| Mobile home (Individual) for exhibition  | C         | C   | C                         | C           | C                | C          | C         | C            | C                         | C          | C                         |
| Mobile home park, but excluding any mobile home sales  |           |   |                           | X           |                  |            |           |              |                           |            |                           |
| Mobile home sales but excluding any residential occupancy  |           |   |                           |             |                  |            |           |              | X                         |            |                           |
| Monument sales   |           |   |                           |             |                  |            |           |              | X                         | X          | X                         |
| Monument works   |           |   |                           |             |                  |            |           |              |                           |            | X                         |
| Newspaper publishing   |           |   |                           |             |                  |            |           |              | X                         | X          | X                         |
| Newsstand sales  |           |   |                           |             |                  | X          | X         | X            | X                         |            |                           |
| Nursery operation (plants) retail and production   | C         |   |                           |             |                  |            |           |              |                           | X          | X                         |
| Nursing home   | C         | C   | C                         | C           | X                |            |           |              |                           |            |                           |
| Office supplies and equipment, sales and service   |           |   |                           |             |                  |            | X         |              | X                         |            |                           |
| Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession   |           |   |                           |             | X                | X          | X         |              | X                         |            |                           |
| Office use, with no on-premises stock of goods for sale to the general public and the operations and service of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material |           |   |                           |             | X                | X          | X         |              | X                         |            |                           |
| Optician services  |           |   |                           |             | X                |            | X         |              | X                         |            |                           |
| Pawn shop  |           |   |                           |             |                  |            | X         |              | X                         |            |                           |
| Pet sales, excluding kennel activities or outside storage of animals   |           |   |                           |             |                  |            | X         |              | X                         |            |                           |
| Pharmaceutical sales   |           |   |                           |             |                  | X          | X         |              | X                         |            |                           |

| <i>Permitted Uses</i>  | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|--|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Photography, commercial  |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Plant husbandry, including sale of produce raised on premises  |           |  |                           |             |                  |            |           |              | X                         | X          | X                         |
| Post office  |           |  |                           |             | X                | X          | X         |              | X                         |            |                           |
| Printing and reproduction  |           |  |                           |             | X                |            | X         |              | X                         |            | X                         |
| Private recreation or swimming club, nonprofit   | C         | C  | C                         | C           | X                | X          |           | X            |                           |            |                           |
| Public recreation (such as neighborhood center buildings, parks, museums, playgrounds), on a nonprofit basis and similar facilities operated | C         | C  | C                         | C           | C                | C          |           | C            | C                         |            |                           |
| Public and community utility stations or substations   | C         | C  | C                         |             | C                | C          |           | C            | C                         |            | X                         |
| Public utility works, shops or storage yards   |           |  |                           |             |                  |            |           |              | X                         |            | X                         |
| Quarry operations  |           |  |                           |             |                  |            |           |              |                           |            | C                         |
| Radio or television studio activities only   |           |  |                           |             | X                |            | X         |              | X                         |            |                           |
| Radio or television transmitting and receiving stations and towers (studios not included)  | C         | C  | C                         | C           | C                |            |           |              | C                         |            | X                         |
| Railroad station operations  |           |  |                           |             |                  |            |           |              | X                         |            | X                         |
| Railroad yard operations   |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Reducing salon care  |           |  |                           |             | X                | X          | X         |              | X                         |            |                           |
| Recreation or amusement enterprise conducted inside a building and for profit, and not otherwise listed herein                               |           |  |                           |             |                  |            | X         | X            | X                         |            |                           |
| Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein                              |           |  |                           |             |                  |            |           |              | X                         | X          |                           |
| Religious worship activities   | X         | X  | X                         | X           | X                | X          | X         |              | X                         |            |                           |



| <i>Permitted Uses</i>  | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|--|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Repair, rental, and/or servicing of any product the retail sale of which is a use-by-right in the same district                    |           |  |                           |             |                  | X          | X         |              | X                         |            | X                         |
| Retailing or servicing with operations conducted and merchandise stored entirely within a building and not otherwise listed herein |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Riding academy activity  | X         |  |                           |             |                  |            |           |              |                           |            |                           |
| Roominghouse operation   |           | C  | C                         |             | C                |            |           |              |                           |            |                           |
| Sawmill or planing activities  |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Secondhand, pawn and swap shop sales   |           |  |                           |             |                  |            | X         |              | X                         |            | X                         |
| School, business and commercial  |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| School for nurses or other medically oriented profession   | C         | C  | C                         | C           | X                |            | X         |              | X                         |            |                           |
| School, private, elementary or secondary   | C         | C  | C                         | C           | C                |            |           |              |                           |            |                           |
| School, public   | C         | C  | C                         |             | C                |            |           |              |                           |            |                           |
| School, trade or vocational  |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Sheet metal fabrication  |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Sign (See article XI of this chapter)  |           |  |                           |             |                  |            |           |              |                           |            |                           |
| Solid waste disposal facilities  | C         |  |                           |             |                  |            |           |              |                           |            | C                         |
| Special information sign, insert   | C         | C  | C                         | C           | C                | C          | C         | C            | C                         | C          | C                         |
| Storage, flammable   |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Storage, open  |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Storage warehouse  |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Tailoring (dressmaking)  |           |  |                           |             |                  | X          | X         |              | X                         |            |                           |
| Taxicab stand operations   |           |  |                           |             |                  |            | X         |              | X                         |            |                           |
| Teaching of art, music, dance, dramatics, or other fine arts   |           |  |                           |             | X                | X          | X         |              | X                         |            |                           |

| <i>Permitted Uses</i>  | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i> | <i>O &amp; I</i> | <i>C-1</i> | <i>CB</i> | <i>HS(P)</i> | <i>C(P)</i><br><i>C-3</i> | <i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|--|-----------|--|---------------------------|-------------|------------------|------------|-----------|--------------|---------------------------|------------|---------------------------|
| Telephone exchange operations  | C         | C  | C                         | C           | X                | X          | X         |              | X                         |            | X                         |
| Temporary construction building (including mobile structures, see section 42-64) | X         | X  | X                         | X           | X                | X          | X         | X            | X                         |            | X                         |
| Theater productions, indoor  |           |  |                           |             |                  |            | X         | X            | X                         |            |                           |
| Theater productions, outdoor   | C         |  |                           |             |                  |            |           |              | C                         |            |                           |
| Tire recapping   |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Tobacco processing   |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Tobacco sales warehouse  |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Trades contractor activities excluding outside storage of equipment or supplies  |           |  |                           |             |                  |            | X         |              | X                         |            | X                         |
| Trades contractor activities with outside storage of equipment or supplies       |           |  |                           |             |                  |            |           |              |                           |            | X                         |
| Trading stamp redemption   |           |  |                           |             |                  |            | X         |              | X                         |            | X                         |
| Trailer rentals  |           |  |                           |             |                  |            | X         |              | X                         |            | X                         |
| Transient lodgings   |           |  |                           |             |                  |            |           | X            | X                         |            |                           |
| Truck terminal activities repair and hauling and/or storage                      |           |  |                           |             |                  |            |           |              | X                         |            | X                         |
| Upholstering or furniture refinishing  |           |  |                           |             |                  |            |           | X            | X                         | X          | X                         |
| Variety, gift and hobby supply sales   |           |  |                           |             |                  | X          | X         |              | X                         |            |                           |
| Vehicle (commercial, government) repair or storage                               |           |  |                           |             |                  |            |           |              | X                         |            | X                         |

| <i>Permitted Uses</i>   | <i>RR</i> | <i>R-15</i><br><i>R-10</i><br><i>R-6</i> | <i>R-5</i><br><i>R-5A</i> | <i>R-6A</i><br><i>O &amp; I</i> | <i>C-1</i><br><i>C-1</i> | <i>CB</i> | <i>HS(P)</i><br><i>C-3</i> | <i>C(P)</i><br><i>M-1</i> | <i>M(P)</i><br><i>M-2</i> |
|---|-----------|--|---------------------------|---------------------------------|--------------------------|-----------|----------------------------|---------------------------|---------------------------|
| Vending machines operations, outdoor  |           |  |                           |                                 | X                        |           |                            | X                         |                           |
| Vending machine rental  |           |  |                           |                                 |                          |           |                            | X                         |                           |
| Warehouse (See Storage warehouse)   |           |  |                           |                                 |                          |           |                            |                           |                           |
| Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise listed herein |           |  |                           |                                 |                          | X         |                            | X                         |                           |

<sup>1</sup> Special use permit required for mixed use building, see section 42-91(f).  
 (Code 1978, § 12.88; Code 1995, § 156.035; Ord. of 1-10-1972; Ord. of 7-2-1973; Ord. of 9-26-1983; Ord. of 10-10-1994; Ord. of 9-11-1995; Ord. of 4-23-2001, § 156.035; Ord. of 3-13-2006, § 156.035; Ord. No. 2007-2, § 156.035, 11-26-2007; Ord. No. 2007-5, § 156.035, 11-26-2007; Ord. No. 2009-11, § 3, 5-26-2009; Ord. No. 2009-19, § 156.032, 12-14-2009)

**Sec. 42-64. Temporary uses.**

(a) The zoning 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, the matter shall be referred to the board of adjustment for a decision.

(b) Temporary events. The zoning inspector may issue a temporary occupancy permit for bazaars, carnivals, religious revivals, sports events, circuses, festivals and similar uses for a fixed period of time not to exceed 30 days in any one calendar year, and subject to limitations as the zoning inspector may impose to protect the character of the district affected.

(c) Temporary construction offices. The zoning inspector may issue a temporary occupancy permit 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.

(d) Temporary exhibition. The zoning inspector may issue a temporary occupancy permit for mobile structures used solely for purposes of exhibition in any district for a fixed period of time not to exceed 30 days and only upon satisfactory evidence that the use of such mobile structure shall not violate any code or regulation or the intent of this chapter.

(Code 1978, § 12.89; Code 1995, § 156.036; Ord. of 1-10-1972)

**Sec. 42-65. Incidental uses.**

(a) Home occupations. Home occupations are permitted only as an incidental use; provided, further, home occupations shall be permitted subject to the following limitations:

- (1) No display of products shall be visible from the street;
- (2) No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception;
- (3) No accessory buildings or outside storage shall be used in connection with the home occupation;
- (4) Not over 25 percent of the total actual floor area or 500 square feet, whichever is less, shall be used for a home occupation;
- (5) Only residents of the dwelling may be engaged in the home occupation; and
- (6) Traffic generation shall not exceed the traffic volumes generated by nearby residents.

(b) Outside storage and display. Outside storage of goods, equipment and material shall be prohibited in any PND, O & I, HS(P), C(P) or C-1 district. Outside display of merchandise which is normally required in conducting [a]commercial operation is permitted in any of the above-named districts except an O & I district.

(c) Other incidental uses. Incidental accessory retail uses include apothecary shops incidental to a hospital or clinic, variety [stores], book[shops], cafeterias, soda bars, coffee and barber shops incidental to institutional or professional office buildings or manufacturing facilities. Incidental retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors and not the general retail 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.

(d) 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. No accessory building to be used for living quarters shall be constructed upon a lot until the construction of the principal building has commenced.

(Code 1978, § 12.90; Code 1995, § 156.037; Ord. of 1-10-1972)

**Secs. 42-66—42-88. Reserved.**

#### ARTICLE IV. SPECIAL USES

**Sec. 42-89. Purpose.**

Some land uses have a particular impact on the surrounding area that cannot be adequately controlled by general regulations. Their establishment shall be allowed only after review and approval of plans and shall be called special uses. Special uses, because of special site or design requirements, operating characteristics, or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the board of adjustment in accordance with the standards and conditions as set forth in section 42-90.

(Code 1978, § 12.91; Code 1995, § 156.050; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.050, 11-26-2007)

**Sec. 42-90. Procedure for obtaining a special use permit.**

(a) In granting approval for a special use permit the board of adjustment shall impose such reasonable terms and conditions as it may deem necessary for protection of health, the general welfare, and the public interest, including the requirement that detailed plans for each special use permit proposal be submitted as part of the application for a special use permit. Any changes, enlargement or alteration in such use shall be reviewed by the board of adjustment and new conditions may be imposed where findings require.

(b) In granting a special use permit, the board of adjustment shall give due consideration to:

- (1) The location, site, design, and operating characteristics of the proposed development so that it will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and surrounding neighborhood;

- (2) The harmony in scale, bulk, coverage, function, and density of the proposed development;
- (3) The availability of public facilities and utilities;
- (4) The generation of traffic and the capacity of surrounding streets; and
- (5) The purpose and intent of the general land use plans for the physical development of the district and the protection of the environment. Developers are encouraged to discuss their special use plans with the planning board's staff before submission. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this section are met before submission to the board of adjustment.

(Code 1978, § 12.92; Code 1995, § 156.051; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.051, 11-26-2007)

**Sec. 42-91. Specific conditional uses; requirements.**

(a) *Generally.* It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of these are concentrated, under certain circumstances thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area; for example, not more than one such use within 1,000 feet of each other which would create such adverse effects.

(b) *Radio and television transmitting and receiving stations and towers.* All such facilities, when permitted as a special use, shall provide at least one foot of side, rear and front yard for every two feet of tower and/or building height.

(c) *Day care home.* Regardless of any other requirements in this chapter, the following specific provisions shall be met as minimum standards prior to the approval of any day care home as a special use in a residentially zoned area. The following requirements are minimum standards which must be met by the applicant and may not be varied by the board of adjustment. Once the following requirements are met, the applicant shall be entitled to apply for a special use permit:

- (1) Minimum lot size of 10,000 square feet land area;
- (2) Minimum distance to another day care home as defined herein, whether conforming or nonconforming, shall be 500 feet (measurement based on center of lot);
- (3) All children's outside play areas shall be enclosed with at least a four-foot high fence;
- (4) All outside pets shall be enclosed in a separately fenced area;
- (5) Must have adequate off-street parking; and

- (6) The applicant must be the property owner or have permission from the owner to operate a day care home and must occupy the dwelling.

(d) *Sexually oriented businesses.*

- (1) *Generally.* 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 only in the C-3 Heavy Commercial District, subject to the following:

- a. Sexually oriented businesses shall not be located within 1,000 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the buildings containing such regulated use.
- b. No sexually oriented business shall be located within 500 feet of any area zoned for residential use or from the property line of residential units, 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 lines containing such regulated use.
- c. Buffering complying with the standards of section 42-191(7) shall be placed around the entire perimeter, including road frontage, for all sexually oriented businesses.
- d. No nude or seminude service or entertainment of any kind shall be allowed outside the building of such use.

(2) *Adult activities.*

- a. *Definitions.* For the purpose of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Adult bookstore* means an establishment having a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area, or an establishment with a segment or section devoted to the sale or display of such material.

*Adult motels and hotels* means a place where motion pictures not previously submitted to or not rated by the Motion Picture Association of America are shown in rooms designed primarily for lodging, which the motion pictures have as the dominant or primary theme matters depicting, describing, or relating to specified sexual activities.

*Adult motion picture theater* means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Specified anatomical areas* means any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

b. *Uses.* The following uses are permitted under C-3 as conditional use and subject to the provisions of this section:

1. Adult bookstores;
2. Adult motion picture theater housed in a permanent indoor structure;
3. Clubs and other places of entertainment operated as a commercial enterprise providing nude or semi-nude entertainment such as "topless" dancing;
4. Eating and drinking establishments including drive-in curb service providing nude or semi-nude entertainment such as "topless" dancing;
5. Any physical culture establishment, masseur, massage parlor, health salon or club not otherwise permitted by section 42-63; and
6. Adult motels and hotels.

c. *Location of uses.*

1. No use permitted under this section may be located within 1,000 feet of another use permitted under this subsection which will be measured from the exterior walls of the buildings containing such regulated use.
2. No use permitted under this subsection may be within 500 feet of any area zoned for residential use which will be measured from the exterior walls of the buildings containing such regulated use.

(3) *Expiration due to unused permit, cessation of use.* Any (specific) conditional use permit granted becomes null and void if not exercised within the time specified in such approvals or, if no date is specified, within one year from the date of such approvals. Any (specific) conditional use permit granted is no longer valid when the use is



discontinued or ceases for a continuous period of six months, unless the applicant/owner can show that such discontinuation or cessation occurred due to circumstances inevitably outside of his direct control.

