



**Diane Cox**  
Executive Director

July 5, 2022

**Member  
Governments**

**COUNTIES**

Franklin  
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Vance  
Warren

**MUNICIPALITIES**

Bunn  
Butner  
Creedmoor  
Franklinton  
Henderson  
Kittrell  
Louisburg  
Macon  
Middleburg  
Norlina  
Oxford  
Roxboro  
Stem  
Stovall  
Warrenton  
Youngsville

To: Mr. Robert Davie, Town Administrator  
Town of Warrenton  
113 S. Bragg Street  
P.O. Box 281  
Warrenton, NC 27589-0281

Re: Proposed amendments to the Zoning and Historic Preservation Ordinance  
regarding NCGS 160D.

Dear Robert:

On behalf of Kerr- Tar Regional Council of Governments, I want to thank you, Mayor Gardner and the Town Board for the opportunity to provide the update to your zoning and historic preservation ordinance to comply with current North Carolina General Statutes regarding zoning regulations. I would also like to thank the planning board for their work in reviewing and making recommendations regarding the changes.

In order to assist your board in their review of these proposed changes, I have provided a summary below:

1. Page 12- Changed Statutory Authority to N.C.G.S. § 160D.
2. Page 13- Under jurisdiction, added the statutory requirement regarding 160D as well as statement regarding the non-restriction of Bona- fide farms and ability to agree to apply for zoning of entire parcel if split between two jurisdictions. Pages 14-21 includes various definitions added.
3. Page 23- Permit choice is added noting that a developer can use their choice of current or proposed regulations in the event the project is being designed or permitted during the development and approval of the new regulations regarding 160D.
4. Page 24 and others- There are no longer conditional and special use permits. Going forward they will be processed as special use permits.
5. Page 34- Government buildings and the applicability of the regulations regarding the erection, construction and use of buildings by the State of North Carolina and its political subdivisions.
6. Page 35-36 – Regulations regarding the Official Zoning Map for the Town.
7. Page 41- Added wireless telecommunications to the uses for R-20 zoning district.
8. Page 64-77- Added new Section 151.092 regarding rules for siting wireless telecommunications facilities.

9. Page 78- The zoning administrator or staff member cannot make an administrative decision on a requirement of the zoning ordinance if the outcome has a direct, substantial, and readily identifiable impact on the staff member or if the applicant or other person has a close familial business or other associational relationship. It is noted that the planning board felt that a domestic partner should be included as well regarding possible conflicts of interest and also includes minor modifications that can be made by the Zoning Administrator without going back to the approving board.

10. Page 80- Permit Expiration

Zoning permits- 1 year

Building permits- 6 months

11. Page 82- 151.109 Rights of Appeal

Modified statutory authority

12. Page 84- Requirements regarding public and evidentiary hearing notices

13. Page 90- When voting, all require a simple majority with the exception of a variance which still requires a 4/5 vote of the board.

14. Page 103- Town Board action regarding planning board review and consistency statement with the Town's comprehensive plan. (On going)

15. Page 103- Violation Remedies- added procedures and new amounts regarding civil penalties.

16. Page 108- 109- Site specific vesting plans –allows for phased projects to be vested in the event of changes to the zoning ordinance as the projects are built.

The Historic Preservation Ordinance and Historic District Rules of Procedure were also modified to reflect the correct general statute and are included with the zoning ordinance amendment for your consideration.

Thank you again and I also look forward to working with you on the comprehensive plan.

Sincerely,



Frank Frazier

Kerr-Tar Regional Council of Governments

Enclosures

Cc: Tom Hardy, Planning Board Chair

Michael Kelly, Planning Director, Kerr-Tar Regional Council of Governments

CHAPTER 151: ZONING CODE

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**Appendix: Official Zoning Map**

***General Provisions***

**§151.01 STATUTORY AUTHORITY.**

In pursuance of the authority granted by the N.C.G.S. ~~Ch. § 160DA, Art. 19, Part 3~~, this chapter is ordained by the Town Board or Commissioners.

(Ord. passed 12-16-85)

**§151.02 TITLE.**

This chapter shall be known and may be cited as the Town Zoning Ordinance and may be referred to as the Zoning Code.

(Ord. passed 12-16-85)

**§151.03 PURPOSE.**

(A) For the purpose of promoting health, safety, morals, and general welfare, this chapter is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes.

(B) The zoning regulations in this code are designed to lessen congestion in the streets; 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. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their 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 jurisdiction.

(Ord. passed 12-16-85)

**§151.04 JURISDICTION.**

The area to which this chapter applies is shown on the official zoning map. The regulations presented in this chapter shall apply to all property within the corporate limits of the town, and within the territory beyond such corporate limits as now or hereafter fixed, for a distance of approximately one mile in all directions, as established by an ordinance with N.C.G.S. ~~§160A-360~~§160D-202(d), which are on file in the Office of the County Register of Deeds. This ordinance shall in no way regulate, restrict, or prohibit any Bona-Fide Farm and its related uses pursuant to G.S. §160D-903 - except that any such use of property for non-farm purposes shall be subject to these regulations. For a parcel in two jurisdictions, the owner and the jurisdictions may agree for development regulations from one jurisdiction to apply to the entire parcel. (G.S.160D-203.)

(Ord. passed 12-16-85)

**§151.05 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires different meaning. Words used in the present tense include the future tense. Words used in the singular number include to plural, and words used in the plural include the singular. Words used in the masculine gender include the feminine gender.

**ABUTTING.** The property directly touches another piece of property.

**ACCESSORY BUILDING, STRUCTURE, OR USE.** A building, structure, or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure.

**ALLEY.** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**BED AND BREAKFAST.** The use of a private dwelling unit to offer “bed and breakfast” accommodations to eight or fewer persons per night for a period of less than seven consecutive calendar days. See N.C.G.S. § 130A-247

**BOARD OF ADJUSTMENT.** The Board of Adjustment of the Town of Warrenton, North Carolina, established by this chapter.

**BOARDING HOUSE.** A structure which contains individual rooms which are rented to the general public for periods in excess of 30 days. The property owner or property agent must reside on the same premises. No meals may be prepared and served to said occupants by the property owner or property agent.

**BUILDING.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals or chattels.

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

**Building, Principal.** A building which is conducted the principal use of the lot on which it is located



**Close Familial Relationship.** A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships, including domestic partners

**CONDOMINIUM.** A project meeting the requirements of the N.C.G.S. Ch. 47A. The type of structure and use rather than the condominium form of ownership shall be the determining factor in deciding whether a use is permitted in a district.

**Development-** The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. Excavation, grading, filling, clearing, or alteration of land. The subdivision of land as defined in G.S. § 160D-802. The initiation of substantial change in the use of land or the intensity of the use of land

**DWELLING, MULTI-FAMILY.** A building arranged to be occupied by more than two families, the building having more than two dwelling units, but excluding mobile homes and townhouses.

**DWELLING, SINGLE-FAMILY.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. ~~building arranged to be occupied by one family, the building having only one dwelling unit, but excluding mobile homes and townhouses.~~

**DWELLING, TWO-FAMILY (also referred to as a Duplex).** A building ~~arranged~~ designed for or to be exclusively occupied ~~by~~ two families living independently of each other, The two dwelling units are attached by a wall, but have separate ground-floor entrances. A duplex is distinct from and is not considered a townhome or an apartment /condominium., ~~the building having two dwelling units, but excluding mobile homes and townhouses.~~

**DWELLING UNIT.** A building or portion thereof designed, arranged, and/or used for the living quarters for one of more persons living as a single (1) family, with cooking facilities, excluding units in rooming, boarding, and tourist houses, family or group care homes, or hotels or motels or other buildings designed for transient residence.

**FAMILY.** One of more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding five living together as a single housekeeping unit though not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the state.

**FAMILY CARE HOME.** A facility as defined in N.C.G.S. § 160D-907.68-21.

**FLOOR AREA, GROSS.** The number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basements and unenclosed porches, balconies, and terraces, unless used in



conjunction with the use, such as for outdoor eating, merchandising, storage, assembly, or similar uses, and excluding off-street parking and loading areas.

**HOME OCCUPATION.** An occupation for gain or support customarily conducted on the premises by a person or family residing thereon. **HOME OCCUPATION** shall not be deemed to include a tourist home.

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

**KENNEL.** An establishment for the keeping or breeding of dogs for profit.

**LOT.** A single lot of record, or more than one contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley, and excluding any part of a lot or lots of record which, when served from contiguous land in the same ownership, creates a nonconformity or a lot or parcel which does not meet to dimensional requirements of this chapter. **LOT** includes **PLOT**, **PARCEL**, and **TRACT**.

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

**LOT COVERAGE, MAXIMUM IN PERCENT.** The maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

**LOT DEPTH.** The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of §151.29, the foremost points of the side lot lines shall be measured at the place where the access strip joins the main portion of the lot.

**LOT OF RECORD.** A lot which is part of a subdivision recorded with the Office of the Register of Deeds of Warren County or a lot described be metes and bounds, the description of which has been so recorded.

**LOT WIDTH.** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided however, that width between side lot lines at their foremost points (where they intersect at the right-of-way line, or for lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of §151.29, at the place where the access strip joins the main

portion of the lot) shall not be less than 80% of the required lot width, except in the case of the turning circle of cul-de-sacs where the 80% requirement shall not apply.