(e) *Open-air farmer's markets.* The following specific provisions are minimum provisions and shall apply to approved open-air farmers' markets. The applicant is the responsible party for continued compliance upon issuance of a special use permit by the town board of adjustment. The contents of this section shall not be construed as to limit the board's authority to impose any additional restrictions or conditions necessary for protection of the public health, general welfare, and interest.

- (1) The applicant shall be a local producer of the products offered for sale. For purposes of this section, the term "local" shall mean any resident of the town or the immediate surrounding area. The applicant and/or their immediate family members shall also be the vendors.
- (2) The market shall be set up on self-owned property or if agreed to by a property owner other than the vendor and if proof of the property owner's consent is submitted with the application, the market may be set up on another's property. The establishment of proof can be accomplished by submission of either a notarized statement signed by all current tax record owners of the property signifying their consent or a copy of a properly recorded lease agreement signed by the parties involved.
- (3) Sales shall be limited to seasonal or perishable produce, products made largely or entirely from such produce, and may include flowers, plants or other self-made crafts. No resale of produce or items shall be permitted.
- (4) No fresh meat, poultry or fish shall be sold.
- (5) Any scales used in conjunction with the items offered for sale shall be certified by the state department of agriculture and must be approved as "Legal for Trade."
- (6) Buffering and landscaping shall be provided and maintained in accordance with the provisions of section 42-191(7) and article IX of this chapter. The market shall not be operated within any landscaping area otherwise required by this subsection.
- (7) On-site trash receptacles shall be provided and shall comply at all times with chapter 40, article II (set forth in section 40-76(j)), the town's solid waste management provisions, which states that all trash receptacle areas that include dumpsters or three or more trash receptacles shall be located on concrete slabs, or other suitable stable and packed material as approved by the town engineer, and be fenced with a solid fence on at least three sides to shield from public view. All receptacle areas must include a gate that can be locked. All fencing shall be plumb with the ground and extend at least one foot in height above the top of the receptacles.
- (8) Hours of operations shall be limited to the hours between dawn to dusk. The proposed hours and days of operations shall be stated in the application.

- (9) No accessory structure, other than for secure storage, shall be permitted on a permanent basis. Any tents or shelters used in conjunction with the market shall be in compliance with all fire regulations. All setups and displays must be removed by the end of the designated sale day. No overnight storage of vehicles, tables, storage containers, display items or support structures shall be permitted. The applicant shall be responsible to insure all debris is removed at the end of each day.
- (10) Traffic generated by the market shall not impede the normal flow of traffic on any public or private right-of-way.
- (11) A detailed site plan shall be submitted with the application, complying with the pertinent provisions of section 42-167 and shall also indicate compliance with the following standards:
  - a. This use is exempt from the district provisions of section 42-192; however, no portion of the market shall be located closer than 15 feet to any right-of-way line and/or property line, and shall not be located closer than ten feet to an internal drive;
  - b. Off-street paved parking shall be provided at the rate of one space per 200 square feet of display area or, a minimum five spaces, whichever is greater. The parking spaces shall be permanently maintained by the applicant, arranged in such a manner so that ingress and egress to/from the spaces shall be by forward motion of the vehicle and meet all requirements of section 42-260; and
  - c. Generally the provisions of section 42-191 (yard regulations) shall not apply; however, the provisions of sections 42-191(4), *Corner visibility*, and 42-191(8), *Location of accessory buildings in any district*, shall be met.
- (12) One on-site advertising sign shall be permitted provided that the sign area and location comply with the sign regulations for the district if the market is located in the C-1P, C(P), and C-3 zoning districts; signage for markets approved in the RR zoning district shall comply with the sign regulations for the C-1 zoning district. Prices must be posted for all items sold and individual pricing signs shall not exceed four square feet in area.
- (13) The site shall provide access to restroom facilities that comply with all provisions of the *N.C. State Building Code*.
- (14) The provisions of this section shall not be construed to apply to any bona fide farm operation exempt from this regulation under section 42-5.
- (15) All applicable federal, state, and local regulations shall be complied with, including the requirement for posting of the state sales tax license.
- (f) *Mixed use building.*
  - (1) Mixed use buildings are allowed uses in the O & I Office & Institutional, C-1 Local Business, CB Central Business, C(P) Planned Commercial and C-3 Heavy Commercial Districts;

- (2) Residential uses within a mixed use building shall not exceed 40 percent of the total floor area, with a minimum of 60 percent of the floor area of all structures devoted to the nonresidential uses as allowed within the specific zoning district of the property;
  - (3) The facade of the buildings approved for mixed use in a nonresidential district shall be of a commercial design;
  - (4) There shall be no ancillary, accessory or incidental residential use of the property outside the mixed use building;
  - (5) All "for sale" residential units are subject to the condominium development provisions of section 36-73;
  - (6) The development must be served by public or community water and sewer;
  - (7) The subject property must have direct vehicular access to a paved public right-of-way;
  - (8) Off-street parking shall be provided in accordance with article X of this chapter for the nonresidential use, and 1½ spaces for each residential unit. Shared parking shall be encouraged and permitted when it can be substantiated that the hours of operation of the nonresidential use are restricted to daylight hours and will not adversely affect the residential parking needs;
  - (9) The minimum lot area per residential unit shall be 1,000 square feet, not including the lot area utilized by the nonresidential use. The site plan must provide the calculations indicating compliance with this provision;
  - (10) Sidewalks are required in accordance with the standards of section 36-107(f); and
  - (11) A fee in lieu of dedication for on-site parks, recreation and open space is mandatory. This fee is to be calculated based on the tax assessed raw land value of the equivalent land area required for parks, recreation and open space under the provisions of section 36-107(h).
- (Code 1978, § 12.93; Code 1995, § 156.052; Ord. of 1-10-1972; Ord. of 5-13-1991; Ord. of 1-10-1994; Ord. of 10-10-1994; Ord. of 9-22-1997; Ord. of 11-25-2002(01), § 156.052(E); Ord. of 3-13-2006, § 156.052(E); Ord. No. 2007-5, § 156.052, 11-26-2007; Ord. No. 2009-19, § 156.052, 12-14-2009)

**Secs. 42-92—42-110. Reserved.**

## **ARTICLE V. NONCONFORMING USES**

### **Sec. 42-111. Purpose.**

Any structure or use of land existing at the time of the enactment of this chapter, 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 follows.

(Code 1978, § 12.94; Code 1995, § 156.060; Ord. of 1-10-1972)

**Sec. 42-112. Provisions for nonconforming uses.**

(a) *Generally.* No structure or land containing a nonconforming use shall hereafter be extended, nor shall its total value be enhanced, except as provided in this section and section 46-111.

(b) *Discontinuance of open-air uses.*

- (1) 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 years from the effective date of [the ordinance from which] this chapter [is derived] for the zoning area.
- (2) All such uses which are made nonconforming by an amendment of this chapter or extension of the area in which this chapter is applicable, shall be discontinued within three years after the date of such amendment or extension.
- (3) Uses to be discontinued under this section shall include outdoor sales areas; automobile parking lots not immediately adjacent to and used in conjunction with a structure which the parking lot serves, storage yards, signs, billboards, and similar uses.
- (4) Where nonconforming use status applies to structure and premises in combination, if the building is removed or destroyed, the nonconforming use of the land shall cease and any subsequent use of the land and buildings placed thereon shall be in conformity with the provisions of this chapter.

(c) *Continuance of nonconforming uses.* Any nonconforming use may not be changed to any other nonconforming use, unless the board of adjustment finds that such use is no more detrimental to the neighborhood than the initial performing use of the property in question, and no change of title or possession, or right to possession of property involved shall be construed to prevent the continuance of such nonconforming use.

(d) *Continuance of nonconforming structures.* A nonconforming structure may be enlarged or extended, provided that its nonconformity is not increased and provided that if such structure is to be remodeled or rebuilt to an extent exceeding one-third of its then reproducible value, as determined by the zoning inspector, the entire building or structure must be in conformity with the dimensional requirements of the district.

(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 used as before if it is done within one year of such damage, unless such structures have been determined by the zoning 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 be in conformity with the provisions of this chapter.

(f) *Resumption of nonconforming use prohibited.* The 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 year.

(Code 1978, § 12.95; Code 1995, § 156.061; Ord. of 1-10-1972)

**Secs. 42-113—42-137. Reserved.**

## **ARTICLE VI. CONDITIONAL USE DISTRICTS AND PERMITS**

### **Sec. 42-138. Companion District/Conditional Use District.**

(a) *Generally.* The conditional use zoning districts set forth herein are authorized by G.S. 160A-381, 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. Requests for conditional use district rezoning shall be processed administratively in the same manner as for amendments to this chapter as established in section 42-363.

- (1) 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.
- (2) Companion conditional use districts are provided as a voluntary alternative method of petitioning the board of aldermen 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.

(b) *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 property.

(c) *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 county planning staff, town staff, planning board or the board of aldermen, when requested, and 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.

- (1) *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.
- (2) *Dimensional requirements.* The application shall show that the uses comply with dimensional requirements for the district requested. If the applicant proposes to

deviate from 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.

- (3) *Sign requirements.* The application shall indicate the location of signs in accordance with article XI of this chapter, Signs. If the applicant proposes to deviate from the signage provisions in this chapter, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.
- (4) *Off-street parking requirements.* The application shall indicate the size, shape, location of off-street parking and loading in accordance with article X of this chapter, Off-Street Parking and Loading. If the applicant proposes to deviate from the parking and loading provisions in this chapter, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.
- (5) *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.
- (6) *Site plan requirement.* The application shall include a site plan drawn to the specifications of section 42-167. If the proposed uses involve development subject to chapter 36, 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 36, the site plan shall be of sufficient detail to allow the county planning staff, town staff, the planning board, and the board of aldermen 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, landscaping and fences shall be included on the site plan.

(d) *Action by the planning board.* The planning 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 they may have had with an affected party. The planning board shall review the request for a conditional use district and conditional use permit rezoning and make a recommendation to the board of aldermen. When favorably recommending approval of the conditional use district, the planning 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 planning board shall find that:

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

- (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 in general conformity with the town's most recent land use plan and adopted planning policies.

(e) *Action by the board of aldermen.* The board of aldermen 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, 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 they may have had with an affected party. The board of aldermen shall review the application, recommendations from the planning board, suggested conditions, and other information presented at the public hearing. If the board of aldermen 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 aldermen consider approval of the conditional use permit. In approving the application, the board of aldermen, by separate motion, shall approve the conditional use permit and may attach such reasonable requirements in addition to those specified in the planning board's recommendation, and shall find that the application meets the findings listed in subsections (d)(1) through (4) of this section. 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:

- (1) The location of the proposed use on the property;
- (2) The number and location of structures;
- (3) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
- (4) The location and extent of buffer areas and other special purpose areas on the property;
- (5) The height of any structure;
- (6) The phasing of development;
- (7) Other restrictions on the use of the property that adhere to the purposes of this chapter and maintain the public health, safety and welfare; and
- (8) 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.

(f) *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 town staff and the county planning staff without requiring resubmission to the board of aldermen, provided no variance is required, the use does not change, and 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:

- (1) 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;
- (2) Minor changes in parking lot or traffic lane dimensions;
- (3) Minor dimensional changes to individual lots;
- (4) Minor site modifications due to necessary engineering requirements;
- (5) Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan; and
- (6) Other similar insignificant changes.

In reviewing such changes, the town staff or the county planning staff may require that the modification be handled in the same manner as a new application.

(g) *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 town board of aldermen or the planning board may examine progress made to determine if active efforts are proceeding. If the town board of aldermen determines that active efforts to develop are not proceeding, the board may institute proceedings to rezone the property to its previous zoning classification.

(h) *Failure to comply.* If for any reason any condition imposed pursuant to this section 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 town's director of planning determines that a developer has failed to comply with a condition of an approved conditional use permit, the director shall so notify the developer or the developer's successor in interest in writing and shall place the matter on the board of aldermen's agenda, after consideration by the planning board and upon issuance of its recommendation, for the board of aldermen's 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 aldermen shall be a final decision, and a decision to revoke the conditional use permit may be appealed to the superior court of the county within 30 days after the developer or the developer's successor in interest has been served with written notice of the board of aldermen's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the board of aldermen's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the board of aldermen's decision hereunder.

(i) *Validation of existing conditional use overlays.* Nothing in this chapter shall be interpreted to affect or impair any rights accrued pursuant to any conditional use overlay district and permit, under the town zoning code of January 10, 1972, and subsequent amendments, prior to the effective date of this amendment. 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 subsection (h) of this section.

(Ord. No. 2007-2, § 156.064, 11-26-2007)

#### **Sec. 42-139. Mixed Use Development-Conditional Use District.**

(a) *Generally.* This zoning district incorporates the provisions of section 42-138, Companion District/Conditional Use District, in its entirety. In addition, the restrictions and requirements set forth below shall be considered minimum standards and must be adhered to or exceeded.

(b) *Minimum conditions for application.* The following are the minimum conditions that must be met prior to submission of an application for this district:

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

(c) *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 planning board and [is] approved by the board of aldermen, all uses within the district shall be limited to the following:

- (1) Any residential use except manufactured homes and manufactured home parks;
- (2) Allowed office and nonresidential uses in the O & I Office and Institutional District, CB Central Business District, and C1 Local Business District; and

- (3) Allowed uses from the C(P) Planned Commercial District are as follows:
- a. Eating or drinking facilities (drive-ins included);
  - b. Fur sales, including cold storage;
  - c. Janitorial service;
  - d. Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein;
  - e. Theater productions, outdoor;
  - f. Upholstering or furniture refinishing; and
  - g. Vehicle (commercial, government) repair or storage.

Any combination of the above nonresidential allowed uses shall not exceed 50 percent of the total land area within the district for nonresidential development.

(d) *Development performance standards.*

- (1) *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:
- a. 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
  - b. 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
  - c. The resultant acreage shall be the basis for calculation of the percentages for the 50 percent commercial and residential calculations.
- (2) *Open space provisions.*
- a. 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 aldermen upon their consideration of the recommendation from the planning board;
  - b. The open space portion of the tract must be in one contiguous piece or if not, receive a favorable recommendation from the planning board and approved by the board of aldermen; and
  - c. 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 36 for common area in zero lot line developments, or owned by a public or nonprofit organization (i.e., governmental entity, land trust, conservancy, etc.) provided that this manner of ownership is approved by the board of aldermen after their consideration of the planning board's recommendation.

(3) *Development standards.*

- a. A site plan including all information required for detailed site plans enumerated in section 42-167 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.
- b. Half of the proposed residential development, excluding vertical mixed use, shall have been issued a certificate of occupancy or a guarantee have 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 engineer, in the same manner as required by chapter 36 for guarantee of improvements (section 36-32), prior to the completion of the approved commercial 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.
- c. All development within the district must meet any height restrictions imposed by the military, airports and the Federal Aviation Administration.
- d. The district dimensional requirements, including minimum lot size, setbacks, and density restrictions of section 42-192 shall not apply within the district; however, all periphery setbacks shall be that of any adjoining zoning district.
- e. Sidewalks shall be provided in accordance with the standards of chapters 34 and 36.
- f. The site plan shall indicate the minimum and maximum number, size, and location of parking spaces. In the event the applicant desires approval of parking in a manner not generally authorized by this chapter, the specific details, i.e., dimensions, shape, location, must be provided on the site plan. Unless otherwise specifically approved by the town board of aldermen, parking must comply with article X of this chapter, Off-Street Parking and Loading.
- g. All utilities except for high voltage electric lines (25kv or greater) shall be placed underground within the district.
- h. Streets and drives shall comply with town and/or state department of transportation standards, whichever is applicable, and must be capable of carrying the projected traffic volumes.
- i. All signage within the district shall comply with article XI of this chapter, Sign Regulations, unless specifically approved otherwise by the board of aldermen. In the event the applicant desires approval of signage in a manner not generally authorized by this chapter, the specific details, i.e. sign area, setbacks, height, etc., must be provided with the application and site plan.

- j. Landscaping and buffering shall be provided in accordance with the standards of article IX of this chapter, Landscape Requirements. The location and type of buffering and landscaping must be provided on the site plan.
  - k. Developments submitted for approval under this chapter are exempt from the parks, recreation, and open space provisions required by section 36-65 of the town's subdivision regulations.
- (4) *Other applicable provisions.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:
- a. All water supply watershed requirements shall be complied with, where applicable;
  - b. Compliance with the highway plan;
  - c. The plans must be in harmony with the town's most current comprehensive land use plan and current adopted policies; and
  - d. All other applicable federal, state, and local regulations are complied with.
- (Ord. No. 2007-2, § 156.067, 11-26-2007)

**Sec. 42-140. Planned Neighborhood Development/Conditional Use District.**

(a) *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 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 commercial facilities to meet the needs of surrounding residents.

(b) *Submission of preliminary sketch; restrictions, standards for rezoning of use district.* 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 staff and the 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 section 42-138, Companion District/Conditional Use District, 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.

(c) *Minimum conditions for application.* The following are the minimum conditions that must be met prior to submission of an application for this district:

- (1) The subject property must be served by public or community water and sewer;
- (2) The subject property must have permitted access to a public paved street that can support the development; and
- (3) 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.

(d) *Uses allowed.* The following uses are permitted subject to restrictions placed on the PND by the planning board and/or board of aldermen, and as agreed to by the record property owner(s):

- (1) Any residential use permitted in the R10 zoning district, including a variety of single-family, multifamily, patio homes, townhouses, condominiums and zero lot line developments;
- (2) Allowed office and nonresidential uses in the O & I Office and Institutional District, CB Central Business District, and C1 Local Business District; and
- (3) Allowed uses from the C(P) Planned Commercial District are as follows:
  - a. Eating or drinking facilities (drive-ins included);
  - b. Fur sales, including cold storage;
  - c. Janitorial service;
  - d. Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein;
  - e. Theater productions, outdoor;
  - f. Upholstering or furniture refinishing; and
  - g. Vehicle (commercial, government) repair or storage.

(e) *Development standards.*

(1) *Land use proportions.*

- a. *Nonresidential uses.* A maximum of five percent of the gross land area of the development may be devoted to such convenience nonresidential uses as listed in subsection (d) of this section, with no one tract to exceed ten acres. If more than one tract of land is proposed for nonresidential 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.
- b. *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 nonresidential uses shall not be included. The nonresidential land area may be proportioned if the developer wishes (i.e.,  $3\frac{3}{4}$  percent commercial and  $6\frac{1}{2}$  units per acre of gross land area;  $2\frac{1}{2}$  percent commercial and seven units per acre of gross land area;  $1\frac{1}{4}$  percent commercial and  $7\frac{1}{2}$  units per acre of gross land area). In lieu of all nonresidential development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

- (2) *Open space and recreational facilities.*
- a. Where the town's parks and recreation master plan or any other 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 the PND shall either be placed in an owners' association, under the same provision and conditions as provided for in chapter 36, 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 aldermen, after their consideration of the planning board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND.
  - b. The entire dedication may be made when the preliminary plat is presented to the board of aldermen; 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, must be acceptable to the board of aldermen, 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 36. Residential group developments must provide the recreation areas required by chapter 36. When according to officially 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 36; 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 provision of chapter 36. The board of aldermen shall decide which option is appropriate. If a fee is required, 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 plat 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.
- (3) *Landscaping and buffering requirements.* Landscaping and buffers complying with the provisions of article IX of this chapter shall be provided. The board of aldermen, on their own merit or upon consideration of a recommendation from the planning board, may require additional buffering, when the proposed nonresidential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the nonresidential character of the uses.
- (4) *Off-street parking and loading spaces.* Off-street parking and loading spaces shall be provided as required for the specific uses and design criteria in article X of this chapter.
- (5) *Sign regulations.* All signage shall comply with the standards enumerated in article XI of this chapter, with nonresidential uses not exceeding the standards for the C1 zoning district.

- (6) *Dimensional provisions.* Residential uses shall meet or exceed the minimum standards for setbacks of the R10 Residential District along all public streets and on the periphery of the development. All nonresidential uses shall observe the yard regulations for the C1 zoning district along the public streets and on the periphery of the PND.
- (7) *Schedule of development.* Development of the nonresidential portion of a PND shall not commence until the following schedule of the number of residential units approved for the PND have been developed:

| <i>Size of PND Units</i>        | <i>Approved<br/>(percent)</i> |
|---------------------------------|-------------------------------|
| 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                            |

(f) *Contents of application.* In addition to the requirements of section 42-138(c), the application shall include the following:

- (1) General site plan indicating the proposed land use areas including residential, nonresidential, open space and recreational, and other public facility areas to be developed for the entire site;
- (2) 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);
- (3) The primary and collector streets including thoroughfares on the adopted highway plan and any other adopted plans of the town and/or planning board;
- (4) The proposed uses for the nonresidential area(s);
- (5) Floodplain areas where applicable;
- (6) Legal description of the boundary of the PND plan area and each proposed housing area in the PND plan; and
- (7) The names and addresses of adjoining property owners.

(g) *Site plan and subdivision approval.* After approval of the PND from the board of aldermen 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 chapter and chapter 36.

(h) *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.

(i) *Abandonment of PND plan.* In the event the developer abandons the PND plan as approved, all undeveloped or unplatted land shall be further developed only under the regulations of the R10 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 nonresidential uses, except if a portion was not developed under the original plan.

(j) *Validation of existing PND plans.* PND plans approved prior to the effective date of this amendment shall not be affected by these provisions; however, any change to any existing PND after the effective date of shall be processed under the amended approval process outlined in this chapter.

(Ord. No. 2007-2, § 156.068, 11-26-2007)

**Sec. 42-141. Density Development-Conditional Use District.**

(a) *Purpose.* Density Development/Conditional Use Districts are intended to promote and encourage the preservation of open space within the town while at the same time providing for the residential development of land.

(b) *Submission of proposed development sketch; restrictions, standards for conditional use permit.* The developer is strongly encouraged to submit a preliminary sketch of the proposed development and to work closely with the town staff and the 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 section 42-138, Companion District/Conditional Use District, 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.

(c) *Development standards.*

- (1) *Development area.* All building sites will be restricted to 60 percent of the total tract with the remaining 40 percent designated as open space.
- (2) *Density.* All developments approved under this section may provide for equal to or less than the density of the requested parallel zoning district as allowed for in section 42-192.
- (3) *Building sites.* The building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential structures and shall be sufficient in size to accommodate the structures intended to be constructed thereon, any accessory structures, and provisions for utilities, whether public or private.
- (4) *Yard regulations.* The building sites shall be exempt from the yard regulations in 42-191, provided that all sites served by a public street shall provide for the minimum front yard setback and a minimum of 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 buffer and/or open space areas as required by subsections (c)(5) and (c)(6) of this section.



- (5) *Perimeter buffer.* The entire development shall be buffered with a minimum of six feet in height and 20 feet in width vegetative strip of land, as described below, around the periphery and 40 feet in width along the frontage right-of-way. The buffer shall consist of natural topography and/or plantings as necessary to preserve or enhance the natural appearance of the area surrounding the development and the rights-of-way fronting the development, provided that:
- a. 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;
  - b. Unless expressly agreed upon in advance and approved by the board of aldermen after consideration of the recommendation from the planning 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:
    1. As incidental to boundary marking, fencing, signage, installation of utilities, construction and maintenance of nature trails and public access allowed hereunder;
    2. Selective cutting and prescribed burning 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; and
    3. The developer chooses to use a berm or combination berm and plantings.
  - c. 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;
  - d. The perimeter buffer width may be reduced in width if adjacent to an existing and properly approved density development, provided the combined buffers satisfy the intent of this chapter and is found to be sufficient by the planning board and the board of aldermen; and
  - e. The final approval of the sufficiency of the perimeter buffer shall rest with the board of aldermen after their consideration of the recommendation from the planning board.
- (6) *Open space provisions.*
- a. 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 aldermen after their consideration of a recommendation from the planning board.

- b. 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.
- c. The open space land area shall be interconnected wherever possible to provide for a continuous network with such lands in adjacent developments.
- d. 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 registry. 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 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 parties breaching the easement.
- e. Open space shall be preserved and used only for natural scenic, passive recreational, agricultural, pasture and/or meadow, forestry, wetlands, or horticultural uses.
- f. 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 aldermen upon recommendation of the planning board (such as, for instance, if the open space is conveyed by a perpetual conservation easement to a recognized nonprofit conservancy or other nonprofit organization established for ecological and/or environmental preservation).
  - 1. Membership in the property owners' association shall be mandatory for all property owners in the development.
  - 2. 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.
  - 3. 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.
  - 4. The town attorney shall approve the property owner's association documents, to include any articles of incorporation, bylaws, and/or declaration of restrictive covenants prior to final plat approval of any portion of the development.
  - 5. 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.
- g. 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.

- (7) *Parks, recreation, and open space exemption.* Developments submitted for approval under this section are exempt from the parks, recreation, and open space provisions contained within chapter 36.
  - (8) *Subdivision regulation compliance.* All pertinent portions of chapter 36, the town's subdivision regulations shall be complied with.
  - (9) *Other applicable provisions.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:
    - a. All water supply watershed requirements shall be complied with, where applicable;
    - b. Compliance with the highway plan;
    - c. The plans must be in harmony with the most current comprehensive land use plan and current adopted policies;
    - d. All other applicable federal, state, and local regulations shall be complied with.
- (Ord. No. 2007-2, § 156.069, 11-26-2007)

**Secs. 42-142—42-165. Reserved.**

## ARTICLE VII. PLANNED DISTRICTS

### **Sec. 42-166. Objectives.**

This article recognizes that through ingenuity, imagination, and quality design, community development can be improved. The careful review of development plans by the board of aldermen is a process which will:

- (1) Permit creative approaches to the development of land reflecting changes in the technology of land development;
  - (2) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower development costs;
  - (3) Provide and ensure an environment of stable character compatible with surrounding land uses;
  - (4) Accomplish a more desirable environment that would otherwise be possible; and
  - (5) Enhance the appearance of the community.
- (Code 1978, § 12.96; Code 1995, § 156.070; Ord. of 1-10-1972)

### **Sec. 42-167. Contents of development plans.**

(a) Site plans for planned districts shall be submitted as required by section 36-30(a). The burden shall be on the developer to show that his plans are in the best interests of the community and the users of the proposed developments. Site planning in 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 a careful review shall be given to the following information:

- (1) Proposed land uses, the location of various land uses, their types, and densities;
- (2) Proposed circulation pattern for vehicles and pedestrians;
- (3) Proposed parks, and other common open space areas, proposed means of dedication of any common open space areas, and organization arrangements for the ownership, maintenance and preservation of common open space;
- (4) Delineation of the units or phases to be constructed in progression;
- (5) Relation to the land uses in surrounding areas and to the general development plan;
- (6) The layout of car parking and loading areas, service areas, entrances, exits, yards, courts, and landscaping, control of signs, lighting, noise or other potentially adverse influences as to protect the residential character within and/or adjacent to the planned development; and
- (7) The setbacks' size and screening of various land uses.

(b) In any planned district no zoning permit or certificate of occupancy shall be issued by the zoning inspector except in conformance with a plan approved by the board of aldermen. (Code 1978, § 12.97; Code 1995, § 156.071; Ord. of 1-10-1972; Ord. of 11-25-1991)

**Sec. 42-168. Specifications for certain planned districts.**

Plans for the Central Business District (CB), the Planned Highway Service District HS(P), the Planned Commercial District C(P), and the Planned Industrial District M(P) must meet all of the general provisions and the yard, lot, parking, building, sign, and other requirements pertaining to these districts as contained in this chapter. In addition, recommendations will be obtained from the county planning department and considered by the board of aldermen who may require that additional information be shown which is needed to properly evaluate the merits of the proposed development as to the adherence to the general land use plan and the impact of the proposed development on surrounding land uses.

(Code 1978, § 12.99; Code 1995, § 156.073; Ord. of 1-10-1972)

**Secs. 42-169—42-189. Reserved.**

**ARTICLE VIII. LOT AND YARD REGULATIONS**

**Sec. 42-190. Lot regulations.**

General lot regulations shall apply as herein set forth:

- (1) *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 except as provided for group developments and mobile home parks.

- (2) *Street access.* No structure shall be erected on a lot which does not abut a street and no dwelling shall be erected on a lot which does not abut a street for at least 35 feet, such frontage to be continued from the property line to the building setback line, except as a planned group development.
- (3) *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 chapter shall result. If two or more adjacent platted lots are in common ownership and are platted on record in the office of the register of deeds of the county on the effective date of [the ordinance from which] this chapter [is derived] for the zoning area, and such platted lots individually are too small to meet the yard and area requirements of the district in which they are located, such groups of platted lots shall be considered as defined herein and the lot or lots shall be subject to the requirements of this chapter. However, lots 50 feet or more in width may be treated as recorded lots less than minimum width.
- (4) *Recorded lots less than minimum requirement.* Where any lot of record on the effective date of [the ordinance from which] this chapter [is derived] for the zoning area in a district which shows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this chapter, 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 chapter by more than 17 percent.
- (5) *Lots without community water and/or sewer.* Any lot that is not served by community water and/or sewer, in addition to the regulations of the district in which such lot is located, must be certified by the county health department to be large enough to meet all applicable regulations regarding water supply and/or sewage disposal.
- (6) *Building lines on irregularly shaped lots.* Locations of front, side and rear buildings lines on irregularly shaped lots shall be determined by the zoning inspector. 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.
- (7) *Corner lots.* All structures on corner lots in residential districts shall be set back at least 15 feet from the side street property line or 40 feet from the centerline of the side street, whichever is the greater distance. Structures on corner lots in residential districts on which houses are to front on each of the intersecting streets shall observe the front yard requirements on each of the intersecting streets within the same block if they are located within subdivisions which are recorded after the effective date of [the ordinance from which] this chapter [is derived]. Structures on corner lots in residential districts which observe the front yard requirements of the two intersecting streets may reduce the required rear yard by 20 feet.

(Code 1978, § 12.100; Code 1995, § 156.085; Ord. of 1-10-1972)

**Sec. 42-191. Yard regulations.**

General yard regulations shall apply as follows:

- (1) *Projection into yard space.*
  - a. Every part of a required yard shall be open from its lowest point to the sky, unobstructed except for the ordinary projections of sill, 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.
  - b. 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.
  - c. Open fire escapes, outside stairways, the ordinary projections of chimneys and flues, swimming pools, flagpoles, 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.
- (2) *Determination of front yard setback.* The front yard requirements of this chapter 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 [be] set back from the street or road a greater distance than that distance set forth in this chapter or the setback line observed by the closer of the two existing main buildings 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 buildings to be erected in such districts.
- (3) *Fences and walls.* The setback requirements of this chapter 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 projected into or enclosing a minimum front yard, [and] shall be limited to six feet in height when projecting into or enclosing a minimum side yard and/or rear yard; provided that in no case shall a solid fence or wall exceed three feet in height within 25 feet of a public right-of-way line.

- (4) *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.
- (5) *Rear yard on through lots.* The depths 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.
- (6) *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 chapter shall be included as part of a yard or other open space required under this chapter for another building. When two or more uses occupy the same building, sufficient parking areas, yard widths, lot area, open space, and the like must be provided so that the dimensional requirements pertaining to each of the uses will be met in full.
- (7) *Buffer requirements.* Where a commercial off-street parking and loading space, utility regulating and pressure control stations, protective service buildings abut residential areas and where an office, commercial, or industrial district to the side or rear property line, there shall be installed and maintained along such side and rear property line a buffer. Also a buffer shall be required to effectively screen from any residential district which abuts a side or rear yard or from any street, any outside storage of materials, equipment and products.
- (8) *Location of accessory buildings in any district.* No accessory building shall be erected in any required front or side yard or within 15 feet of any side street line or within five feet of any lot line not a street line or within five feet of any building or other accessory building. In no case, however, shall an accessory building be placed closer to a street than the principal building.
- (9) *Building height.* Multiple family dwellings and office, commercial, and industrial buildings shall not be limited to height except that for one foot of height greater than 35 feet, the side and rear yard setbacks shall be increased by one foot.
- (10) *[Side yard setbacks, nonresidential buildings.]* For a nonresidential building in an office or commercial zoning district, side yard setback requirements may be reduced to zero when the following conditions are met:
  - a. The side yard adjoins property which is not zoned in a residential district.
  - b. The town manager or his representative has approved the method by which fire, police and sanitation services can be provided.
  - c. The right-of-way of any adjoining publicly dedicated street is at least 50 feet.
  - d. Maintenance easement has been granted by the adjoining property owner, the proposed building will abut the wall of an existing building, or consent of the adjoining property owner is obtained.
  - e. Any side yard provided shall be at least two feet in width.