**MAP, ZONING MAP OR WARRENTON ZONING MAP.** The Official Zoning Map of Warrenton, North Carolina.

**MOBILE HOME.** Any vehicle or structure which is or was originally constructed, designed to be transported by motor vehicle upon a public highway and designed, equipped, used or intended to be used primarily for human habitation, including any additions, attachments, annexes, foundations and appurtenances thereto. This does not include modular homes which meet conventional home construction standards and are transported on a flatbed truck, nor does it include travel trailers and campers.

**MOBILE HOME PARK.** A lot or part thereof, of any parcel of land of at least five acres which is used or offered as a location for mobile homes used for residential purposes.

**Modular Home.** Pursuant to NCGS § 160D-911, a factory built structure that is designed to be used as dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. § 143-139.1. A detached residential dwelling unit is designed for transportation after off-site fabrication on flatbed trucks or trailers. At the site, a modular home must be placed on a permanent foundation, and heating and cooling systems, plumbing fixtures, and electrical appliances must be installed before being occupied.

**NET ACREAGE, ACRES, LAND AREA, SQUARE FOOTAGE OF LAND AREA.** Land area with streets, right-of-ways, driveways which serve as access to more than two units or uses, and major transmission line easements not included in its measurement.

**PERSON.** Includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

**PLANNED UNIT DEVELOPMENT.** Defined in §151.113(C).

**PLANNING BOARD.** The Planning Board of the Town of Warrenton, North Carolina.

**PRINCIPAL BUILDING USE, OR STRUCTURE.** The main use of a lot or the building or structure in or on which the main use of the lot takes place.

**Public Notice.** Public notice of a hearing means notice of the time and place thereof published in a newspaper of general circulation in the Town of Warrenton in accordance with the requirements of G.S. § 160D-601(a).

**Quasi-judicial Decision.** A decision involving the finding of facts regarding specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial may include but are not limited to decisions involving

variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the ordinance regulation authorizes a decision-making board to approved or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation , but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

**RESTAURANT.** An establishment whose primary purpose us serving meals to patrons.

**RESTAURANT, DRIVE-IN OR TAKE-OUT.** Any restaurant which make provision for curb service, outdoor service, or a drive-in window, or any restaurant more than 10% of whose average daily customers take their food or beverages out of the restaurant.

**RESTAURANT, INDOOR.** Any restaurant except a drive-in or take-out restaurant.

**RIGHT-OF-WAY, STREET.** A strip of land, owned publicly or privately, which affords the principal means of access to abutting property.

**ROOF LINE.** The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

**SHALL.** It is always mandatory and not merely directory.

**SHOPPING CENTER.** Any building or group of buildings on the same site containing more than two retail or wholesale trade establishments.

**SHORT TERM RESIDENTIAL RENTAL.** The rental of a single bedroom in a private, resident-occupied dwelling or guest house on the same property, where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. The owner may rent no more than two bedrooms. The duration of said lodging shall be less than 30 days at a time.

**SIGN.** Any outdoor letter, symbol, number, trademark, or other form of publicity or combination of these as well as the surface on which they are painted of to which they are attached, and any background material, coloring, shapes, or other trim shall be considered a sign, unless entirely enclosed by a fence or wall such that the above items and any structure or lighting attached to or accessory to them cannot be seen off the premises on which they are located. Works of fine art which in no way identify or advertise a product or business shall be excluded from this definition.

- (1) **GROUND SIGN.** A sign erected on a freestanding frame, mast, and/or pole and not attached to any building, fence, or wall.

- (2) **IDENTIFICATION SIGN.** A sign which contains any or all of the following: the name of the occupants, owner, or establishment, the type of establishment, the name of the franchise, the hours of operation, and house number, when located on the site of the establishment.
- (3) **ON-SITE ADVERTISING SIGN.** A sign which contains information about an establishment or the products or services that it offers, other than that contained in an identification sign, when located on the same site as the establishment to which it refers.
- (4) **OFF-SITE ADVERTISING SIGN.** A sign which contains information about an establishment, business, commodity, activity, or service not conducted, sold, or offered upon the premises where such sign is located.
- (5) **PROJECTING SIGN.** A sign which extends beyond and is attached to a building wall and may extend over a public right-of-way.
- (6) **ROOF SIGN.** A sign attached to and extending upward from a roof of a structure.
- (7) **WALL SIGN.** A sign which is attached flat to the wall or façade of a building, or to a fence or wall.

**SIGN, AREA.** The area of the smallest regular polygon composed of eight lines or less, circle, half-circle, ellipse, or combination thereof, which will encompass the entire sign, excluding the base or apron, supports, or other structural members unless some part of the message appears on them, in which case they shall be included. Where symbols, letter, or numbers are attached separately to a structure, including a sign structure or to separate surfaces, the area between the separate items or letters, whether open or solid, shall be computed as part of the sign area. The total sign area for a double-faced sign shall be measured on the largest face of the sign. Where three-dimensional figures are used as signs, the largest dimensions of such figure shall be projected on a vertical plane and measured in the standard manner.

**SIGN HEIGHT.** The vertical distance measured from the adjacent street grade or from the ground on which it rests, whichever allows the sign the greatest height, to the top of the sign.

**Special Use.** A use that would not be generally appropriate without restriction throughout the zoning district, but which if controlled as to number, area, location, or relation to the neighborhood, would promote the health, safety, morals, general welfare, order, comfort, convenience, appearance, or prosperity. Such uses may be permitted in such zoning district as special provisions for such is made in this zoning ordinance.

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include



buildings, mobile homes, fences, signs, and swimming pools. STRUCTURE includes BUILDING.

**Telecommunication Structure.** A structure used in the provision of services described in the definition of a wireless telecommunication structure.

**Telecommunication Tower and telecommunications Site and Wireless Telecommunication Structure.** A structure, facility or location designed or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit , towers of all types and structures that employ camouflage technology, including but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such , including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging ,911, personal telecommunications services, commercial satellite services, microwave services and services not listed by the FCC but not expressly exempt from the Towns' building and permitting authority, excluding for private, non-commercial radio and television reception and private citizens' bands , amateur radio and other similar non-commercial telecommunications where the height of the facility is below thirty-five (35) feet in height.

**Telecommunications.** The transmission and/or reception of audio, video, data, and other information by wire, radio frequency , light, and other electronic or electromagnetic systems.

**TOWN BOARD, GOVERNING BODY, AND WARRENTON BOARD OF COMMISSIONERS.** The Board of Commissioners of the Town of Warrenton, North Carolina.

**TOWNHOUSE.** A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

**USED.** As applied to any land or building, *USED* shall be construed to include the words *INTENDED, ARRANGED, OR DESIGNED TO BE USED*

**Variance.** A modification of the existing ordinance by the Town of Warrenton Planning and Zoning board when strict enforcement of this ordinance would cause undue hardship, owing to circumstances unique to the individual property on which the variance is granted.

**Vested Right.** The right to undertake and complete the development and use of property under the terms and conditions of n approved site specific vesting plan (formerly called a" site specific development plan" or an approved phase development plan.

~~**USED.** As applied to any land or building, **USED** shall be construed to include the words **INTENDED, ARRANGED, OR DESIGNED TO BE USED.**~~

~~**VARIANCE.** A relaxation of the terms of this chapter under the specific conditions set forth in §151.110(D)(2).~~

**YARD.** An open space on the same lot with a principal structure or use unobstructed and unoccupied by any structure or portion thereof or parking or loading area, except as provided in this chapter.

**YARD, FRONT.** A yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without such rounding. The foremost points of the side lot lines in the case of lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of §151.29 shall be measured at the place where the access strip joins the main portion of the lot. However, nothing may be placed in the access strip that is not permitted by the chapter to be placed in a front yard. Front and rear yard lines shall be parallel.

**YARD, REAR.** A yard extending the full width of the lot and situated between the rear line of the lot and the principal structure or use projected to the side lines of the lot.

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

**ZONING ADMINISTRATOR.** The official charged with the enforcement of the chapter.

(Ord. passed 12-16-85)

## **§151.06 MINIMUM REQUIREMENTS.**

In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of unlawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this chapter, the most restrictive, or that imposing the highest standards, shall govern.

(Ord. passed 12-16-85)

**§151.07 SEVERABILITY.**

This chapter and the various parts, sections, subsections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid as applied to a particular property, buildings, or structures shall not be affected hereby. Whenever any condition or limitation is included in an order authorizing a zoning permit, special use permit, conditional use permit, variance, certificate of zoning compliance, certificate of occupancy, or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was unlawful.

(Ord. passed 12-16-85)



**§151.08 REPEAL OF CONFLICTING ORDINANCES.**

All ordinances or parts of ordinances of the town which are in conflict or inconsistent with this chapter are repealed and superseded to the extent necessary to give this chapter full force and effect.

(Ord. passed 12-16-85)

**§151.09 STATUTE OF LIMITATIONS.**

In accordance with N.C.G.S. §160D-1405A-364.1, a cause of action as to the validity of this chapter, or amendment thereto, shall accrue upon the adoption of this chapter or amendment thereto, and shall be brought within two months as provided in N.C.G.S. §1-54.1.

(N.C.G.S. §160A-364.1) (Ord. passed 12-16-85)

**§151.10 PERMIT CHOICE**

If an application made in accordance with local regulation is submitted for development approval required pursuant to this ordinance and a development changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application . If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application , the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all developments issued by the state and local governments.

***General Regulations***

**§151.020 APPLICATIONS OF REGULATIONS.**

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

(A) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, or structurally altered except in compliance with the regulations of this chapter for the district in which it is located;

(B) No structure shall hereafter be erected or altered so as to exceed the height limit or density regulations of this chapter for the district in which it is located;

(C) No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase of condemnation of narrow strips of land for public utilities or street right-of-way purposes;

(D) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another structure or use;

(E) In any district, no more than one principal building or use may be erected on a single lot of record, except as specifically permitted in other sections of this chapter.

(Ord. passed 12-16-85)

#### **§151.021 INTERPRETATION OF REGULATIONS.**

The regulations in this chapter shall be enforced and interpreted according to the following rules:

(A) Uses not designated in the district regulations as permitted, ~~conditional~~, or special uses shall be prohibited. ~~Conditional~~ and Special uses are permitted according to the additional regulations imposed. These ~~conditional and~~ special uses can be approved only by the Board of Adjustment or Board of Commissioners as specified in this chapter. Additional uses may be added to the chapter by amendment;

(B) Regulations set forth by this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern;

(C) Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative.

(Ord. passed 12-16-85)

#### **§151.022 EXCEPTIONS AND MODIFICATIONS.**

(A) The minimum front yard requirements of this chapter for dwellings shall not apply on any lot where the average front yard of existing dwellings located wholly or in part within 100 feet on each side of such lot within the same block and zoning district and fronting on the same

side of the street is less than the minimum required front yard. In such cases, the front yard on such lot may be less than the adjacent dwelling with the greatest front yard depth or the average front yard of existing dwellings located wholly or in part within 100 feet on each side, whichever is greater.

(B) In any residential district for corner lots, the side yard requirements along the side street shall be increased by ten feet.

(C) The Board of Adjustment shall review, as a **conditional** special use, structures such as church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, aerials, and similar structures, which exceed the height limitations of this chapter.

(D) Uncovered stairs, landings, terraces, porches, balconies, and fire escapes may project into any yard, but may not be closer than ten feet to any lot line.

(E) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard, but such projection shall not exceed three feet and may not be closer than ten feet to any lot line.

(F) The requirements of this chapter do not apply to roads, water, sewer, gas electric, telephone, and similar utility lines except as specifically mentioned in this chapter.

(G) Lot width on lots which front on the turn-around circle of a cul-de-sac may be measured at the line formed by connecting the midpoint of the side lot line of the shorter side with a point on the longer side lot line which is the same distance from the front lot line as the midpoint of the shorter side, or if both side lot lines are the same length, at the line connecting the midpoints of the side lot lines. All yard requirements must be met on such lots. If a lot has more than two sides, the side lot lines to be used are the two which connect with the front lot line.

(Ord. passed 12-16-85)

### **§151.023 VISIBILITY AT INTERSECTIONS.**

On a corner lot, nothing shall be left erected, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.

(Ord. passed 12-16-85)

**§151.024 REGULATIONS CONCERNING HOME OCCUPATIONS.**

Home occupations are permitted in all districts only as an incidental use and shall comply with the following regulations:

- (A) No person other than a resident of the dwelling shall be engaged in such occupation.
- (B) No more than three customers, clients, or patrons shall come to the dwelling at any one time nor more than ten in any one day.
- (C) No more than two vehicles may be used in the conduct of the home occupation. Any such vehicle shall be parked off the street. The parking of any such vehicles on the property, other than an auto mobile, shall be in an enclosed building as described in §151.24(D) below, or shall be a conditional use subject to approval by the Board of Adjustment.
- (D) No more than 25% of the total actual floor area of the dwelling or 500 square feet, whichever is less, shall be used in the conduct of the home occupation. In addition, one accessory building not exceeding 1,000 square feet, shall be a conditional use in connection with the home occupation, to house commercial vehicles and/or for storage of materials used in connection with the home occupation. The accessory building may not be used for manufacturing, processing, instruction, sales, service, or other work in connection with the home occupation. All lot coverage, dimensional, and other requirements of this chapter must be met by such accessory building. Such accessory building must resemble a residential garage. A sketch of the proposed building and list of the materials to be used on the outside must be submitted with the application for a conditional use permit.
- (E) Notwithstanding the provisions of §151.024(D), a home greenhouse shall be permitted provided that such greenhouse meets the requirements of §151.025 and that any sales in connection with such greenhouse meet the requirements of this section.
- (F) No outdoor sales or storage shall be permitted in connection with the home occupation.
- (G) The exterior appearance of the dwelling shall not be altered in such a manner nor shall the occupation in the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.
- (H) The use shall not emit smoke beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio and television reception or other nuisance and shall not be volatile or present a fire hazard, nor may the occupation discharge into any waterway, stream, lake, or into the ground or a septic tank any waste which will be dangerous or a nuisance to persons or animals, or which will damage plants or crops.

(I) No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is conducted.

(J) There shall be no more than two deliveries per day to the premises of materials to be used in conjunction with the home occupation and these shall take place between the hours of 7:00 a.m. and 9:00 p.m.

(K) No customers, clients, patrons, or employees other than the residents' household may be on the premises in connection with the home occupation before 7:00 a.m. or after 9:00 p.m.

(L) The following are strictly prohibited as home occupation: car washes, commercial automotive repair garages, slaughterhouses, paint, petroleum and chemical plants, any occupation which involves the storage of liquid petroleum, gasoline, kerosene, or other flammable liquids, funeral homes and mortuaries, massage parlors, sale of reading or viewing material of a pornographic nature, movie theaters, animal hospitals and kennels, bottled gas sales.

(M) Any home occupation not complying with these regulations shall be a special use.

(Ord. passed 12-16-85)

#### **§151.025      ACCESSORY USES.**

Accessory uses are permitted in any zoning district in accordance with the following regulations:

(A) An accessory building, structure, or use is a building, structure, or use on the same lot or site with, of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure;

(B) Accessory uses to single and two-family dwellings, and multi-family dwellings may not include commercial uses, except as permitted as home occupations in §151.024 or for multi-family dwellings, as allowed by the Board of Adjustment in accordance with the provisions of §151.113;

(C) Residences for watchmen and caretakers are permitted accessory uses to research and industrial uses;

(D) No accessory building shall exceed 35 feet in height, nor shall any accessory building exceed the principal building in height;

(E) An accessory building sharing one or more common walls with the principal building shall be considered part of the principal building for purposes of this chapter and must meet all yard requirements applied to the principal building;

(F) No detached accessory building shall be located closer than ten feet to any other building or mobile home;

(G) No accessory building or recreational structure or use may extend in front of the rear line of a single or two-family dwelling or mobile home.

(H) No accessory building or recreational structure or use may extend within three feet of a lot line, nor within 20 feet of a street right of way lane;

(I) Recreational uses and buildings accessory to apartment complexes shall be in accordance with §151.113;

(J) Fences and walls are permitted as accessory uses provided that they comply with the following:

- (1) No fence more than four feet in height, nor retaining wall more than five feet in height which is more than 75% solid may be placed in any front yard, including along the side lot line to the front of any principal building, unless approved by the Board of Commissioners, as a buffer in accordance with §151.026(F);
- (2) Rear and side fences greater than seven feet in height shall be of an open type similar to woven wire or wrought iron fencing except where a buffer with different specifications is required elsewhere in this chapter;
- (3) Fences may not exceed seven feet in height, except in commercial and industrial districts where such fences may be no more than ten feet in height;
- (4) Fences need not comply with the set back requirements of this chapter;
- (5) No fence or wall shall impede vision as regulated in §151.023;

(Ord. Amended 10-14-2014)

#### **§151.026 BUFFER STRIPS.**

Whenever a buffer strip is required by this chapter, such strip shall meet the specifications of this section, unless different specifications are given in the section where the buffer strip is required.

(A) A buffer strip shall consist of a planted strip which shall be a minimum of 16 feet in width, shall be composed of evergreen bushes, shrubs, and/or trees such that at least two rows of



coverage are provided from the ground to a height of six feet within six years and foliage overlaps. The 16 feet required for the buffer strip shall be in addition to all normal yard requirements of this chapter.

(B) Buffer strips shall be required in the following situations, as well as in any others specified in other sections of this chapter: whenever a manufacturing, processing, retail, wholesale trade, or warehousing use or public utility installation is established, a buffer strip shall be provided wherever the lot on which the use is established abuts or is across an easement or right-of-way from land zoned R-20, R-12, and R-8.

(C) All buffer strips shall become part of the lot on which they are located, or in the case of commonly-owned land, shall belong to the homeowners or property-owners association.

(D) The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner, or, if the property is rented, the lease

(E) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Zoning Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Zoning Administrator shall be obtained before removing an existing natural buffer in the location of the required buffer strip.

(F) Where, because of intense shade, or soil conditions, a planting screen cannot be expected to thrive, the Zoning Administrator may, in writing, allow substitution or a well-maintained wooden fence or masonry wall at least six feet in height.

(G) Where it is clear that a smaller buffer will protect neighboring property from harmful effects, the Board of Adjustment or Town Board of Commissioners, for special uses, may reduce the buffer to eight feet and one row of trees.

(H) For special and conditional uses, the Board may require a maintenance bond for the buffers, as a condition of approval.