- (11) */Screening of auto wrecking yards./* Auto wrecking yards shall install and maintain a six-foot chain link type privacy fence to effectively screen any residential district or public streets or highways. All auto wrecking yards must be in compliance within 120 days from the passage date of the amending ordinance passed on 2-12-1990.

(Code 1978, § 12.101; Code 1995, § 156.086; Ord. of 1-10-1972; Ord. of 2-12-1990)

#### **Sec. 42-192. District dimensional provisions.**

Except for the special provisions set forth in sections 42-190 and 42-191 and chapter 36, the district dimensional regulations set forth in the tables on the next two pages shall be met.

| District          | Minimum Lot Size <sup>1</sup>      |                   |                  |  |                  | Minimum Yard Regulations                |   |           |                              |                                      |
|-------------------|------------------------------------|-------------------|------------------|--|------------------|---|---|-----------|------------------------------|--------------------------------------|
|                   | Square Feet Per Dwelling Unit (DU) |                   |                  | Minimum Sq. Ft. per each DU Above Ground Floor | Frontage in Feet | Front Yard Setback in Feet <sup>2</sup> | Side Yard Width in Feet by Structure <sup>3</sup> |           |                              | Rear Yard Depth in Feet <sup>4</sup> |
|                   | First DU                           | Second & Third DU | Four or More DUs |  |                  | Measured from R/W Line                  | One Story   | Two Story | Added Ft. per Story Over Two |                                      |
|                   |                                    |                   |                  |  |                  |   |   |           |                              |                                      |
| RR                | 20,000                             | 20,000            | 20,000           | 20,000   | 100              | 30                                      | 15  | 15        | 10                           | 35                                   |
| R-15              | 15,000                             | 15,000            | 15,000           | 15,000   | 100              | 30                                      | 15  | 15        | 10                           | 35                                   |
| R-10              | 10,000                             | 7,500             | 7,500            | 7,500  | 75               | 30                                      | 10  | 15        | 8                            | 35                                   |
| R-6A <sup>5</sup> | 6,000                              | 5,000             | 5,000            | 5,000  | 60               | 25                                      | 15  | 17        | 6                            | 15                                   |
| R-6               | 6,000                              | 5,000             | 5,000            | 5,000  | 60               | 25                                      | 10  | 12        | 6                            | 30                                   |
| R-5A              | 6,000                              | 3,000             | 3,000            | 3,000  | 60               | 25                                      | 10  | 12        | 4                            | 30                                   |
| R-5               | 6,000                              | 3,000             | 2,500            | 1,500  | 60               | 25                                      | 10  | 10        | 4                            | 30                                   |

<sup>1</sup> See sections 42-190(3), (4) and (5).

<sup>2</sup> See section 42-191(2).

<sup>3</sup> See sections 42-190(7) and 42-191(9).

<sup>4</sup> See section 42-191(5) and (9).

<sup>5</sup> Except for section 10-182, regarding specifications for manufactured home parks.



| <i>District</i> | <i>Minimum Areas<sup>1</sup></i> | <i>Minimum Yard Regulations</i>               |  |  |  |
|-----------------|----------------------------------|---|--|--|--|
|                 |                                  | <i>Front Yard Setback in Feet<sup>2</sup></i> |  | <i>Side Yard Width in Feet<sup>3</sup></i> | <i>Rear Yard Depth in Feet<sup>4</sup></i> |
|                 |                                  | <i>Measured From R/W Line</i>                 | <i>Measured From Street Centerline</i> |  |  |
| O & I           |                                  | 35  | 65                                     | 15   | 20   |
| C-1             |                                  | 45  | 75                                     | 15   | 20   |
| CB              |                                  | 20  | 40                                     | 0  | 20   |
| C-3             |                                  | 45  | 75                                     | 15   | 20   |
| HS(P)           |                                  | 55  | 85                                     | 20   | 20   |
| C(P)            | Two acres <sup>5</sup>           | 50  | 80                                     | 30   | 30   |
| M-1             |                                  | 50  | 80                                     | 30   | 20   |
| M-2             |                                  | 50  | 80                                     | 30   | 20   |
| M(P)            | Five acres <sup>5</sup>          | 100   | 130                                    | 50   | 50   |

<sup>1</sup> See section 42-190(3).

<sup>2</sup> See section 42-191(2).

<sup>3</sup> Side yard width except as regulated by section 42-191(9).

<sup>4</sup> See section 42-191(7) and (9).

<sup>5</sup> Quantities referred to are net areas.

(Code 1978, § 12.98; Code 1995, § 156.087; Ord. of 1-10-1972; Ord. of 9-26-1983; Ord. No. 2007-2, § 156.087, 11-26-2007)

**Secs. 42-193—42-222. Reserved.**

## ARTICLE IX. LANDSCAPE REQUIREMENTS

### **Sec. 42-223. Purpose.**

The purpose of the landscape standards, which are to be applied within the town and its municipal influence area, is to control and regulate the planting of trees and shrubs; to encourage the protection of existing trees; to provide attractive views from roads and adjacent properties; to buffer from view visually undesirable uses; and to establish procedures for fulfilling these purposes.

(Ord. of 11-14-2005, § 156.088.1)

### **Sec. 42-224. Application of landscaping standards.**

(a) Application to public and private property. Except as otherwise exempted by subsection (b) of this section, the landscaping requirements of this article shall apply to all public and private land located within the town and its municipal influence area. Unless provided

otherwise by this article, none of the uses authorized by this zoning ordinance shall be permitted until such landscaping requirements are approved through plan review by the town and enforced by the town planning department.

(b) Exempt property. None of these requirements shall apply to:

- (1) Detached single-family dwelling on an individual parcel, except as required in section 42-226(2), concerning designated entrance corridors.
- (2) All proposed residential development, except for manufactured home parks and multi-family development, shall not be required to comply with the buffer specifications as set forth in section 42-228, Buffers.
- (3) Parking lots which are not visible from a right-of-way at the same elevation or have less than 12 parking spaces.
- (4) Property developed prior to the effective date of the ordinance from which this article is derived.

(Ord. of 11-14-2005, § 156.088.2)

**Sec. 42-225. Definitions.**

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

*Buffer* means a maintained sight-obscuring fence, wall, or vegetated earth berm, or a sight-obscuring hedge or other natural plantings of comparable opacity, or a combination of the above, as further specified in section 42-228, Buffers. The purpose of such is to provide a transition between developments, in order to protect each development from possible negative effects likely to be caused by or associated with each other.

*Building yards* means the area adjacent to a building reserved for required plant materials.

*Caliper* means the diameter measurement of a tree trunk taken at six inches above ground level for trees up to and including four inches in caliper. For larger trees, measurement of caliper shall be taken at 12 inches above ground level.

*Dead plant material* means any trees, shrubs, or groundcover that shows an absence of living tissue, such as stems or leaves, during a full growth cycle (Spring to Spring).

*Deciduous* means those plants that annually lose their leaves.

*Designated entrance corridor* means a highway (including an existing or a future right-of-way) serving as a major entranceway into the town, as designated by the Spring Lake Area Detailed Land Use Plan, which was adopted by the board of aldermen.

*Developed properties* means land that has been converted to a specific purpose by additional planned and structured improvements.

*Earth berm* means an earthen mound used for providing a buffer, barrier or visual shield as further defined in section 42-228, Buffers.

*Evergreen* means those plants that retain leaves throughout the year.

*Existing trees* means those trees found on a site prior to development, which may be used to meet some or all of the requirements of this chapter (see section 42-230, Existing trees).

*Fence or wall* means an open, opaque or solid structure intended to prevent escape or intrusion, to mark a boundary, or provide a visual shield.

- (1) Open fences or walls have openings greater than 25 percent of the total surface area, which allows clear vision and/or the passage of air.
- (2) Opaque fences or walls have openings less than 25 percent of the total surface area, which allows limited vision and/or the passage of air.
- (3) Solid fences or walls block vision and have no openings in the surface area.

*Ground cover* means any plant whose height under average regional growing conditions will not exceed two feet at maturity, as understood by the American Association of Nurserymen.

*Large shade tree* means any tree whose height under average regional growing conditions will exceed 25 feet at maturity, as understood by the American Association of Nurserymen.

*Loading and service area* means an 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 buffer views.

*Municipal influence area* means a geographic area defined and adopted by the board of aldermen and approved by the county board of commissioners, wherein municipal development standards including, but not limited to, the landscape standards set forth in this chapter, shall be applied.

*Parking lot* means areas, which are accessible to vehicular traffic on a regular established basis and designed for the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use.

*Perimeter planting strip* means a planting area located along the boundary of a parcel, parking lot or right-of-way which is reserved for landscaping purposes.

*Plant material* is a collective term referring to any tree, shrub, or vegetative ground cover as understood by the American Association of Nurserymen.

*Planting area* means the landscape area reserved for the purpose of providing growth area for required plant materials.

*Right-of-way* means a strip of land over which a road is built or proposed to be built.

*Shrub, dwarf*, means any shrub whose height under average regional growing conditions will be between one and three feet at maturity, as understood by the American Association of Nurserymen.

*Shrub, large*, means any shrub whose height under average regional growing conditions will be between six and 12 feet at maturity, as understood by the American Association of Nurserymen.

*Shrub, medium*, means any shrub whose height under average regional growing conditions will be between three and six feet at maturity, as understood by the American Association of Nurserymen.

*Small ornamental tree* means any tree whose height under average regional growing conditions will not exceed 25 feet at maturity, as understood by the American Association of Nurserymen.

*Streetscape* means any landscaped area adjacent to street right-of-ways primarily for enhancement of public travel ways and the environment.

*Streetscape landscaping* means the installation of plant materials within a perimeter planting strip adjacent to a street right-of-way.

*Streetscape trees* means any trees planted within a streetscape perimeter planting strip adjacent to a street right-of-way.  
(Ord. of 11-14-2005, § 156.088.3)

#### **Sec. 42-226. Streetscape landscaping.**

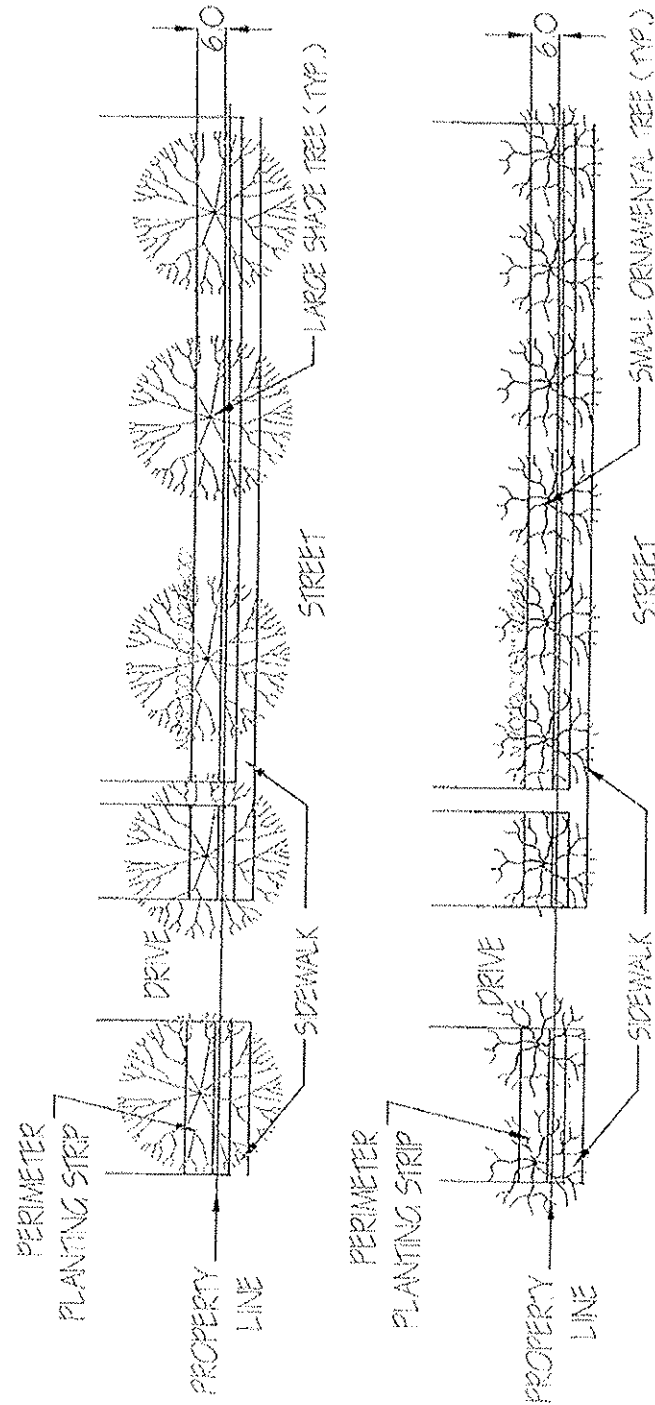
The intent of this section is to establish a streetscape landscaping area adjacent to the right-of-way along town streets and designated entrance corridors. This area shall contain trees and other live vegetation to provide a more pleasing view from the travel ways; to provide a continuity of vegetation throughout the town and its municipal influence area; to reduce the amount of impervious surface and reduce stormwater runoff; improve environmental conditions; and to preserve existing trees.

- (1) *Streets*. For all proposed development (except single-family residential) abutting rights-of-way, the following shall be required:
  - a. A perimeter planting strip adjacent to the right-of-way (planting area not to be located in the right-of-way) with a minimum width of six feet, provided each streetscape tree shall have a minimum planting area of a three-foot radius, measured from the trunk of the tree. The strip's total length shall be equal to the total length of the property line adjacent to an existing or proposed right-of-way as determined by the adopted thoroughfare plan, exclusive of access drives.
  - b. Trees shall be planted, if not existing, within the planting strip according to one of the following requirements:
    1. Large shade trees shall be installed with a minimum of one tree planted for every 50 linear feet of perimeter planting strip. Each tree shall be a minimum of two inches caliper and have a minimum height of ten feet from the ground surface.

2. Small ornamental trees shall be installed with a minimum of two trees planted for every 50 feet of perimeter planting strip. Each tree shall be a minimum of two inches caliper and have a minimum height of six feet from the ground surface.
  3. Existing trees along town streets, which meet the minimum criteria specified in section 42-230, concerning existing trees, shall be preserved.
  - c. Corner parcels shall have at least one tree on each street perimeter planting strip that is 50 linear feet or greater in length.
  - d. The perimeter planting strip shall also contain ground cover, grass, or mulch. The grass shall be mowed on a regular basis and the planting strip shall be kept weed and litter free by the property owner/developer. Shrubs, additional trees and/or beds of flower plants or bulbs may be included at the option of the property owner/developer.
  - e. All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.
- (2) *Designated entrance corridors.*
- a. Streetscape landscaping shall be required on all proposed development (including single-family residential), which abut a right-of-way along designated entrance corridors, as defined in section 42-225. Existing trees along designated entrance corridors which meet the minimum criteria specified in section 42-230, concerning existing trees, shall be preserved. The designated entrance corridors listed below were adopted by the board of aldermen as part of the Spring Lake Area Detailed Land Use Plan:
    - Murchison Road (N.C. 87 and 210 South)
    - North and South Bragg Boulevard (N.C. 24 and 87)
    - Lillington Highway (N.C. 210 North)
    - Vass Road
    - West and East Manchester Road.
  - b. Designated entrance corridor planting specifications.
    1. The streetscape landscaping standards, as set forth in subsection (1) of this section, shall be applied for all proposed development abutting rights-of-way along designated entrance corridors.
    2. In cases where a designated entrance corridor is scheduled to be widened, the property owner/developer shall plant the trees prior to the widening project, provided that the state department of transportation (NCDOT) has marked the proposed right-of-way.

FIG. 1 STREETSCAPE LANDSCAPING

Trees required: 1 Large shade tree or 2 Small ornamental trees per 50 linear feet of perimeter planting strip



Calculation of Required Trees: Example - 225 linear feet of frontage divided by 50 equals 4.5 (5) shade trees or 9 ornamental trees.  
Perimeter Planting Strip minimum width = 60'

(Ord. of 11-14-2005, § 156.088.4)

**Sec. 42-227. Parking lot landscaping.**

(a) The intent of this section is to address any visual, environmental, and aesthetic effects of proposed parking lots as well as allowing flexibility in property development. The property owner/developer shall provide and maintain landscape planting areas within or adjacent to parking lots as long as the requirements as set forth below are met.