(Ord. passed 12-16-85)

#### **§151.027 NONCONFORMING USES, STRUCTURES AND LOTS.**

A lawful pre-existing use, structure, or lot which does not meet the requirements of the current zoning code is called a nonconformity. Special provisions apply to nonconformities and these are listed in divisions (A) through (E) of this section. In lieu of the provisions in this section, nonconforming signs shall comply with the requirements in §§151.075 through 151.080 of this chapter.

(A) *Existing substandard structures.*



- (1) The conforming use of a structure as explained in §151.027(D), existing at the time of the adoption of this chapter, may be continued although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this chapter. Such structures are called substandard structures.
- (2) Substandard structures with conforming uses may be added to or enlarged provided that the enlargements comply with the yard, height, parking, loading, access, and all other applicable requirements of this section for the district in which such a structure is located.
- (3) Substandard structures which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and shall comply with the yard, height, parking, loading, access, and all other applicable provisions of this chapter for the district in which such structure is located unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard lots of record shall apply.
- (4) A substandard structure may not be moved off the lot or lots on which it is located unless when relocated it complies with the regulations for the district in which it is located.

(B) *Existing nonconforming uses.* The lawful nonconforming use of a structure, land, or water existing at the time of the adoption of this chapter may be continued except that:

- (1) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming;
- (2) Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located;
- (3) If such nonconforming use is damaged by fire, explosion, flood, or other calamity to the extent of more than 75% of its current equalized value, it shall not be restored except so as to comply with the use provisions of this chapter;
- (4) If such nonconforming use is discontinued or terminated for a period of more than 365 days, any future use of the structure, land, or water supply shall comply with the provisions of this chapter;

- (5) In addition, lots used for outdoor storage, salvage yards, used and abandoned vehicle storage, repair and sales lots, auto wrecking yards and junk yards, where the only buildings on the lot are incidental and accessory in the open use of the lot and where such use was established legally but is not permitted to be established as permitted, special, or conditional use, hereafter in the district in which it is located shall be terminated and all sorted material and other inventory removed from the site by the owners or occupants by December 31, 1998. The Zoning Administration shall, within 90 days of the effective date of this chapter, send notice of this requirement to the owner or occupants by first class mail;
- (6) A nonconforming use may not be moved off the lot or lots on which is it located unless when relocated it complies with the regulations for the district in which it is relocated;
- (7) The Board of Adjustment may permit as a special use a change in nonconforming use provided that the requirements of divisions (B)(1) through (B)(6) above of this section are met and the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter;
- (8) Once a nonconforming use has been changed or altered so as to comply with the provisions of this chapter, it shall not revert back to a nonconforming use. Once the Board of Adjustments has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district in which it is located, it shall not subsequently be changed to be less in character.

(C) Existing vacant substandard lots.

- (1) Where the owner of a lot at the time of adoption of this chapter or his successor in title thereto does not own sufficient land to enable him to conform to the lot area or lot width requirements of this chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter, and further provided that the County Health Department approves the reduction in on-site water or wastewater facilities are involved. In cases where the lot area and lot width are more than 20% below the minimum specified in this ordinance or other requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions if the county health department submits a letter of approval if on-site water or wastewater facilities are involved. If the pre-existing substandard lot is not in a district where

single-family residences are permitted, the Board of Adjustments may issue a variance to allow some reasonable use.

- (2) If two or more adjoining and vacant lots are in one ownership when this chapter is adopted, or at any time after the adoption of this chapter, and such lots individually do not meet the minimum dimensional requirements of this chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located, and therefore, the provisions of §151.027©(1) do not apply.

(D) Conforming uses and structures.

- (1) Any use or structure existing prior to the effective date of this chapter which conforms to the regulations of this chapter for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any changes shall comply with the provisions of this chapter.
- (2) Any structure or use existing prior to the effective date of this chapter which would be permitted by this chapter as a special ~~or conditional~~ use in the district in which it is located, may be continued as if a special or conditional ~~or conditional~~ use permit had been applied for and issued, provided that any changes shall comply with the provisions of this chapter.

(E) *Effect of amendments.* If subsequent amendments to this chapter or the official zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this section unless otherwise stated in the amendment.

(Ord. passed 12-16-85)

**§151.028 COMPLEXES.**

Office centers, institutional and industrial, and similar complexes may have more than one principal building on a single lot provided that the following requirements are met:

- (A) Uses in complexes shall be limited to those permitted within the zoning district in which the project is located;
- (B) The overall intensity of land use shall be no higher, and the standard of open space no lower, than that permitted in the district in which the project is located;

(C) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located or 50 feet, whichever is greater;

(D) The building heights shall not exceed the height limits permitted in the district in which the project is located;

(E) The buildings shall be located so as to provide access for emergency vehicles.

(Ord. passed 12-16-85)

**§151.029 REQUIREMENTS FOR STREET ABUTMENT.**

No principal building, structure, or use may be erected or established on any lot which does not abut at least 20 feet on one of the following:

(A) A public street dedicated to and maintained by the town or the North Carolina Department of Transportation;

(B) A street constructed to the standards of the town or the North Carolina Department of Transportation, with a written agreement concerning maintenance of the street.

(Ord. passed 12-16-85)

**§151.030 STORAGE OF JUNK ON VACANT LOTS.**

Vacant lots shall not be used for the storage of used or abandoned vehicles or other outdoor storage unless specifically permitted in §151.045.

(Ord. passed 12-16-85)

**§151.031 STREAM BUFFER AREAS REQUIRED.**

(A) A minimum of fifty (50) foot vegetative buffer for development activities shall be required along all perennial waters indicated on the most recent versions of U.S.N.C.G.S. 1:24,000 (7.4 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambanks or shoreline stabilization is permitted. The buffer is an area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer shall be measured landward from the normal pool elevation of

impounded structures and from the bank of each side of streams of rivers. Within the 50' riparian area, the first 30' is to remain undisturbed, whereas the outer 20' must be vegetated only. Accessory structures shall not be allowed in the riparian buffer area.

(B) No new development shall be allowed in the buffer except for water dependent structures. Other structures such as flagpoles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossing and green ways where no practical alternative exists which shall be permitted. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

(C) Best Management Practices are structural or nonstructural management-based practices use singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals. A water dependent structure is any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

(D) Development, for the purposed of the section, is and land disturbing activity which adds to or changes the amount of impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

(Ord. passed 9-19-99)

**§151.032 Government Buildings.**

**All of the provisions of this ordinance are hereby made applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions, as established in G.S §160D-913.**

***District Regulations***

**§151.040 OFFICIAL ZONING MAP.**

(A) The boundaries of the districts are hereby established as shown upon the map accompanying this chapter and made a part hereof, entitled "Official Zoning Map, Town of Warrenton, North Carolina". The zoning map and all the notations, references, and all amendments thereto, and other information shown thereon is hereby made a part of this chapter and the same as if such information set forth on the map were all fully described and set out



herein. The zoning map properly attested is on file in the Office of the Zoning Administrator and Clerk to the Board and is available for inspection by the public.

The map shall be identified by the signature of the Mayor, attested by the Town clerk, and bearing the official seal of the town of Warrenton under the following words: "This is to certify that this is the official zoning map for the Town of Warrenton, North Carolina." The date of adoption shall also be shown.

If, in accordance with the provisions of this ordinance, changes are made in the zoning district boundaries or other matter shown on the map, such changes shall be made together with an entry on the map as follows: "On (date) by official action of the Town Board the following changes were made in the official zoning map: (brief description of nature of change)". The entry shall be signed by the Mayor and attested by the Town Clerk. The maps may be in paper or a digital format as approved by the Town of Warrenton.

(B) In the creation, by this chapter, of the respective districts, the Board of Commissioners has given due and careful consideration to the peculiar suitability of each and every such district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well-considered plan for the development of the town and its extraterritorial area.

(Ord. passed 12-18-65)

#### **§151.041 UNCERTAINTY AS TO BOUNDARIES.**

(A) The boundaries of such districts as are shown upon the map adopted by this chapter are hereby adopted and the provisions of this chapter governing the use of land and buildings, the height of buildings, the sizes of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon said map.

(B) If uncertainty exists as to the boundaries of the use districts shown on the official zoning map which is not resolved by the ordinance establishing and amending such boundaries, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

- (3) Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries;
- (4) Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main tracks or tracks;
- (5) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines;
- (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline;
- (7) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices;
- (8) Boundaries indicated as parallel to or extensions of natural or man-made features indicated in divisions (B)(1) above of this sections shall be so construed;
- (9) Distances not specifically indicated shall be determined by the scale of the official zoning map.

(C) Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in §§151.109 and 151.110 of this chapter.

(Ord. passed 12-16-85)

#### **§151.042 AMENDMENTS TO ZONING MAP.**

Amendments to the official zoning map shall be adopted by ordinance as provided in §151.114. Promptly after the adoption of an amendment, the Zoning Administrator shall alter or cause to be altered, the official zoning map to indicate the amendment. The Town Clerk shall enter in writing upon the face of the map a certification indicating the alteration and citing the date of adoption and the effective date of the amendment, as well as the book and page of record of the ordinance amending the map.

The fees as stated in the schedule of fees shall apply to all rezoning requests in the Town of Warrenton zoning jurisdiction. Fees shall be paid to the Town of Warrenton, North Carolina, for each application for rezoning to cover the costs of advertising and updating the Official Zoning Map of the town of Warrenton.



(Ord. passed 12-16-85)

**§151.043 TRUE COPY TO BE MAINTAINED; REPLACEMENT AND PRESERVATION.**

(A) *True copy to be maintained.* The Chairman of the Planning Board shall also maintain a true copy of the official zoning map which shall include thereon all matters shown on the official zoning map. The true copy shall have no legal affect as provided in §151.043(B).

(B) *Replacement and preservation of official zoning map and true copy thereof.*

- (1) If the official zoning map is damaged, lost, or destroyed in whole or in part, the governing body may by resolution adopt the true copy in whole or in part as the official zoning map, and the Zoning Administrator and Town Clerk shall promptly prepare or cause to be prepared a new true copy of the official zoning map. From time to time, the governing body may by resolution adopt a new official zoning map of the prior map becomes difficult to interpret due to the number of amendments or other matters shown thereon, or if the governing body desires to replace the map for other reasons, provided that the new map is an exact copy of the prior map. The new map shall bear the signatures of the current Mayor and Town Clerk and shall bear the seal of the town under the following words: This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map replaced )." The date of adoption of the new official zoning map shall be shown also.
- (2) The Zoning Administrator shall preserve any and all remaining parts of all prior official zoning maps and true copies thereof together with all available records pertaining to their adoption, amendment, or repeal.

(Ord. passed 12-16-85)

**§151.044 ESTABLISHMENT AND PURPOSES OF DISTRICTS.**

For the purpose of this chapter, the zoning jurisdiction of the town is hereby divided into the following districts:

(A) R-20 – Residential Agricultural District. The purpose of this district is to provide areas for a compatible mixture of residential development and agriculture in areas outside the corporate limits of the town;

(B) R-12 – Residential Single-Family District. The purpose of this district is to provide for existing residential single-family homes and the establishment of new single family homes;

(C) R-8 – Single- and Multi-Family Residential District. The purpose of this district is to provide for a compatible mixture of single-family dwellings, and multi-family buildings and complexes and mobile homes;

(D) O&I – Office and Institutional District. The purpose of this district is to provide areas for office and institutional use, and to establish a buffer between residential areas and commercial and industrial areas;

(E) C-1 – Downtown Business District. The purpose of this district is to provide areas for those retail trade and service purposes which are properly located in a downtown area;

(F) C-2 – Highway Business District. The purpose of this district is to provide areas for commercial and service uses which require larger sites than are available in the downtown areas, or which serve the needs of the traveling public;

(G) I – Industrial District. The purpose of this district is to provide locations for manufacturing, wholesaling, and warehousing, uses which can be conducted without producing harmful effects on the citizens of the area.

(Ord. passed 12-16-85)

**§151.045 REGULATIONS FOR RESIDENTIAL, AGRICULTURAL, RESIDENTIAL-SUBDIVISION, SINGLE- AND MULTI-FAMILY RESIDENTIAL DISTRICTS.**

(A) Uses allowed in the districts named in this chapter shall be in accordance with the following table in which “X” signifies that the use is permitted as of right, “C” indicates that the use is a conditional use which requires approval of the Board of Adjustment, “S” indicates that the use is a special use which requires the approval of the Board of Commissioners, and a blank indicates that the use is not permitted in that zoning district.

<i>Residential Districts</i>	<i>Districts</i>		
<i>Use</i>	<i>R-20</i>	<i>R-12</i>	<i>R-8</i>
Single-family dwellings on individual lots	X	X	X
Two-family dwellings	X	X	X
Three or four-family dwellings in one building	S		X
Multi-family dwellings and complexes	S		S

Townhouses in one building	<i>S</i>		<i>S</i>
Mobile homes on individual lots	<del><i>CS</i></del>		<i>X</i>
<b><i>Residential Districts</i></b>	<b><i>Districts</i></b>		
<b><i>Use</i></b>	<b><i>R-20</i></b>	<b><i>R-12</i></b>	<b><i>R-8</i></b>
Mobile home parks	<i>S</i>		
Day nurseries	<i>X</i>	<i>X</i>	<i>X</i>
Kindergartens	<i>X</i>	<i>X</i>	<i>X</i>
Public educational institutions and private schools having a curriculum the same as ordinarily given in public schools	<i>X</i>	<i>X</i>	<i>X</i>
Public buildings; uses and utilities	<i>S</i>	<i>S</i>	<i>S</i>
Solar collection installations or "solar farms"	<i>S</i>	<i>S</i>	<i>S</i>
Hospitals, clinics, except animal hospitals, nursing homes, rest homes	<i>X</i>	<del><i>CS</i></del>	<i>X</i>
Family care homes as defined in N.C.G.S. §160D-9078-21 for handicapped persons <del>as defined in N.C.G.S. §168, Article 3</del> provided that no such home may be located within a one-half mile radius of an existing family care home	<i>X</i>	<i>X</i>	<i>X</i>
Any agricultural or horticultural use except commercial nurseries, commercial chicken house, yard or hatchery, dairy, livestock pen or yard, horse or mule stable, pigpen or hog pen, or any other use of land for keeping and raising animals or fowls for commercial purposes. Non-commercial buildings or structures used for the keeping of livestock, fowls, or other non-commercial use permitted shall be located in the rear yard and shall not be located closer than 50 feet from any property line	<i>X</i>		
Churches, temples, synagogues	<i>X</i>	<i>X</i>	<i>X</i>
Libraries	<i>X</i>	<i>X</i>	<i>X</i>
Museums	<i>X</i>	<i>X</i>	<i>X</i>
Cemeteries	<i>X</i>	<i>X</i>	<i>X</i>

Radio and TV stations and transmission <u>telecommunication</u> towers	<del>C</del> <u>S</u>		
Parks	X	X	X
<b><i>Residential Districts</i></b>	<b><i>Districts</i></b>		
<b><i>Use</i></b>	<b><i>R-20</i></b>	<b><i>R-12</i></b>	<b><i>R-8</i></b>
Golf courses, excluding carpet or miniature	X		
Playgrounds	X	X	X
Community centers	X	<del>C</del> <u>S</u>	<del>C</del> <u>S</u>
Private clubs	<del>C</del> <u>S</u>	<del>C</del> <u>S</u>	<del>C</del> <u>S</u>
Fraternal organizations not open to the public	<del>C</del> <u>S</u>	<del>C</del> <u>S</u>	<del>C</del> <u>S</u>
Farming, including sale of product on property where produced	X		
Commercial plant nurseries and greenhouses	X		
Riding stables	X		
Planned unit development	S	S	S
Temporary uses such as circuses, carnivals, fairs	S	S	S
Other temporary uses	S	S	S
Motels, hotels, and restaurants	X		
Funeral homes		X	
Bed and Breakfasts. A Special Use Permit for Bed and Breakfast will include the authority to serve meals, other than breakfast, to registered guests and for catering of private functions such as business meetings and receptions. This use would exclude a restaurant open to the public or the erection of an exterior sign identifying the establishment as a restaurant.	S	S	S
Short Term Rental	S	S	S

(Ord. passed 12-16-85, Amended 3-3-2008, Amended 4-10-2017)



(B) Minimum dimensional requirements shall be:

<i>Minimum lot area in square feet</i> <sup>1,2</sup>	<i>R-20</i>	<i>R-12</i>	<i>R-8</i>
Single-family dwelling	20,000	12,000	8,000
Mobile homes on individual lots	20,000		8,000
Two-family dwelling or two townhouse units	20,000	12,000	12,000
Multi-family dwelling	20,000 for first three units plus 5,000 for each additional unit		20,000 for first three units plus 5,000 for each additional unit
Other proposed building or use	20,000	20,000	15,000
<i>Minimum required yard in feet</i>	<i>R-20</i>	<i>R-12</i>	<i>R-8</i>
Single-family dwelling	100	100	80
Two-family dwelling	100	100	100
Multi-family dwelling	100	100	100
Townhouse	100	100	100
Other principal building or use	100	100	100
Minimum lot depth in feet	150	120	100
<i>Minimum required yard in feet</i>	<i>R-20</i>	<i>R-12</i>	<i>R-8</i>
Front	30	30	30
Side (each side)	10	10	10
Corner lot	20	15	15
Rear	25	25	25

Maximum height in feet	35	35	35
Maximum lot coverage in percent	40	40	40
<sup>1</sup> Where there is no public water and/or sewer, lots must meet requirements of the County Health Department as well as the requirements of this chapter.			
<sup>2</sup> Stream buffers are required in accordance with §151.031 of this chapter.			

(Ord. passed 12-16-85; Am. Ord. passed, 9-13-99; Am. Ord. passed 11-8-99)

#### §151.046 REGULATIONS FOR COMMERCIAL AND INDUSTRIAL DISTRICTS.

(A) *Table of permitted uses.* Uses allowed in the districts named in this section shall be in accordance with the following table in which “X” signifies that the use is permitted as of right, “C” indicates that the use is a conditional use which requires approval of the Board of Adjustment, “S” indicates that the use is a special use which requires approval of the Board of Commissioners, and a blank indicates that the use is not permitted in that zoning district.