(b) Trees shall be required on all proposed development (except single-family residential) whose parking lot is 12 spaces or greater, in accordance with the following requirements:

- (1) One large shade tree or two small ornamental trees for every 12 parking spaces.
- (2) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays or between rows.
- (3) Trees required within the building yard and streetscape landscaping areas cannot be credited toward the parking lot requirements.
- (4) All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.
- (5) All parking lots shall be paved and constructed of asphalt or concrete. All pavements shall be constructed to meet the town standards and maintained according to best management practices.

FIG. 2 PARKING LOT LANDSCAPING

Trees Required: 1 Large Shade Tree for every 12 spaces  
 Calculation of Required Trees: Example - 74 spaces divided by 12 = 6.17 (6) shade trees.

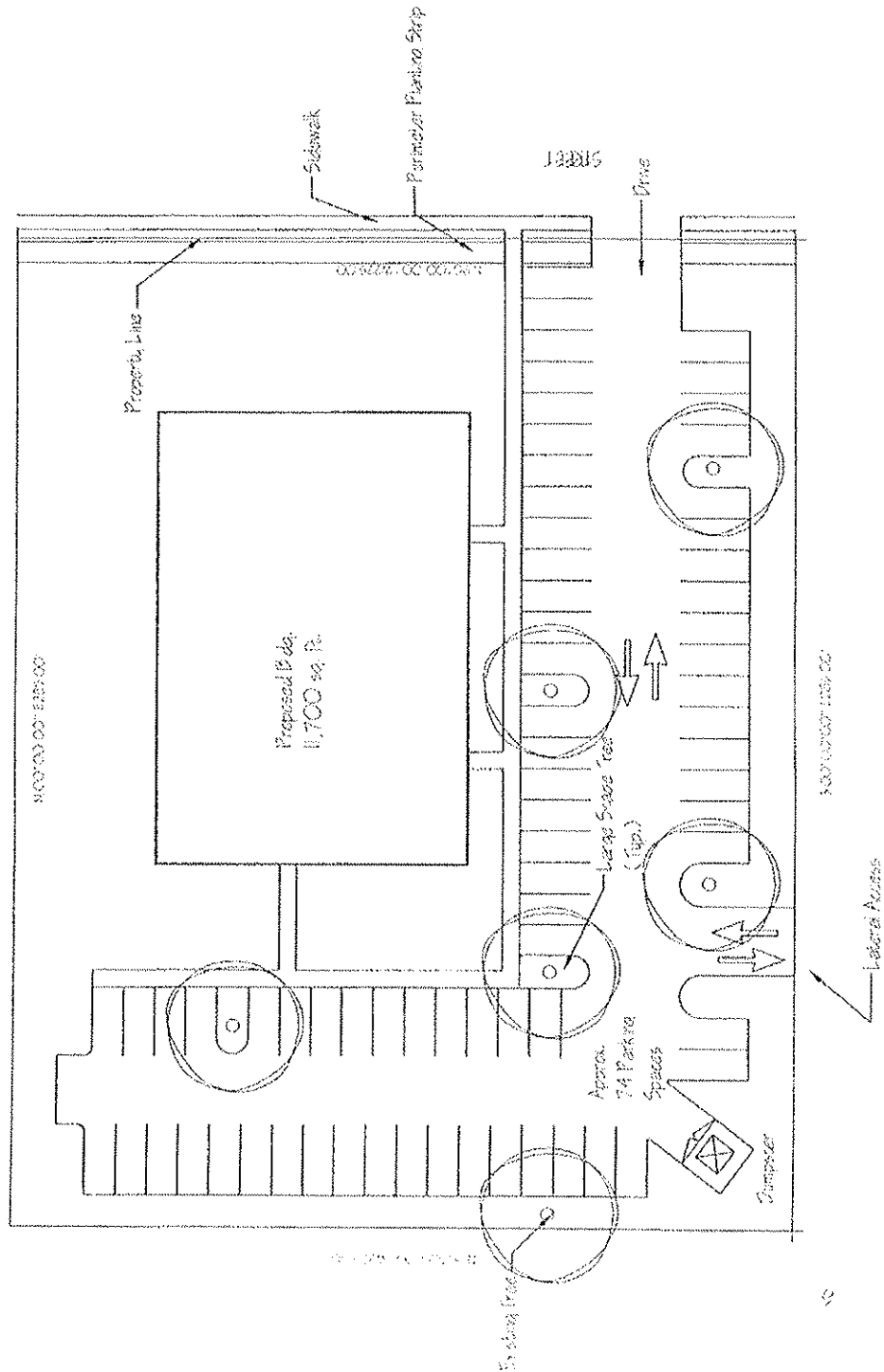
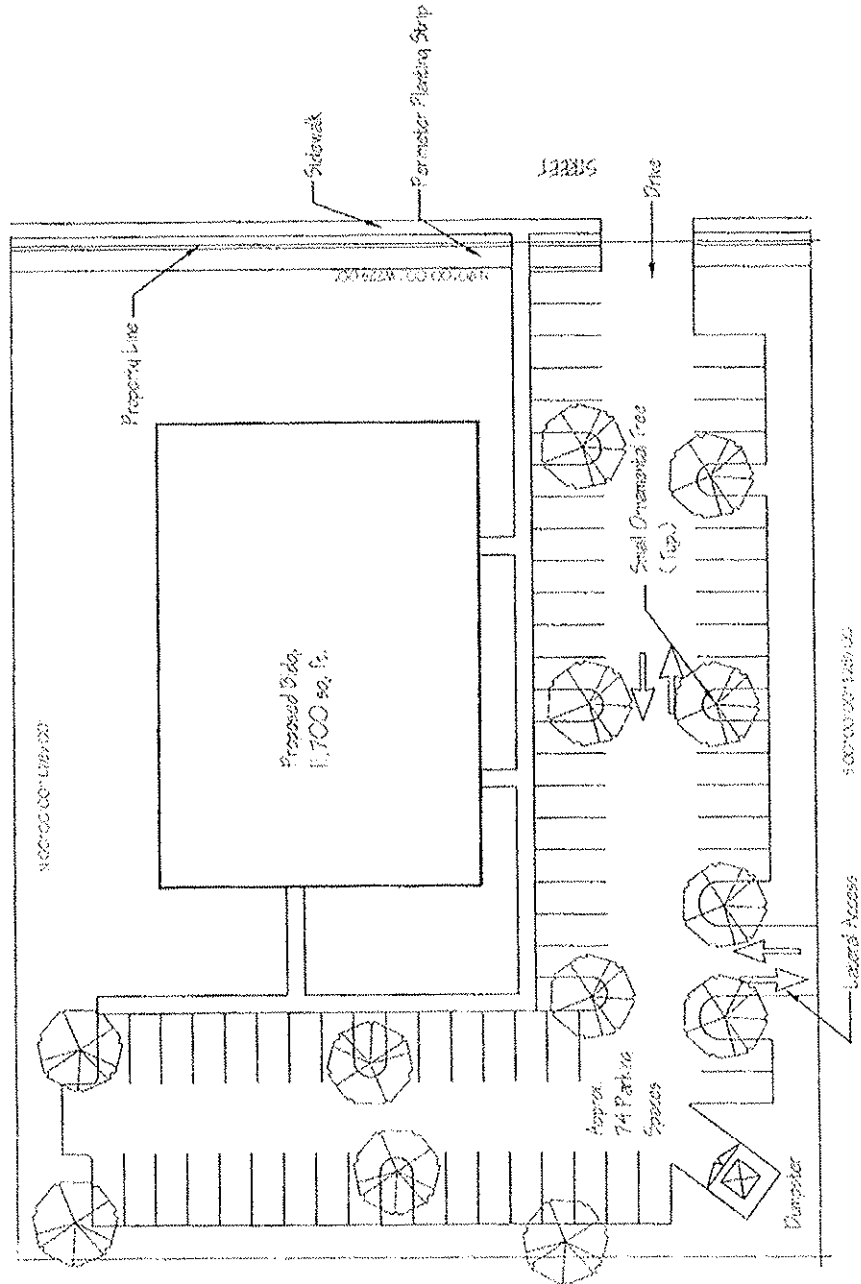




FIG. 2A PARKING LOT LANDSCAPING

Trees Required: 2 Small Ornamental Trees for every 12 spaces  
 Calculation of Required Trees: Example - 74 spaces divided by 12 = 6.17  
 6.17 x 2 = 12.34 (12) ornamental trees.



(Ord. of 11-14-2005, § 156.088.5)

**Sec. 42-228. Buffers.**

(a) *[Intent and applicability.]* The intent of this section is to provide a transition between developments in order to protect each development from possible negative effects likely to be caused by or associated with each other. Additionally, these requirements will serve to prevent an adverse community appearance; protect the character of the area; conserve the value of the property; and provide adequate environmental conditions.

(1) *Buffers required.* Buffers shall be required and properly maintained along the side and rear property lines of the following uses:

- a. Automobile wrecking yards and junkyards.
- b. Nonresidential development adjacent to residential development.
- c. Loading and service areas.
- d. Multifamily group development.
- e. Public and community stations or substations.
- f. Solid waste disposal facilities.
- g. Storage, open (commercial and industrial).
- h. Vehicle (commercial, government) repair or storage.
- i. Industrial uses adjacent to office, institutional, and commercial uses.

(2) *[Buffer types.]* The required buffer shall be accomplished by one of the following:

- a. An opaque fence or wall with a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with an opaque fence or wall: one large shade tree or two small ornamental trees per 50 linear feet. Additionally medium or large evergreen shrubs shall be planted along the entire length of the fence.
  - b. A solid fence or wall having a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with a solid fence or wall: one small ornamental tree, or two medium or large evergreen shrubs or four dwarf (evergreen or deciduous) shrubs per 50 linear feet.
  - c. An earth berm shall be vegetated with grass, ground cover and evergreen shrubs, evergreen dwarf shrubs, or trees. The berm shall be designed so that the expected height of the shrubs at maturity combined with the height of the berm shall provide a minimum buffer height of six feet and provide full buffering. Additionally, all berms shall be built using a slope ratio of 3:1 (three feet horizontal to one foot vertical).
  - d. Any combination of the above [subsections (2)a through (2)c of this section], provided that an effective buffer to a minimum height of six feet is obtained.
- (3) *Dumpsters.* Buffers shall be required and properly maintained around dumpsters and shall be accomplished by an opaque fence a minimum of one foot higher than the trash receptacle with a lockable fence as required by the solid waste regulations.

- (4) *Industrial and manufacturing development.* Buffers shall be required and properly maintained all side and rear property lines of industrial and manufacturing development abutting single-family residential development. This shall be accomplished by one of the following:
- An opaque fence or wall with a minimum height of six feet. Additionally the following plant materials shall be used in conjunction with an opaque fence or wall: two large shade trees or three small ornamental trees per 50 linear feet. Additionally, medium or large evergreen shrubs shall be planted along the entire length of the fence.
  - A solid fence or wall having a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with a solid fence or wall: two small ornamental trees, or four medium or large evergreen shrubs or eight dwarf (evergreen or deciduous) shrubs per 50 linear feet.
  - An earth berm shall be vegetated with grass, ground cover and evergreen shrubs, evergreen dwarf shrubs, or trees. The berm shall be designed so that the expected height of the shrubs at maturity combined with the height of the berm shall provide a minimum buffer height of six feet and provide full buffering. Additionally, all berms shall be built using a slope ratio of 3:1 (three feet horizontal to one foot vertical).
- (5) *Manufactured home parks and recreational vehicle parks.* All manufactured home parks and recreational vehicle parks shall have a minimum 15 feet wide landscape buffer around the perimeter of the park, excluding entrance drives, within which no temporary or permanent structures shall be permitted. The required landscape buffer will be properly maintained and accomplished by the following:
- A solid or opaque fence or wall with a minimum height of six feet.
  - Additionally, the following plant materials shall be used in conjunction with an opaque fence or wall: one large shade tree or two small ornamental trees per 50 linear feet and a continuous row of medium or large evergreen shrubs shall be required and planted for the entire length of the fence.
- (6) *Telecommunication equipment, (unmanned) towers.* Buffers shall be required and properly maintained around the perimeter of all telecommunication equipment, (unmanned) towers. The required buffer shall be accomplished by the following:
- Fencing.* The tower base shall be enclosed by a chain link fence that is at least ten feet in height and located at least ten feet from the base of the tower.
  - Buffer area.* The tower compound shall be surrounded by a buffer area that is at least 25 feet wide and shall shield the entire tract. No structures, including guy wires or anchors, may be constructed or located within the buffer area. The buffer area shall be planted with evergreen trees that will attain a minimum height of

25 feet. Additionally, the interior edge of the buffer area shall be planted with medium or large evergreen shrubs that shall have a minimum height of three feet.

(b) *Placement of buffers.*

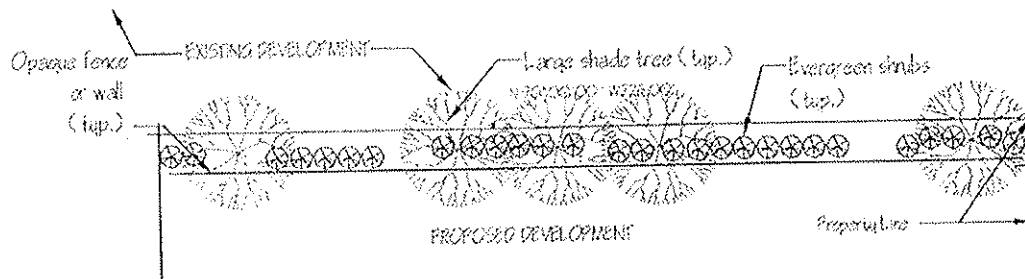
- (1) *Measurement.* The area to be used as a buffer shall begin from the front, side and rear property lines to be buffered, moving inwardly to the required buffer width, as specified in subsection (a) of this section.
- (2) *Overlap.* Buffers may overlap other yard areas and yard setbacks, but these yard areas and setbacks shall comply with the requirements of this zoning chapter. Additionally, plant materials, fences, walls and berms required for buffers shall not be planted within a designated utility easement, a right-of-way, or the sight distance triangle of intersecting streets or driveways.
- (3) *Encroachment.* No structure, other than a mailbox, fence, wall, sidewalk or driveway may be located within a required buffer area. No parking lot shall be allowed within a required buffer area.
- (4) *Location.* All plant materials used in conjunction with a solid or opaque fence or wall shall be located on the exterior side of the fence or wall.

(c) *Buffer specifications.*

- (1) All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting. The required shrubs shall be pruned in a manner that allows them to maintain the required minimum height of six feet at maturity.
- (2) Fences and walls required by this section shall comply with other provisions set forth in section 42-191(3), concerning fences and walls.
- (3) Provisions for natural buffers such as rivers, stream ways, wetlands, and other natural barriers of sufficient space or visual obstructions may meet the buffer requirements as determined by the zoning inspector.