<b>TABLE OF PERMITTED USES</b>				
<b>Commercial and Industrial Districts</b>				
<b>Use</b>	<b>Districts</b>			
	<b>C-1</b>	<b>C-2</b>	<b>O&amp;I</b>	<b>I</b>
Any retail or wholesale business or service establishment, or public use or utility which is enclosed in a building and does not emit smoke, odor, dust, fumes, glare, noise, or vibration from the building in which it is located and does not involve bulk storage of volatile materials or other fire hazards, except commercial amusements	X	X		
Offices – business, professional, and public	X	X	X	
Financial institutions	X	X	X	
Assembly halls	X	X	X	
Restaurants	X	X		X
Shopping centers	X	X		



Hotels and motels	X	X		
Automobile service stations	X	X		
Car washes		X		
Amusement parks		S		
Commercial amusement buildings	S	S		
Family care homes (see residential districts)			X	
<b><i>Commercial and Industrial Districts</i></b>	<b><i>Districts</i></b>			
<b><i>Use</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>O&amp;I</i></b>	<b><i>I</i></b>
Churches		X	X	
Schools			X	
Retirement homes	X		X	
Funeral homes	X	X	X	
Single family dwellings in one building	S	S		
Two, three, and four-family dwellings in one building	S	S	X	
Pool halls or billiard parlors		CS		
Grocery and convenience stores	X	X		CS
Junk yards or salvage operations				CS
Multi-family dwellings and complexes	S		S	
Retail or wholesale businesses or service establishments, wholesaling and warehouse storage or public uses or utilities other than those specifically listed which have outdoor sales, service, or storage areas	CS	X		
Retail or wholesale businesses or service establishments, wholesaling and warehouse storage or public uses or utilities other than those specifically listed which would emit smoke, odor, dust, fumes, or noise from the building in which they are located or involve possible fire hazards	CS	CS		

Any manufacturing, processing, or warehousing use or public use or utility which is enclosed in a building and does not emit smoke, odor, dust, fumes, glare, noise or vibration from the building in which it is located, except acid manufacture, cement, lime, gypsum or plaster of paris manufacture, distillation of bones, explosives, manufacture or storage, fat rendering, fish and/or fertilizer plant, garbage, offal or dead animal reduction or dumping, gas manufacture, glue manufacture, stockyards or slaughter of animals, tannery, or pulp manufacture				X
<i>Commercial and Industrial Districts</i>	<i>Districts</i>			
<i>Use</i>	<i>C-1</i>	<i>C-2</i>	<i>O&amp;I</i>	<i>I</i>
Public buildings, uses and utilities	S		S	
Solar collection installations or "solar farms"	S	S	S	S
Cafeterias and snack bars for plant employees and offices of plants shall be considered an accessory use.				
No mobile home shall be used as an office in the C-2 Highway district.				
Bed and Breakfasts. A Special Use Permit issued for Bed and Breakfast will include the authority to serve meals, other than breakfast, to registered guests and for catering of private functions such as business meetings and receptions. This use would exclude a restaurant open to the public or the erection of an exterior sign identifying the establishment as a restaurant.	S	S	S	S

(B) *Dimensional requirements.*

<b>DIMENSIONAL REQUIREMENTS</b>				
	<i>C-1</i>	<i>C-2</i>	<i>O&amp;I</i>	<i>I</i>
Minimum lot area in square feet	20,000 for site – more than one use can be grouped on a site or in a building for C-2 and O&I only.			20,000

Minimum lot width in feet		100	100	100
Minimum lot depth in feet		150	150	150
*Minimum required yards in feet				
Front		30	30	50
Side		10	10	20
Rear		25	25	25
Maximum lot coverage in percent		40	40	40
Maximum permitted height in feet	50	50	50	50
<sup>1</sup> Stream buffers are required in accordance with §151.031 of this chapter.				

(Ord. passed 12-16-85; Am. Ord. passed 9-13-99; Am. Ord. passed 11-8-99; Am. Ord. passed 3-14-2011; Am. Ord. passed 9-8-2014)

#### **§151.060 OFF-STREET PARKING REQUIREMENTS.**

(A) There shall be provided at the time of the erection of any building or the establishment of any use or at the time any principal building or use is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, floor, storage, or sales area; or before conversion from one type of use or occupancy to another, permanent off-street parking in the amount specified by this section. Such parking space may be provided in a parking garage or properly graded open space.

(B) The following regulations concerning required parking shall apply:

- (1) Each zoning permit application filed with the Zoning Administrator shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this section are met. No certificate of occupancy shall be issued until the parking regulations are fully met;
- (2) 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 one-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;

- (3) If the off-street parking space required by this chapter 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 entrance to such principal use;

- (4) Parking space sizes shall be governed by the following dimensions:

Parallel stall	20' x 9.0'
Angle stall	19' x 8.5'
90 degree stall	19' x 9.0'

- (5) Minimum aisle widths shall be:

<i>Aisle Width in Feet</i>		
<i>Parking Angle</i>	<i>One-Way Traffic</i>	<i>Two-Way Traffic</i>
0-15 degrees	12	24 (0 degrees only)
16-37 degrees	11	-
38-57 degrees	13	-
58-74 degrees	18	-
75-90 degrees	24	24

- (6) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least 24 feet wide;

- (7) When off-street parking for more than 20 vehicles is provided, the following regulations shall apply in addition to all other regulations in this subchapter:

(a) All such parking lots shall be graded and surfaced with compacted gravel, blacktop, concrete, or other such surfacing material to ensure a dustless surface condition;

(b) Each parking stall shall be marked off and maintained so as to be distinguishable;

(c) Any lighting shall be so arranged as to direct the light and glare away from the streets and adjacent property;

(d) All such parking lots shall observe a minimum front yard of not less than five feet and a side yard on a corner lot of not less than five feet. Parking lots in

residential-agricultural and residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet. Yards surrounding parking lots shall be planted and maintained in lawn or other appropriate planting or shall be improved otherwise in keeping with the character of adjacent property, and a buffer as defined in §151.026 is not required, natural planting, hedge, or a decorative fence to a height of at least six feet shall screen the residential property;

(e) The required yards shall be set off from parking areas by either continuous curb or one non-continuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five inches or more than two feet high;

(f) Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Zoning Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage;

(g) In the event any parking shall abuts upon a walkway, there shall be a space of three and one-half feet between the wheel bumper or curb and the edge of the walkway;

(h) On all corner lots, all vehicular openings shall be located at least 20 feet from the point of intersection of the established street right-of-way lines. No entrance or exit, whether on a corner lot or not, shall exceed 30 feet in width at the property line or 40 feet at the curb line. There shall be a minimum distance between driveways of 25 feet measured along the curb line unless such driveways are less than five feet apart;

(i) Sufficient area shall be provided within the property lines of a parking lot, exclusive of required yards, so that all vehicles may enter and leave the lot in a forward motion;

(8) The following exceptions shall apply to the above regulations:

(a) The Zoning Administration may withhold a permit or certificate of occupancy if a parking layout not specifically prohibited by this section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the Zoning Administrator's decision to the Board of Adjustment under the normal procedure for an appeal;

(b) If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification;



(c) In the central business district, the Zoning Administration may allow a new use to be established in an existing building even if all parking requirements of this section cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

(9) The minimum number of required off-street parking spaces shall be calculated as provided in §151.060(B)(10). In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use or inclusive category which is provided for. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, excepts for shopping centers which are expressly provided for;

(10)The following shall be the minimum number of off-street parking spaces which shall be provided:

<i>Use</i>	<i>Number of required Off-Street Parking Spaces</i>
<b><i>Residential Uses</i></b>	
Dwellings, single and two-family	2 per dwelling unit
Dwellings, multi-family	2 spaces for each dwelling unit plus 1 visitor space for each 4 dwelling units
Townhouses	2 spaces for each dwelling unit plus 1 visitor space for each 4 dwelling units
Group housing, such as boarding houses, dormitories, and similar establishments	1.2 for each bedroom
Mobile homes on individual lots	2 per mobile home
Mobile home parks	2 spaces for each mobile home plus 1 visitor parking space for each 4 mobile homes
<b><i>Office and Institutional Uses</i></b>	

<i>Use</i>	<i>Number of required Off-Street Parking Spaces</i>
Financial institutions	1 for each 150 square feet of gross floor area or fraction thereof, plus safe facilities to accommodate passengers waiting in line for drive-in windows and banking machines, if any
Hospitals	1 space for each 150 square feet of gross floor area or fraction thereof
Libraries	1 space for each 200 square feet for use by the public or fraction thereof
Museums and art galleries	1 space for each 800 square feet of gross floor area or fraction thereof
Nursing homes, family care homes, and similar institutions	4 times the maximum lawful number of occupants
Doctor or dentist Office	6 for each doctor or dentist plus 1 for each other employee
Other Offices	1 for each 300 square feet of gross floor area or fraction thereof
Places of assembly, including clubs, lodges, churches, funeral parlors, auditoriums, gymnasiums, amusement parks, and similar places	1 for each 3 seats, plus 1 for each 100 square feet of floor area used for assembly, but not containing fixed seats, or fraction thereof
<b><i>Schools and Colleges</i></b>	
Day nurseries, kindergartens, elementary, junior highs	2 for each 750 square feet of classroom floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium parking off applicable
Senior highs and colleges, trade, vocational with dormitories	5 for each 750 square feet of classroom floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium/dormitory parking requirement if applicable
Colleges, trade, vocational without dormitories	10 feet for each 750 square feet of classroom floor area of fraction thereof, plus auditorium/gymnasium parking requirement if applicable
<b><i>Commercial Uses</i></b>	
Bowling alley	5 per lane

<i>Use</i>	<i>Number of required Off-Street Parking Spaces</i>
Tent Campground	1 for each campsite plus office parking requirement
Recreational vehicle Campground	1 for each campsite plus office parking requirement
Car wash	5 per wash lane
Golf course (not including those accessory to multi-family dwelling or hotels)	4 per hole
Hotel or motel	1.2 for each guest room plus requirement for restaurant or other facilities if provided
Restaurant Drive-in or take-out	Minimum of 15 spaces, plus 1 additional for each 50 square feet of gross floor area or fraction thereof
Restaurant Other	1.2 for each 100 square feet of gross floor area or fraction thereof
Service stations-Fuel, Convenience	2 for each gas pump, plus 3 for each grease rack or similar facility
Shopping centers ( <i>in lieu of individual store parking requirements</i> )	5.5 per 1000 square feet of gross leasable area or fraction thereof
Low generator retail and service establishments such as furniture, appliance, household, equipment, carpet and hardware stores, repair shops including shoe repair, contractors' showrooms, drapery, paint and wallpaper upholstery, interior decorator, motor vehicles sales, plant nurseries	1 for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area

<i>Use</i>	<i>Number of required Off-Street Parking Spaces</i>
All other commercial uses such as retail stores, outlet stores, department stores, discount stores, drug stores, coin-operated laundries, variety stores	1 for each 200 square feet of gross floor area or fraction thereof, including any outdoor sales area
<b><i>Industrial Uses</i></b>	
Industrial and research uses, warehousing, and very low customer volume wholesaling operations	1 for each employee on premises at any one time

(Ord. passed 12-16-85)

**§151.061 OFF-STREET LOADING REQUIREMENTS.**

(A) Loading space regulations. Every building or structure used for business, trade, industry, or office and institutional purposes, shall provide loading space as indicated in this section. Each loading space shall be no less than 15 feet in width, and 30 feet in depth. Each space shall also be no less than 15 feet in height if such space is covered. It shall have access driveways to public streets or alleys which driveways shall be at least 24 feet wide and with adequate turning radii for the delivery vehicles customarily associated with the particular use. If there is not more than one delivery and pick-up during the hours when a retail trade, office, or institutional establishment is open to patrons, such space may be combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:

- (1) Retail business. One space for each 20,000 square feet of gross floor area or fraction thereof;
- (2) Wholesale trade and industry. One space for each 10,000 square feet of gross floor space or fraction thereof;
- (3) Office and institutional uses including hotels and motels. One space for each 50,000 square feet of gross area or fraction thereof;
- (4) Other miscellaneous loading space provision. As well as meeting the requirements of §151.061(A)(3), elementary, junior high, high schools, kindergartens, nurseries, and day care centers shall also provide a safe place off the street for the loading and unloading of children from automobiles and buses.

**(B) Exceptions.**

- (1) Peculiar characteristic of a business. If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.
- (2) New uses established. In the central business district, the Zoning Administrator may allow a new use to be established in an existing building even if all loading requirements of this section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

(Ord. passed 12-16-85)



**SIGNS**

**§151.075 COMPLIANCE WITH REGULATIONS REQUIRED.**

No sign or sign structure may be erected, posted, hung, painted, rehung, repainted, repaired, replaced, changed, or maintained in any district except in compliance with this subchapter.

(Ord. passed 12-16-85)

**§151.076 GENERAL SIGN REGULATIONS.**

(A) No sign or sign structure shall be erected or constructed to interfere with vision clearance as defined in §151.023.0

(B) No ground sign structure may be placed in the right-of-way.

(C) Individual stores in a shopping center may not have separate ground sign structures. The shopping center as a whole may display signs in accordance with this section.

(D) Signs and sign structures shall meet all requirements of the State Building Code.

(E) Signs and sign structures shall be maintained at all times in a state of proper repair, with all braces, bolts, clips, guys, anchors, supporting frames, and fastening free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type which requires painting, free from visible peeling or chipping.

(F) Obsolete signs and their supporting structures shall be removed within 90 days after they have been made obsolete by reason of the activity, business, product, or usage which the sign identifies or advertises being abandoned at the location to which to sign refers. This provision does not refer to billboards, until the commercial use off the billboard for rent has ceased. An extension of the 90 day time limit for removal may be granted by the Zoning Administrator for reasonable cause.

(G) Illuminated signs shall be limited to those lighted from behind to silhouette letters and internally illuminated and spotlighted signs. All illuminated and spotlighted signs shall be placed so as to prevent the light rays, illumination, or glare from being cast directly on any building or on traffic.

(H) Strings of light bulbs used in connection with commercial premises for commercial purposes shall be limited to white, yellow, or bug repellant bulbs and shall not cause glare on traffic or adjoining premises.

(Ord. passed 12-16-85)

**§151.077 PROHIBITED SIGNS.**

The following types of signs are expressly prohibited:

(A) Signs with moving, revolving, or rotating parts, or any sign which moves or gives an illusion of movement, except for time and temperature units and traditional barber poles, shall be prohibited in all districts;

(B) Signs with lights or illumination which flash, move, rotate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units;

(C) Signs which obstruct the view of or could be confused with any authorized traffic sign, signal, or device or make use of the words “stop”, “look”, “danger”, or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic;

(D) Signs which openings required to be left uncovered or unobstructed by building codes, the housing code, or other laws relating to buildings.

(Ord. passed 12-16-85)

**§151.078 OFF-SITE ADVERTISING SIGNS.**

Off-site advertising signs (billboards) shall be permitted only as a special use in the industrial district. The conditions in §151.113 are not applicable to off-site advertising signs. A special use permit shall be granted provided the following conditions are met:

(A) The property on which the sign is to be located must be adjacent to an interstate or federal aid primary highway;

(B) The sign must be located within 660 feet of the edge of the right-of-way of such highway;

(C) The sign shall comply with all regulations of the State Department of Transportation and with the North Carolina General Statutes;

(D) No two structures shall be placed less than 500 feet apart. Distance shall be measured as specified in the North Carolina Administrative Code T19A:02E.0200;

(E) The sign will be compatible with the general neighborhood in which it is located and will not have a detrimental effect on adjoining properties.

(Ord. passed 12-16-85)

**§151.079 NONCONFORMING SIGNS.**

Nonconforming signs, when removed for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.

(Ord. passed 12-16-85)

**§151.080 PERMITTED SIGNS.**

Signs shall be permitted in accordance with the table below.

<i>Type of Sign</i>	<i>Maximum Size</i>	<i>Maximum Height</i>	<i>District</i>	<i>Other Requirements</i>
Advertising, off-site (billboards)	See §151.078		Special use in I	See §151.078
Agricultural, advertising products produced on premises	32 sq. ft.	8 feet	Permitted use in R-20 and I	
Awning, silk-screened or sewn on front of awning	N/A	N/A	Permitted use in C-1, C-2, I & O&I	
Bulletin board, church or public	32 sq. ft.	8 feet	Permitted use in all districts	
Canopy signs (may also be placed on non-raising marquees)	4 sq. ft.		Permitted use in C-1, C-2, I & O&I	Identification only. 1 per establishment entranceway. Bottom of sign must be 7 feet above sidewalk level – more over public right-of-way if required by town regulations
Construction site placards	64 sq. ft.	12 feet	Permitted use in all districts	Must be removed when construction has been completed
:				

<i>Type of Sign</i>	<i>Maximum Size</i>	<i>Maximum Height</i>	<i>District</i>	<i>Other Requirements</i>
<i>Directional signs containing no advertising matter</i>				
Traffic, safety, utility warning, public			Permitted use in all districts	
Pedestrian, public			Permitted use in all districts	
Traffic and pedestrian, private			Permitted use in all districts	
No trespassing			Permitted use in all districts	
Off-site directional to churches, meeting halls, civic clubs	12 sq. ft.		Permitted use in all districts	
Temporary directional to garage sales and similar events in residential areas, excluding portable commercial signs	4 sq. ft.		Permitted use in all districts	
Entrance or monument-type signs to subdivisions, neighborhoods, public, commercial, industrial, institutional establishments and mobile home parks	32 sq. ft.	8 feet	Permitted use in all districts	No more than 2 per entrance allowed

<i>Type of Sign</i>	<i>Maximum Size</i>	<i>Maximum Height</i>	<i>District</i>	<i>Other Requirements</i>
The flag, pennant, or insignia of any nation, state, county, city, religious, civic of fraternal organization or educational institution, when not in connection with a commercial promotion, or as an advertising device or as an integral part of another sign	10 sq. ft.          15 sq. ft.	9 feet	Permitted use in all districts	In R-20, R-12, and R-8 districts, wall and projecting insignia may not exceed size nor may they project more than 9 feet from wall at farthest point.  In O&I business and industrial districts, insignia may be placed on signs permitted in those districts.  In any district, flags or pennants shall not exceed 15 square feet or, if on a pole, one-fourth height of a pole, whichever gives the flag the greater permitted area
Ground signs	150 sq. ft.	35 feet	Permitted use in I	No more than 1 per street frontage containing entrance to use. May be used only for identification or on-site advertising.
Ground signs	40 sq. ft.	20 feet	Permitted use in C-1, C-2 Special use in O&I	Must be at least 30 ft. from any other ground sign. Must meet vision clearance of §151.023.
House numbers	4 sq. ft.		Permitted use in all districts	May contain no advertising matter
Memorial signs, tablets, name of building and date of construction			Permitted use in all districts	Must be cut into a masonry surface or case of metal and affixed flat against a surface
Name of occupant of residential premises	2 sq. ft.		Permitted use in all districts	