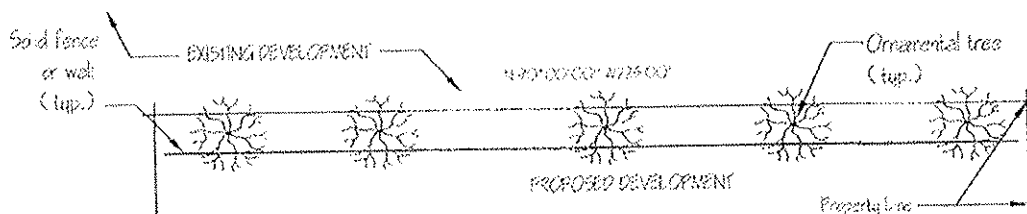
FIG. 3 SCREEN TYPES  
(Unless otherwise specified)

Screen Type 1 - Opaque Fence and Plantings

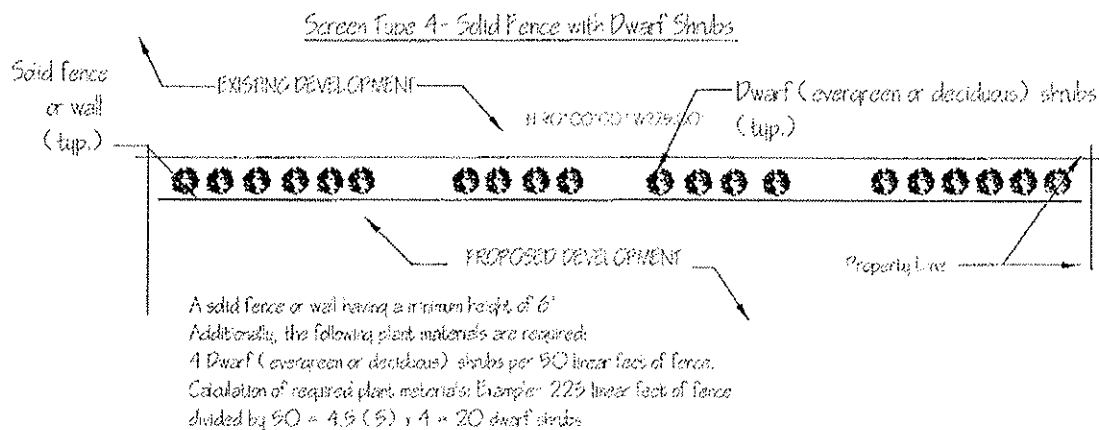
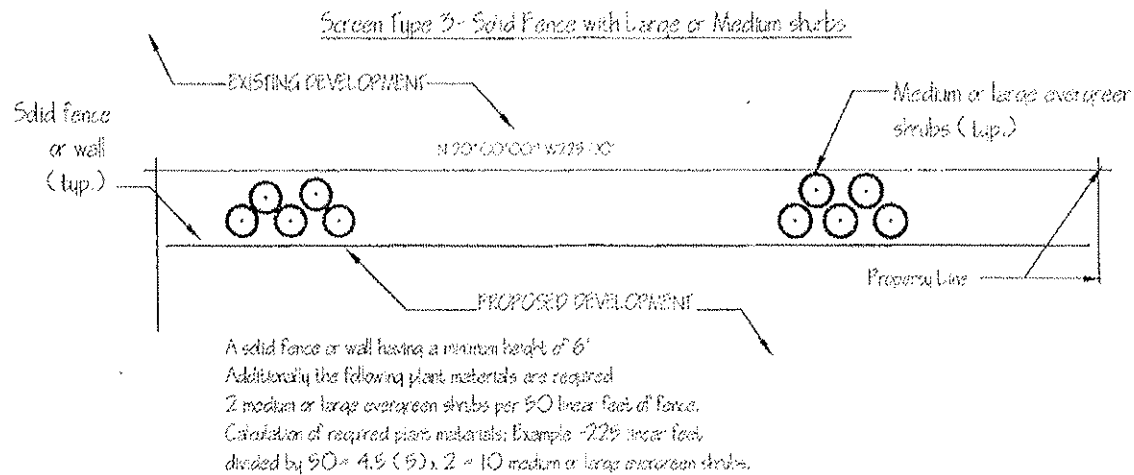


An opaque fence or wall with a minimum height of 6 feet & 1 large shade tree or 2 ornamental trees per 50 linear feet of fence. Additionally, evergreen shrubs shall be planted along the entire length of the fence.  
Calculation of required plant materials: Example - 225 linear feet of fence divided by 50 = 4.5 (5) shade trees or 4.5 x 2 = 9 ornamental trees

Screen Type 2 - Solid Fence with Ornamental Trees



A solid fence or wall having a minimum height of 6'.  
Additionally, the following plant materials are required:  
1 Small ornamental tree per fifty linear feet of fence.  
Calculation of required plant materials: Example - 225 linear feet of fence divided by 50 = 4.5 (5) small ornamental trees



(Ord. of 11-2005, § 156.088.6)

#### **Sec. 42-229. Building yard landscaping.**

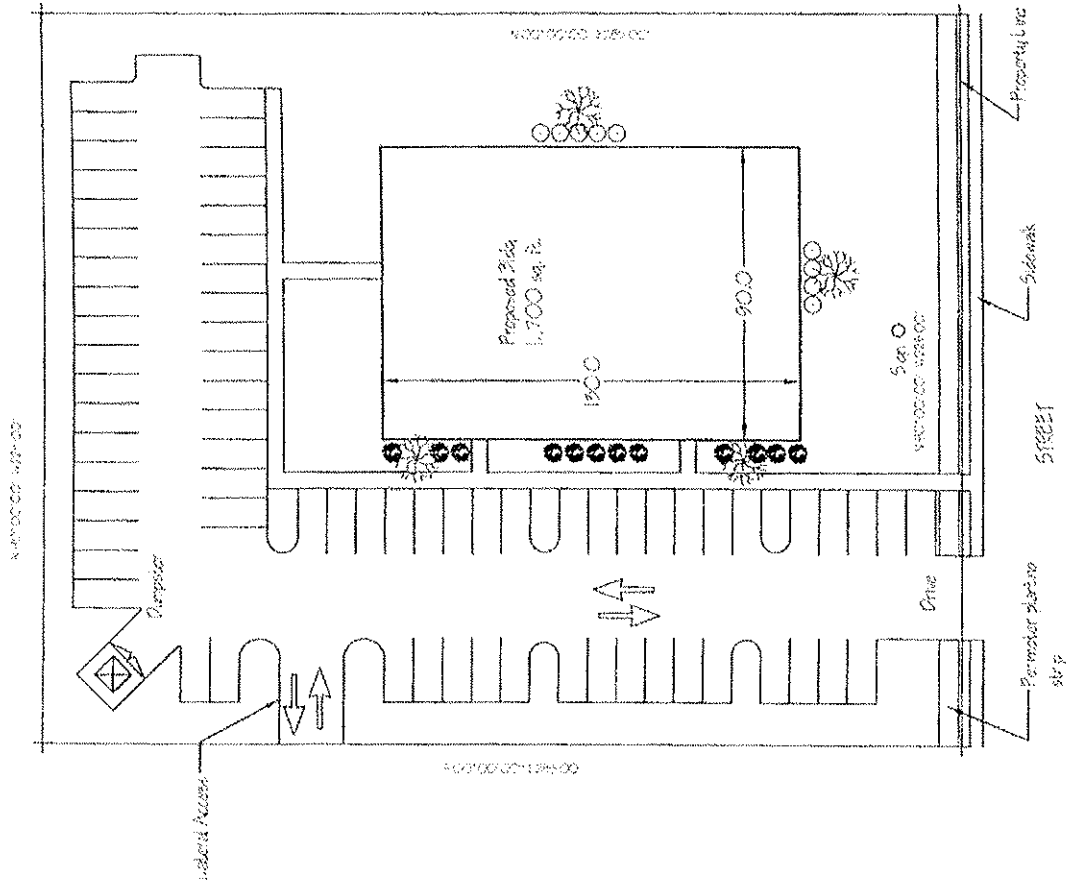
The purpose of this section is to visually and aesthetically enhance the appearance of buildings. Building yards shall be provided along the perimeter of the building visible from a public right-of-way. The required landscaping shall be accomplished by the following:

- (1) One small ornamental tree and six medium shrubs per 100 linear feet of the perimeter of the building visible from a public right-of-way.

(2) Placement of building yard landscaping.

- a. Measurement. Minimum dimensions shall apply and be measured horizontally. Widths shall be measured from the respective building front wall. Length measurements shall be measured from the respective building corner to corner. Entrance walkways to buildings may cross building yards and the width of entrance walkways shall not be calculated as part of the length of the building yard in determining the required amount of plant materials, provided, however, that the width deducted for the entrance walkway shall not exceed the width of the entrance to the building.
- b. All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.

FIG. 4 BUILDING YARD LANDSCAPE



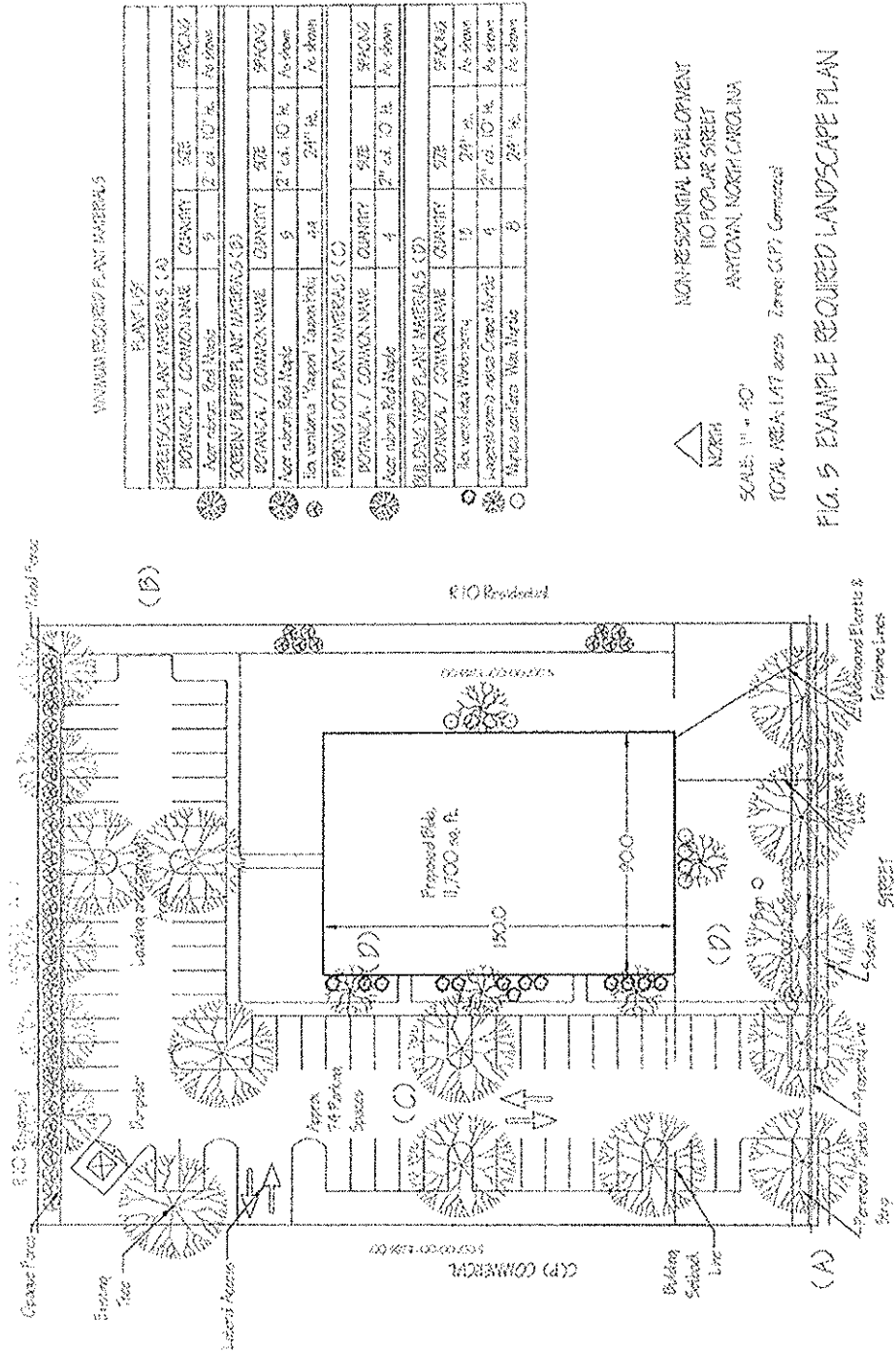
Required Plant Material:

- 1 Small ornamental tree &
- 6 medium shrubs per 100 linear feet
- of the perimeter of the building visible
- from the public right-of-way.

Calculation of Required Plants:

Example - Total perimeter visible from a public right-of-way =  
 350' divided by 100 = 3.5 (4) trees and  
 $3.5 \times 6 = 21$  shrubs





(Ord. of 11-14-2005, § 156.088.7)

**Sec. 42-230. Existing trees.**

Preservation of trees as part of the development of the property shall be encouraged whenever feasible. Credit for existing trees shall be given toward the requirements of this chapter, provided the existing trees satisfy the requirements set forth in section 42-231, concerning planting standards.

(Ord. of 11-14-2005, § 156.088.8)

**Sec. 42-231. Planting standards.***(a) Size required.*

- (1) Large shade trees shall be a minimum of two inches caliper and have a minimum height of ten feet from the ground surface.
- (2) Small ornamental trees shall be a minimum of two inches caliper and have a minimum height of six feet from the ground surface.
- (3) Large and medium shrubs shall be a minimum height of 24 inches. Dwarf shrubs shall have a minimum height of 12 inches.

*(b) Spacing required.*

- (1) Streetscape trees shall be spaced no greater than 50 feet apart. All other required plant materials shall be installed according to site plan specifications.
- (2) Plant materials shall not be installed within a designated utility or other easement, including rights-of-way.
- (3) The placement of plants shall be designed so that the projected width and height of maturing plants do not obstruct sidewalks, driveways, parking lots, fire hydrants, utility easements or other public way or uses.
- (4) Any planting on any corner of two streets or driveways shall comply with section 42-191(4), concerning corner visibility.

*(c) Planting areas.*

- (1) Perimeter planting strips shall be a minimum of six feet in width. Planting strips adjacent to rights-of-way shall not be paved or used for parking.
- (2) Planting areas within parking lots shall be a minimum of three feet in width.
- (3) Adequate drainage and mulching shall be provided for all planting areas.
- (4) Planting areas shall be protected from damage by vehicular traffic with barriers including, but not limited to, curbs, wheel stops, walls or fences. These measures shall be maintained for protection of the planting areas for as long as the planting areas are required by this article.
- (5) During construction, adequate protection measures shall be provided for all planting areas of existing trees to be saved under the requirements of this chapter to ensure the

exclusion of construction activity and storage of materials in them. Trash and debris shall not be buried in planting areas of either existing or proposed trees required by this article.

(d) *Planting, maintenance and replacement.*

- (1) All trees shall be properly guyed or staked in accordance with accepted practices in the landscape industry.
- (2) All plant materials shall conform to the requirements described in the latest edition of Standard for Nursery Stock published by the American Association of Nurserymen.
- (3) The property owner/developer shall be responsible for maintenance on the property on a continuing basis for the duration of the development. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding and other practices common to landscape maintenance. Landscaped areas shall be kept free of trash, litter, weeds, and other materials not part of the landscaping.
- (4) Required landscaping shall be maintained in perpetuity in accordance with provisions set forth in this article. After initial installation it shall be the responsibility of the property owner/developer to maintain all required plantings in a healthy, vigorous and attractive state, or replace dead, diseased or deteriorated plants as specified in other sections of this article. Dead plant materials shall be replaced within 180 days.
- (5) If after three years following the installation of required buffer plant materials, the plants have not formed an effective buffer or if an effective buffer is not maintained, the zoning inspector may require that another type of buffer may be added or additional plantings installed.

(e) *Existing trees.* Existing trees used to satisfy all or part of the requirements of this chapter shall conform to the following provisions:

- (1) *Large shade trees.* Each tree shall be a minimum of two inches caliper, have a minimum height of ten feet from the ground surface, and not be within the right-of-way.
  - (2) *Small ornamental trees.* Each tree shall be a minimum of one inch caliper, have a minimum height of six feet from the ground surface and not be within the right-of-way.
- (Ord. of 11-14-2005, § 156.088.9)

**Sec. 42-232. Plan required and information to be submitted.**

(a) Any site plan pursuant to section 42-359(b), concerning approval of plans, shall include a landscape plan (except all residential development, excluding manufactured home parks and multifamily development). A plan of the property at a scale of one inch equals 50 feet or larger shall be submitted as part of and in accordance with section 42-359(b), concerning approval of plans. The plan shall be labeled "Landscape Plan" and shall include the following:

- (1) All proposed structures, detached signs, drives, walks, parking lots, and other features pertinent to the location and planting of trees or buffers.

- (2) All existing structures, site features, and service areas to remain, which are pertinent to the location and planting of trees or buffers.
- (3) All existing and proposed utility and other easements.
- (4) All proposed trees required by this article and all existing trees proposed to be saved under the requirements of this article. Proposed trees shall be identified by genus, species and installation size. Existing trees to be saved shall be identified by genus, species, size and general condition.
- (5) The required planting areas for all trees, shrubs, and groundcover including the planting strip along rights-of-way. Critical dimensions for these areas shall be noted.
- (6) Details of permanent and temporary protection measures.
- (7) Zoning of the subject property and zoning of adjacent properties.
- (8) Total linear feet of frontage on rights-of-way.
- (9) Total number of parking spaces.
- (10) Total number of large shade trees, small ornamental trees, shrubs and ground cover to be used.
- (11) Location of required buffers including a description of materials to be used to include types, numbers, spacing and construction details of fences, walls, berms, etc.
- (12) Location and construction details of an irrigation system. Landscape plans are subject to the appeals procedure as set forth in section 42-368, Appeals.

(b) Compliance with this chapter shall be required only to the extent that said compliance does not place the property in nonconformance with any other provisions of this chapter at time of compliance. Appeals can be made as set forth in section 42-368, Appeals.  
(Ord. of 11-14-2005, § 156.088.10)

**Sec. 42-233. Administrative provisions.**

(a) *Enforcement.* The provisions of this article shall be administered and enforced by the zoning inspector as set forth in section 42-358, concerning the enforcement officer.

(b) *Modifications.* Where unusual circumstances exist, the zoning inspector may authorize a modification from the requirements of this article, provided that the purpose and intent of the provisions of this article are substantially met.

(c) *Emergencies.* In case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this article may be suspended by the zoning inspector during the period of recovery therefrom, so that the requirements of this chapter would in no way hamper private or public work to restore order within the town and its municipal influence area.

(d) *Penalties and remedies.* A violation of this article shall be subject to the provisions set forth in section 42-371, Penalty, and section 42-370, Remedies.  
(Ord. of 11-14-2005, § 156.088.11)

**Secs. 42-234—42-259. Reserved.**

## **ARTICLE X. OFF-STREET PARKING AND LOADING**

### **Sec. 42-260. Provisions for off-street parking and loading.**

All uses of land and buildings shall be provided with adequate off-street parking and loading space to meet the minimum standards in accordance with the provisions of this article.

- (1) *Plan approval.* Each application for a zoning 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 zoning inspector to determine whether or not the requirements of this article are met.
- (2) *Certificate of occupancy.* The certificate of occupancy for the uses of any building or land where off-street parking space is required shall be withheld by the zoning inspector until the provisions of this part [article] are fully met. If at any time such compliance ceases, any certificate of occupancy which shall have been issued for the use of the property shall immediately become valid and further use of the premises shall cease until the requirements of this subchapter [article] are met.
- (3) *Combination.* The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that half of the parking space 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.
- (4) *Permanency.* The off-street parking and loading space required by this article shall be permanent space and shall not be used for any other purposes unless other space is provided which will fully meet the requirements of this article.
- (5) *Remote parking space.* Except for residential uses, if the off-street parking space required by this article 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 lease. 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 such land to parking use in connection with the principal use. Remote parking spaces in the Central Business District shall observe the front yard setback required in section 42-192.
- (6) *Existing parking facilities.* Accessory off-street parking facilities in existence on the effective date of [the ordinance from which] this chapter [is derived] and located on the same lot as the use served shall not hereafter be reduced below the minimum requirements of this article.

- (7) *Permissive parking and loading facilities.* Off-street parking or loading facilities which serve any existing use of land or buildings are permitted in any district, provided that all regulations in this article governing the location, design, and operation of such facilities are adhered to.
- (8) *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 in this article for the computation of required parking and loading facilities, parking and loading facilities shall be provided for such increase in intensity of use.
- (9) *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 [the ordinance from which] this chapter [is derived], 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.

(Code 1978, § 12.103; Code 1995, § 156.100; Ord. of 1-10-1972)

**Sec. 42-261. Off-street parking requirements.**

(a) *Minimum off-street parking 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>Use</i>                                      | <i>Required Parking</i>  |
|---|--|
| All dwelling units                              | Two spaces for each dwelling unit  |
| Art galleries, libraries, and museums           | One space for each 400 square feet of gross floor area   |
| Automobile gas stations                         | 15 parking spaces  |
| Automobile repair and/or sales garage           | One space for each 200 square feet of gross floor not used exclusively for storage area                    |
| Banks   | One space for each 200 square feet of gross floor space, plus one space per two employees                  |
| Commercial amusement                            | One space for each four persons in design capacity   |
| Drive-in restaurants                            | One space for each four inside seats in addition to any outside serving spaces                             |
| Funeral homes                                   | One space for each four seats in chapel  |
| Furniture stores                                | One space for each 400 square feet of gross floor area   |
| General, professional, and governmental offices | One space for each 300 square feet of gross floor area   |
| Hospitals                                       | One space for each two beds intended for patient use, and one space for each employee on the largest shift |

| <i>Use</i>   | <i>Required Parking</i>  |
|--|--|
| Lodges, fraternal, and social organizations  | One space for each 300 square feet of gross floor area   |
| Manufacturing, processing, fabrication, assembly, construction, contracting and building trades                            | One space per vehicle used directly in the conduct of the use, plus two extra spaces for each three employees on the largest shift |
| Medical clinics, doctors' and dentists' offices  | Five spaces for each doctor practicing on the premises   |
| Mobile home and travel trailer sales lot   | One space for each employee and one space for each 3,000 square feet of display area   |
| Motel, hotel with meeting room   | One space for each 100 square feet of floor area   |
| Nursery, kindergarten, elementary, and junior high schools   | One space for each employee  |
| Nursing homes, convalescent and old age homes  | One space for each four beds intended for resident use, plus one parking space for each employee on the largest shift              |
| Planned shopping center  | One space for each 200 square feet of gross floor area   |
| Religious worship  | One space for each five seats  |
| Retail stores, service shops, food and beverage establishments, exclusive of planned shopping centers and furniture stores | One space for each 200 square feet of gross floor area   |
| Roominghouse or boardinghouse  | One space for each bedroom   |
| Senior high schools  | Four spaces for each classroom and administrative office   |
| Tourist home, motel, hotel   | One space for each room or unit to be rented, plus one space per three employees   |
| 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 article 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.* A required off-street parking space shall be at least eight feet, six inches 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.

(d) *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 alley in a manner which will least interfere 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.

(e) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential districts and public streets.

(f) *Public areas.* 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.

(g) *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.

(Code 1978, § 12.104; Code 1995, § 156.101; Ord. of 1-10-1972; Ord. of 7-28-2003, § 1)

**Sec. 42-262. Off-street loading.**

(a) *[Generally.]* Off-street loading spaces accessory to a use permitted in any district shall be provided in accordance with the following regulations. The zoning inspector shall determine the sufficiency of loading berths and/or loading spaces permitted or required by this article. Off-street loading berths and/or loading spaces shall be provided and permanently maintained by the by the owners or occupants of the following types of land uses on the basis indicated:

- (1) Retail operations and all first-floor nonresidential uses 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.
- (2) 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.
- (3) Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes: One loading berth for every 100,000 square feet of floor area.
- (4) Industrial and wholesale operations with a gross floor area of 10,000 square feet or over and as follows:

| <i>Square Feet</i> | <i>Minimum Number of<br/>Loading Berths Required</i> |
|--------------------|--|
| 10,000 to 40,000   | 1  |
| 40,000 to 100,000  | 2  |



| <i>Square Feet</i>        | <i>Minimum Number of<br/>Loading Berths Required</i> |
|---------------------------|--|
| 100,000 to 160,000        | 3  |
| 160,000 to 240,000        | 4  |
| 240,000 to 320,000        | 5  |
| 320,000 to 400,000        | 6  |
| Each 90,000 above 400,000 | 7  |

(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 [the ordinance from which] this chapter [is derived].

(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.

(Code 1978, § 12.105; Code 1995, § 156.102; Ord. of 1-10-1972; Ord. of 7-28-2003, § 1)

**Secs. 42-263—42-287. Reserved.**

## **ARTICLE XI. SIGN REGULATIONS**

### **Sec. 42-288. Purpose.**

The purpose of these regulations 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.

(Code 1978, § 12.106; Code 1995, § 156.110; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.110, 2-14-2011)

**Sec. 42-289. Definitions.**

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

*Attached sign* means a sign connected to or painted on a wall and including signs connected to or otherwise displayed on or through a facade 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.

*Billboard (off-premises sign)* means a sign which directs attention to a business, commodity, service, entertainment or other message not conducted, sold or offered on the premises where such sign is located.

*Business sign* means 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.

*Flashing sign* means 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, mechanical/digital signs or public message displays using electronic switching, provided the message remains displayed for a minimum of eight seconds.

*Freestanding sign* means 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 the term "billboard" which is defined above.

*Governmental sign* means 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.

*Ground sign* means 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.

*Identification sign, directory [sign]*, means 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 owners or developers. A [The term] "directory sign" is an identification sign with information on multiple occupants.

*Informational sign* means 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 rest rooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction and prices.

*Mechanical/digital sign.* Any sign with changeable copy and message changes in increments of at least eight seconds shall be considered as a "sign" under this article.

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

*Pole sign* means any freestanding sign that is mounted on a hanging from or on a pole or other support structure and is not attached to a building.

*Portable sign* means 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 moved 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.

*Public information sign* means 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.

*Roof sign* means a sign erected, constructed, or displayed wholly upon or over above the eaves of any building with the principal supports on the roof structure.

*Sign.*

- (1) [The term "sign"] means 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 and used to attract attention.
- (2) [The term] "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, other local government or town authority.

*Sign area.*

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Sign area does not include support structures unless the coloration, lighting, etc., are designed to attract attention.

*Sign height* means the vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within this article. 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.

*Wall sign.* Any sign that is mounted directly on any exterior wall of a building or other structure.

(Code 1978, §§ 8.88, 12.107(a); Code 1995, § 156.111; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.111, 2-14-2011)

**Sec. 42-290. Signs exempt from regulation.**

The following signs are exempt from regulation under this article, except that any lighted sign shall require an electrical permit:

- (1) Governmental signs;
- (2) Lights and decorations with no commercial message temporarily displayed on traditionally accepted civic, patriotic or religious holidays;
- (3) Signs located on the interior of buildings, courts, lobbies, stadiums, or other structures which are not intended to be seen from the exterior of said buildings or structures;
- (4) Signs affixed to 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;
- (5) Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles;
- (6) Signs not legible from a public or private street;
- (7) 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 board of aldermen, subject to U.S. Congressional protocol; and
- (8) Public information signs.

(Code 1978, § 12.107(b); Code 1995, § 156.112; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.112, 2-14-2011)

**Sec. 42-291. 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.

- (1) *Temporary signs.* For the purpose of advertising a specific property, individual or event, signs not exceeding eight square feet in area are permitted provided the temporary signs are set back a minimum of five feet from a property line, not located within any public right-of-way, do not constitute a hazard to public safety, do not contain obscene matter, and are removed within seven calendar days of cessation of the temporary occasion the sign is purporting to advertise. This provision shall not be

constructed [construed] to authorize the posting of signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by any other provision of this Code.

- (2) *Temporary signs advertising real estate developments.* For the purpose of advertising real estate developments for which a plat has been officially recorded, one sign is permitted at each main entrance to the development named on the sign. Such sign shall not exceed 32 square feet in area.
- (3) *Traffic control signs.* Signs which only regulate traffic on private property are permitted.
- (4) *Special information signs.* For the purpose of giving directions and information, on-site signs concerning special uses where not otherwise permitted, and off-premises noncommercial advertising signs may be approved by the board of adjustment subject to a special use permit specifying the size, location, lighting, design, and display in accordance with section 42-292. 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 may judge to be beneficial to the total community.
- (5) *Special entrance 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 chapter or chapter 36, estate, farm, or other 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 entrance sign is utilized, no other main entrance identification sign is permitted.

(Code 1978, § 12.109; Code 1995, § 156.113; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.113, 2-14-2011)

#### **Sec. 42-292. 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 town code enforcement officer.

(b) *Measurement of sign area.* The area of a sign mounted on a board or within a frame 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. 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. are 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, except that development signs may be located on a median of a public right-of-way, provided that the town public works director or the state department of transportation, as applicable, permits the sign, and freestanding signs located on a median of a private street shall be located no closer than 20 feet from the street intersection. 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:

| <i>Sign Height</i>                     | <i>Minimum Setback from<br/>Right-of-Way Line</i>                 |
|--|---|
| 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<br>exceeding 30 feet |

- (2) *Pole signs.* Pole signs, in addition to all other requirements of this article, shall be set back 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. Regardless of the foregoing, signs shall not be attached to a building so as to extend more than ten feet above any part of the roof or, if projecting from the outer walls of the building, so as to have any part of the sign ten feet higher than the nearest edge of the roof of the principal structure for which the sign serves.

(d) *Maintenance and appearance of signs.* 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 code enforcement officer finds 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 chapter, the code enforcement officer shall give written notice of such violation to the owner of the sign or the owner of the property where the sign is located, or both. 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 receipt of said notice, such sign may be removed or altered to comply by the code enforcement officer at the expense of the property owner of the property where the sign is located. The code enforcement officer may cause any sign or other advertising structure that 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 a 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 receipt of written notification by the owner of the property on which the sign is located from the code enforcement officer, except that temporary activities' sign posting shall be removed by the permittee within seven calendar days following the date of termination of such events. Upon failure to comply with any notice within the time specified, the code enforcement officer is authorized to cause removal of such sign, and the owner of the property on which the sign is located shall pay expenses incurred.

(i) *Signs permitted in conjunction with nonconforming uses.* Any 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.

(Code 1978, § 12.107(a)—(f), (h); Code 1995, § 156.114; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.114, 2-14-2011)

#### **Sec. 42-293. Signs permitted by districts.**

In addition to the aforementioned signs, the following are also permitted:

- (1) *Residential and mixed use or planned neighborhood development districts.*
  - a. *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 multifamily 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.

- b. *Development signs.* A permanent sign is permitted as an integral part of an entrance structure which identifies a subdivision, group development, estate, farm or other entity, provided there are not more than two signs for each main entrance, with a total sign area for each 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 of section 42-292.
  - c. *Agricultural products signs.* In the rural residential district, signs which advertise handicrafts or 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 seven days of cessation of the activity advertised.
  - d. *Institutional, commercial and industrial signs located in rural, residential, and mixed use or planned neighborhood development districts.* Any institutional, commercial or industrial use, which is a permitted or special use or an approved use through conditional zoning in a rural residential or residential [district] may erect and maintain signs as follows:
    - 1. 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. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
    - 2. Attached signs for all principal uses on the site shall not exceed 50 square feet in area, except where the nonresidential use is located within an approved mixed use or planned neighborhood development. In addition, the attached signs may be placed on any side of the building. If there is more than one principal use, the property owner will determine the allocation of attached sign area. For nonresidential uses within mixed use or planned neighborhood developments, one attached sign per occupant is allowed, provided the attached signage does not exceed two square feet in area for each front foot of structure the occupant occupies. In the event a shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square footage of the attached signs does not exceed two square feet in area for each front foot of the structure that the occupant occupies.
- (2) *Professional, commercial and industrial districts.*
- a. *O & I office and institutional district.* Signs for uses permitted in the O & I district shall be regulated as follows:
    - 1. 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 42-292.



2. One attached sign per occupant not exceeding two square feet in area for each front foot of structure the occupant occupies will be allowed. Attached signs may be placed on any side of the building.
- b. *C-1 Local Business District.* Signs for uses permitted in the C-1 district shall be regulated as follows:
1. 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 ten square feet maximum area for each occupant over five, with a total maximum freestanding sign area not to exceed 200 square feet in area. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  2. One attached sign per occupant is allowed. Attached signs shall not exceed two square feet in area for each front foot of structure the occupant occupies. Attached signs may be placed on any side of the building.
- c. *CB Central Business District.* Signs for uses permitted in the CB district shall be regulated as follows:
1. Two attached signs are permitted per business, except on through lots or lots having frontage on two or more streets, in which case two signs per business for each frontage shall be permitted. The maximum total area of all signs shall be limited to two square feet per front of the lot. When two or more buildings are on the same lot, the sign area will be proportioned in accordance with the frontage of the buildings.
  2. All signs shall be attached to the principal structure. Signs may be placed perpendicular to the building with the lower edge being no less than eight feet above the ground. Signs shall not project over public right-of-way.
- d. *C(P) Planned Commercial, Hs(P) Planned Highway Service and C-3 Heavy Commercial Districts.* Except for billboards (off-premises) which are regulated by section 42-294, signs for uses permitted in the C(P), HS(P) and C-3 districts shall be regulated as follows:
1. 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.
  2. 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.
  3. 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.

4. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area.
  5. Sites approved as a zero lot line development such as a shopping center, where the site has one primary lot with one or more outlots, shall constitute one integral development for purposes of this subsection.
  6. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  7. 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.
  8. In the event a shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square footage of the attached signs does not exceed two square feet in area for each front foot of the structure that the occupant occupies.
- e. *M-1(P) Planned Light Industrial District.* Signs located in the M-1(P) district shall comply with the dimensional criteria as for signs permitted in the C(P) Planned Commercial District.
- f. *M(P) Planned Industrial and M-2 Heavy Industrial Districts.* Except for billboards (off-premises signs) which are regulated by section 42-294, signs in the M(P) and M-2 districts shall be regulated as follows:
1. 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] 42-292.
  2. 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.

(Code 1978, § 12.110; Code 1995, § 156.121; Ord. of 1-10-1972; Ord. of 11-25-2002(02); Ord. No. 2011-1, § 156.121, 2-14-2011)

**Sec. 42-294. Billboards (off-premises signs).**

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

(1) *General provisions.*

- a. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares;
- b. 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;
- c. Billboards shall not exceed a sign height of 35 feet;
- d. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C-3 Heavy Commercial District upon approval of a special use permit by the board of adjustment (section 42-361), and in the M(P) Planned Industrial District upon approval of the site plan by the board of aldermen (section 42-366) as a permitted use, provided that the dimensional criteria outlined below is complied with;
- e. All federal, state, and other local regulations shall be complied with; and
- f. Billboards are exempt from the landscaping and buffering provisions of this chapter.

(2) *Dimensional criteria by district.*

- a. *C-3 Heavy Commercial District.* 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.
- b. *M-2 Heavy 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 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.

(Ord. No. 2011-1, § 156.122, 2-14-2011)

**Sec. 42-295. Prohibited signs.**

Erection or maintenance of signs having any of the following characteristics is prohibited:

- (1) *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; 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.

- (2) *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.
- (3) *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.
- (4) *Obscene matter prohibited.* No sign shall be erected or maintained which bears or contains statements, words, or pictures of obscene matter.
- (5) *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.
- (6) *Portable signs.* Any sign which is manifestly designed to be transported from one place to another, whether on its own trailer, wheels or otherwise, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign and typically has space provided for advertising messages that may be changed at will by the replacement of lettering or symbols is prohibited.
- (7) *Novelty signs.* Signs which emit visible smoke, vapor particles, odor or noise are prohibited.
- (8) *Signs attached to trees.* No signs, except a "No Trespassing" or "Posted" sign, shall be attached to any tree.

(Ord. No. 2011-1, § 156.123, 2-14-2011)

**Secs. 42-296—42-323. Reserved.**

## **ARTICLE XII. BOARD OF ADJUSTMENT**

### **Sec. 42-324. Establishment; membership.**

The board of aldermen pursuant of G.S. ch. 160-A, art. 19, part 3, does hereby establish a board of adjustment. Such board shall consist of at least five members appointed by the aldermen. The appointments and reappointments shall be for three-year terms. All appointments to fill vacancies shall be for the unexpired term. The board of aldermen may also appoint two alternate members at large 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 times 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.

(Code 1978, § 12.113; Code 1995, § 156.130; Ord. of 1-10-1972)

**Sec. 42-325. Proceedings.**

(a) The board of aldermen shall elect a chairperson and vice-chairperson from among its members, who in turn may appoint a secretary. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson is authorized in his official capacity to administer oaths and compel the attendance of witnesses in any matter coming before the board of adjustment. Any member of the board of aldermen while temporarily acting as chairperson shall have and exercise like authority.

(b) All meetings of the board of adjustment shall be open to the public. The board of adjustment 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 of adjustment shall also keep records of its examinations and official actions.

(Code 1978, § 12.114; Code 1995, § 156.131; Ord. of 1-10-1972)

**Sec. 42-326. Powers and duties.**

(a) *Administrative review.* The board of adjustment shall have the powers and duty to act in all matters relating to the administrative review of any order, requirement, decision or determination made by the zoning inspector or other administrative official.

(b) *Variance.* The board of adjustment shall have the power, in passing upon appeals, to vary or modify any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land, where there are unnecessary hardships in the way of carrying out the strict letter of this chapter, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

(c) *Special use permit.* The board of adjustment shall grant permit exceptions, called "special uses," in the classes or cases of situations and in accordance with the principles, conditions, safeguards, and procedures specified in section 42-361.

(d) *Interpretation.* The board of adjustment shall have the responsibility to 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 chapter. The board of adjustment shall hear and decide all matters referred to it or upon which it is required to pass under this chapter.

(Code 1978, § 12.115; Code 1995, § 156.132; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.132, 11-26-2007)

**Sec. 42-327. Concurring vote.**

The concurring vote of four-fifths of the members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter. A concurring vote of four-fifths of the board of adjustment is also required to decide in favor of any applicant on any matter which the board of adjustment is required to pass including granting variance from the provisions of this chapter and issuing a special use permit.

(Code 1978, § 12.116; Code 1995, § 156.133; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.133, 11-26-2007)

**Secs. 42-328—42-357. Reserved.**

**ARTICLE XIII. ADMINISTRATION AND ENFORCEMENT**

**Sec. 42-358. Enforcement officer.**

The provisions of this chapter shall be administered and enforced by the zoning inspector. This official or his representative shall have the right to enter upon the premises necessary to carry out his duties in the enforcement of this chapter. It is the intention of this chapter that all questions arising in connection with enforcement and interpretation shall be presented first to the zoning inspector, who is charged with the enforcement of this chapter. If the zoning inspector finds that he is not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the board of adjustment, he shall refer such matters to the board of adjustment for review and decision. From the decision of the board of adjustment, recourse shall be had to the courts as provided by law.

(Code 1978, § 12.119(a); Code 1995, § 156.145; Ord. of 1-10-1972)

**Sec. 42-359. Zoning permit required; approval of plans; issuance.**

(a) 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 zoning inspector has issued a zoning permit for such work or use, including a statement that the plans, specifications, and intended use of such land or structure in all respects conforms with the provisions of this chapter. Application for a zoning permit shall be made in writing to the zoning inspector on forms for that purpose. Zoning permits shall be void after six months from date of issue unless substantial progress on the subject has been made by that time.

(b) It shall be unlawful for the zoning inspector to approve any plans or issue a zoning permit for any purpose regulated by this chapter until he has inspected such plans in detail and found them in conformity with this chapter. To this end, the zoning inspector shall require

that every application for a zoning permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the zoning inspector to ascertain whether the proposed activity is in conformance with this chapter:

- (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 any buildings or other structures already on the lot.
- (3) The existing and intended use of all such buildings or other structures.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(c) If the proposed activity as set forth in the application is in conformity with the provisions of this chapter, the zoning inspector shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the zoning 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 chapter.

(Code 1978, § 12.119(b); Code 1995, § 156.146; Ord. of 1-10-1972)

#### **Sec. 42-360. Certificate of occupancy required.**

No land or structure (except signs) or part thereof hereafter erected, moved, or altered in its use shall be used until the zoning inspector shall have issued a certificate of occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this chapter. 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 zoning inspector to make a final inspection thereof, and to issue a certificate of occupancy, if the building or premises or part thereof is found to conform with the provisions of this chapter or, if such certificate is refused, to state refusal in writing with the cause.

(Code 1978, § 12.119(c); Code 1995, § 156.147; Ord. of 1-10-1972)

#### **Sec. 42-361. Special use permits.**

The various special uses set forth in the district use regulations table, 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.

- (1) *Purpose.* Permitting special uses adds flexibility to this chapter. 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.
- (2) *Procedure.* Special use permits shall be granted by the board of adjustment as permitted for only those uses enumerated in section 42-63, concerning district use

regulations, as special uses. Uses specified as a special use in the table shall be permitted only upon the issuance of a special use permit by the board of adjustment.

- a. The owner or owners of all property included in the petition for a special use permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in section 42-167 to the planning and inspections staff. The staff will schedule the application to be heard by the board of adjustment in accordance with the adopted time schedule. The planning and inspections staff shall also notify the commanders of Fort Bragg, Pope Air Force Base, and Simmons Army Airfield of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with G.S. 153A-323.
  - b. Developers are encouraged to discuss their special use plans with the planning and inspections staff before submission. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this chapter are met before submission to the board of adjustment. All applications and site plans shall provide information indicating compliance with the development standards for the individual uses as listed in section 42-91 as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the special use provide to the contrary.
- (3) *Consideration of application.* The board of adjustment shall consider the application, site plan and any other evidence presented in accordance with this chapter and may grant or deny the special use permit requested. In granting a special use permit, the 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 is in general conformity with the town's most recent detailed land use plan.
- (4) *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:
- a. The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;



- b. The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;
- c. The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;
- d. The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;
- e. The added noise level created by activities associated with the proposed use;
- f. The requirement 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;
- g. Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;
- h. 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;
- i. 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;
- j. 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;
- k. The availability of public facilities and utilities;
- l. The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and
- m. The purpose and intent of the most recent land use plan for the physical development of the district, and the protection of the environment.
  - 1. 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 permit.
  - 2. 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 resubmission of

the application for the same special use permit on the same property without a substantial material change concerning the property and the application.

- (5) *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, the special use permit shall become void.
  - (6) *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 planning and inspections staff may authorize minor modifications of the approved plans 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.
  - (7) *Noncompliance.* If for any reason any condition imposed pursuant to this chapter is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the planning and inspections staff shall institute proceedings for the case to be reheard by the board of adjustment.
    - a. 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 director of planning shall determine that a permittee has failed to comply with a condition of an approved special use permit, he 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.
    - b. 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 the 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.
  - (8) *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 county's superior court in the same manner as set forth in this chapter for appeal of any board of adjustment decision.
- (Code 1978, § 12.120(d); Code 1995, § 156.148; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.148, 11-26-2007)

**Sec. 42-362. Fees.**

(a) Each applicant for rezoning either a general or conditional use district, appeals from administrative decisions, variances or special use permits shall pay a nonrefundable fee in accordance with fee schedule recommended by the planning board and adopted by the board of aldermen. This fee shall be waived for cases initiated and requested by the board of aldermen. The fees are in accordance with the Cumberland County Joint Planning Board's fee schedule.

(b) Filing fees for text amendments to this chapter shall be \$130.00.

(c) If the general rezoning request is for more than one zoning classification, the fee will be the same as separate rezoning requests.

(Code 1978, § 12.122; Code 1995, § 156.149; Ord. of 1-10-1972; Ord. of 5-14-1990; Ord. No. 2007-5, § 156.149, 11-26-2007)

**Sec. 42-363. Amendments.**

The regulations and the number, area, and boundaries of districts established by this chapter may be amended, supplemented, changed, modified, or repealed by the board of aldermen on its own motion or on a petition after a public notice and hearing as provided by law, but no amendment shall become effective unless it is first submitted to and reported on by the planning board. The planning board upon its own initiative may hold public hearings, public notice of which shall be given, for the consideration of any proposed amendment of the provisions of this chapter, or the zoning map, and report its recommendation to the board of aldermen. Failure of the planning board to make a recommendation within a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation. No application to rezone any property shall be considered more than one time in any 12-month period, provided that this section shall not apply to rezoning proposals originated by the planning board or the board of aldermen.

(Code 1978, § 12.121; Code 1995, § 156.150; Ord. of 1-10-1972)

**Sec. 42-364. Variance.**

(a) The board of adjustment may authorize in specific cases such variances from the terms of this chapter upon request of a property owner or his authorized agent and may require any evidence necessary to make a determination of the case. Before any variance may be granted by the board of adjustment, the board must find that all of the following conditions exist for an individual case:

- (1) 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.
- (2) 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.

- (3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- (4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the result of the actions of the applicant.
- (6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- (7) 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.
- (8) 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 the requested variance.

(b) In granting a variance, the board of adjustment may attach and the record 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 appeal was based and which the board of adjustment finds to exist.

(c) 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 year from the date of such approval.  
(Code 1978, § 12.120(c); Code 1995, § 156.151; Ord. of 1-10-1972)

**Sec. 42-365. Zoning advertisement permits.**

Any individual, person, firm, or corporation seeking a rezoning of his property shall, for the purpose of having said rezoning request advertised, pay to the town a fee of \$5.00 for each and every tract of land sought to be rezoned.

(Code 1978, § 8.42; Code 1995, § 156.152; Ord. of 7-19-1979)

**Sec. 42-366. Planned commercial and industrial districts to conform with development plans.**

(a) In any planned commercial or industrial district, no zoning permit or certificate of occupancy shall be issued by the zoning inspector except in conformance with a plan approved by the board of aldermen. Plans for developments shall be submitted to the building inspector at least 30 days prior to a regularly scheduled meeting. The building inspector shall study the plan to determine its compliance with this chapter and chapter 36, if applicable, and shall negotiate with the developer for required changes in order that the development shall comply with the intent of such ordinances. One copy of the plans shall be forwarded to the county planning department for review. The board may approve alternate yard requirements if such approval will provide a more logically planned development.

(b) Plans submitted for approval shall be in six copies, drawn to scale of not less than one inch equals 100 feet, and shall show all information necessary to properly evaluate the plan including:

- (1) The dimensions and locations of the property, buildings, and existing and proposed streets.
- (2) The parking and general circulation plan, including entrances, exits and pedestrian ways.
- (3) The service area, including off-street loading facilities, service drives, and dimensions thereof, and proposed uses of all buildings.
- (4) The proposed location and material of fences, walls, buffer strips and landscaping.
- (5) The name of the developer, the date, the scale, and the north arrow, and the person or firm preparing the plan.

(c) After such review and negotiation by the building inspector, the board may approve the plan and state the conditions of such approval, if any, or shall disapprove the plan and state its reasons. Where a development plan meets the provisions of chapter 36, approval of the development plan shall constitute preliminary subdivision plat approval for the purposes of chapter 36.

(d) The plan approved by the board of aldermen and on file with the zoning inspector may be amended in the same manner as provided for original plan approval.  
(Code 1978, § 12.120(e); Code 1995, § 156.153; Ord. of 1-10-1972; Ord. of 11-25-1991)

#### **Sec. 42-367. Hearings.**

(a) Any case involving an appeal, variance, or a conditional use permit requires a public hearing to be held by the board of adjustment, and any case involving a change of zoning district classification and other ordinance changes requires a public hearing to be held by the board of aldermen.

(b) The board of adjustment and the board of aldermen shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. At the hearing any person or party may appear in person or by agent or attorney. The board of adjustment and the board of aldermen shall take action on a matter within a reasonable time after the termination of the proceedings.

(c) After a public hearing has been held and approval granted for a conditional use or variance, the board of adjustment may reverse any decision without a public hearing upon finding:

- (1) That the approval was obtained by fraud.
- (2) That the use for which such approval was granted is not being executed.
- (3) That the use for which such approval was granted has ceased to exist or has been suspended for one year or more.

(4) That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval or in violation of any ordinance or statute.

(5) That the use for which such approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

(Code 1978, § 12.120(a); Code 1995, § 156.155; Ord. of 1-10-1972)

#### **Sec. 42-368. Appeals.**

Appeals may be taken to the board of adjustment by any person aggrieved, by any officer, department, board, or bureau of the town or the county's joint planning board affected by any decision of an administrative official charged with the enforcement or interpretation of this chapter thought to be in error. Such appeals shall be filed with the board of adjustment by notice specifying the grounds for appeal. Appeals shall be filed within six months from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the board 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 in conformity with the terms of this chapter, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

(Code 1978, § 12.120(b); Code 1995, § 156.156; Ord. of 1-10-1972)

#### **Sec. 42-369. Conflicting regulations.**

In their interpretation and application, the provisions of this chapter shall be considered 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 community. Where other ordinances or regulations heretofore adopted hereafter impose greater restrictions than those specified in this article, compliance with such other ordinances or regulations is mandatory.

(Code 1978, § 12.123; Code 1995, § 156.157; Ord. of 1-10-1972)

#### **Sec. 42-370. Remedies.**

In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any structure or land use is in violation of this chapter, the town, in addition to other remedies, may institute any appropriate action or proceedings:

(1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.

(2) To restrain, correct, or abate such violation.

(3) To prevent the occupancy of said building, structure or land.

(4) To prevent any illegal act, conduct, business, or use in or about such premises.

(Code 1978, § 12.119(d)(1); Code 1995, § 156.158; Ord. of 1-10-1972)

**Sec. 42-371. Penalty.**

A violation of this chapter shall constitute a misdemeanor, punishable upon conviction thereof, by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days. Each day that the violation continues to exist shall be considered a separate offense.

(Code 1978, § 12.119(d)(2); Code 1995, § 156.999; Ord. of 1-10-1972)