<i>Type of Sign</i>	<i>Maximum Size</i>	<i>Maximum Height</i>	<i>District</i>	<i>Other Requirements</i>
Newspaper names on newspaper tubes			Permitted use in all districts	
No vacancy signs			Permitted use in all districts	
Political signs (refer to G.S.136-32 regarding temporary political signs in NCDOT controlled right of ways)	4 sq. ft.			Must be removed within 15 days after last election to which they pertain
Portable signs, including any signs mounted on a vehicle or a trailer or trailer-type device	32 sq. ft.	10 fee	Permitted use in C-1, C-2, I	Nonrenewable permit from Zoning Administrator required. 20 day time limit. No more than 1 sign per establishment per street frontage. Same establishment may not have temporary signs again for 30 days after removal of such signs. Such signs shall not have colored flashing lights or lights which cause glare on traffic or adjacent properties. Such signs shall not be located on the public right-of-way nor obstruct vision clearance as indicated in §151.076(A)
Professional or announcement signs	4		Permitted use in all districts	One per establishment
Projecting signs	20		Permitted use in C-1, C-2, I	Sign may be no more than 9 feet from wall at farthest point. 1 such sign per face on street, or 2 per establishment, whichever is less. Such sign may be hung on

<i>Type of Sign</i>	<i>Maximum Size</i>	<i>Maximum Height</i>	<i>District</i>	<i>Other Requirements</i>
				corner of building but shall count against the maximum number allowed above.  Establishment may not also have a wall or roof sign on same face as projecting sign.  Corner sign shall count as one face.
Real estate signs	6       32	Permitted use in residential and R-20 districts  Permitted use in C-1, C-2, I		
Religious symbols at formal places of worship			Permitted use in all districts	
Roof signs – see wall signs				
Service station signs, automobile and truck			Permitted use in all districts when accessory to a service station	
Signs on racks for the orderly display of engine oil, provided such signs are no longer than the rack				
Signs on pumps and/or pump islands concerning the type and price of the fuel				
Signs on open portable tire racks provided the signs are no longer than the rack				

A sign may be painted on the inside and outside front door face of the closed tire rack, but shall not be painted on the sides or rear				
One double-faced on-site advertising sign per street frontage showing the current price of fuel sold on the premises. Such sign shall be located off the right-of-way	20	5		
Temporary banners, pennants, streamers, excluding portable commercial signs			Permitted use in C-1, C-2, I	Only for opening of new business. May remain for no more than 4 weeks.
Temporary signs relating to farm auctions, agricultural production sales, annual charitable civic or fraternal events, excluding portable commercial signs.	20 off-site 32 on-site		Permitted use in all districts.	Off-site. No more than 1 per lot. On-site. No more than 3 per lot. May remain for no more than 45 days in all.
Vending machine signs painted or mounted on the machine related to the products in the machine; bank machine or book depository signs which instruct customers or patrons			Permitted use in all districts	

Wall or roof signs	1.25 square feet of sign area per running foot of building frontage	Such signs shall not project over the roofline of the building to which they are attached.	Permitted use in C-1, C-2, I, O&I	<p>Wall signs must be mounted on area of wall free of windows, doors, or other architectural features.</p> <p>Only one wall, roof, or projecting sign per establishment per street frontage is permitted other than those specifically mentioned elsewhere in this table.</p> <p>Such signs may be used only for identification or on-site advertising and at least 80% of sign face shall be for identification.</p>
Window signs			Permitted use in C-1, C-2, I	

(Ord. passed 12-16-85)

### ***MOBILE HOMES AND MOBILE HOME PARKS***

#### **§151.090 MOBILE HOMES ON INDIVIDUAL LOTS.**

Mobile homes on individual lots shall be a permitted use where indicated in §151.045. All requirements for the location of a single-family dwelling on an individual lot shall be met. Any mobile home constructed before July 1, 1970 must be approved by Underwriters' Laboratories and any mobile home constructed after that time must meet all applicable state and federal standards. All mobile homes shall be tied down in accordance with the state regulations for mobile homes and modular housing. All County Health Department requirements shall be met. The following additional conditions must also be met:

(A) Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting, and roofing, exceed that of gloss white paint;

(B) A continuous, uniform foundation enclosure, unpierced except for required ventilation and access, shall be installed. The enclosure may consist of brick or concrete block, or wood, vinyl, or metal fabricated for this purpose. Any wood framing for foundation skirting shall be constructed with treated lumber;

(C) Permanent steps shall be constructed at all exterior doors as necessary and a permanent porch or patio measuring at least three feet in width and five feet in length shall be constructed at the front or main entrance to the mobile home;

(D) The running lights shall be removed and the hitch shall either be removed or screened with shrubbery;

(E) At least two off-street parking spaces shall be provided;

(F) All areas not used for parking, mobile home, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion;

(G) All standards must be met prior to issuance of a certificate of occupancy.

(Ord. passed 12-16-85)

#### **§151.091 MOBILE HOME PARKS.**

For purpose of this chapter, a mobile home park shall be defined as a lot or parcel of land of at least five acres.

(A) *Plan approval.* Before any lot or parcel of land is to be used as a mobile home park, a certificate of zoning compliance for such use shall be issued based on the development plan for the park with its proposed methods of water supply and sewerage disposal approved by the appropriate agencies, including the County Health Department, the Division of Health Services, Department of Human Resources, Office of Water and Air Resources, Department of Natural Resources and Community Development, and a site plan reviewed by the county Soil and Water Conservation District, shall be approved by the Town Board upon recommendation of the Town Planning Board. The plan shall include among other things:

- (1) Location of drives, walks, street lighting, water and sewer systems, mobile home plots;
- (2) Location and size of service buildings and areas, recreation buildings and areas;
- (3) Location and type of screening fences or hedges, and storage areas;
- (4) Location and number of parking spaces;
- (5) Location and description of any other structure or improvement of the land;
- (6) Topographic features



(B) Design standards.

- (1) Each mobile home shall be on a plot at least 8,000 square feet in area.
- (2) Each mobile home plot shall be located at least 25 feet from any other structure, other mobile homes, property line, or plot line.
- (3) Each mobile home plot shall be provided parking spaces for at least two automobiles, covered with gravel or other suitable material, either on the lot or within 300 feet of the lot.
- (4) Each mobile home plot shall contain a walkway covered with gravel or other suitable material from the parking spaces to the patio.
- (5) All streets, roads, or drives located in the park must have a minimum right-of-way of 40 feet and must be paved or properly paved by gravel as determined by the town.
- (6) All mobile homes must have direct access through a driveway, private drive or other public street to a public right-of-way.
- (7) All streets, private drives, and the like more than 250 feet in length must be lighted at night.

(C) Operating requirements. Each mobile park shall operate in accordance with the rules and regulations of the County Health Department and the fire protection agency having jurisdiction of the park.

(Ord. passed 12-16-85)

**§151.092 TELECOMMUNICATION TOWERS**

**(A) Special Use for Telecommunication Tower Permit Application and Other Requirements.**

The Telecommunications Act of 1996 and North Carolina General Statute Chapter 160D, Article 9, Part 3 affirms the Town's authority concerning the placement , construction and modification of wireless facilities and wireless support structures. No person shall be permitted to site, place, build construct, modify, or prepare any site for the placement or use of, wireless telecommunications facilities without having first obtained a special use permit for telecommunication tower or zoning permit. In the event that the Town receives an application for a qualified a Small Wireless Facility as that term is defined by G.S. 160D-931 or 47CFR § 1.6002, the Town shall process and adjudicate such application in accordance with applicable state and/or federal law, including but not limited to Orders and Rule makings of the Federal Communications Commission.

- a) An application for a special use permit or zoning permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the

information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Town, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

- b) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be returned by the County with deficiencies noted.
- c) All applications for the construction or installation of new wireless telecommunications facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the applicant. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State. The application shall include the following information:
  - i) Documentation that demonstrates the need for the wireless telecommunications facility to provide service within the County and surrounding counties. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
  - ii) The name, address and phone number of the person preparing the report;
  - iii) The name, address, and phone number of the property owner, operator, and applicant, and to include the legal form of the applicant;
  - iv) The tax map and parcel number of the property;
  - v) The zoning district or designation in which the property is situated;
  - vi) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines; (This requirement is waived if co-locating on an existing tower, originally designed and constructed to support antennae.)
  - vii) The location of nearest residential structure; (This requirement is waived if co-locating on an existing tower, originally designed and constructed to support antennae.)
  - viii) The location, size and height of all structures on the property, which is the subject of the application; (This requirement is waived if co-locating on an existing tower, originally designed and constructed to support antennae.)
  - ix) The location, size and height of all proposed and existing antennae and all appurtenant structures;
  - x) The type, locations and dimensions of all proposed and existing landscaping, and fencing; (If co-locating on an existing tower, and there is insufficient area to install required screening due to a change in landscaping required by the Zoning Ordinance, waiver shall be granted upon documentation of such.)
  - xi) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;
  - xii) The make, model and manufacturer of the tower and antenna(s);



- xiii) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
  - xiv) The frequency, modulation and class of service of radio or other transmitting equipment;
  - xv) The actual intended effective radiated power and the maximum designed-for effective radiated power of the antenna(s) expressed in watts;
  - xvi) Direction of maximum lobes and associated radiation of the antenna(s);
  - xvii) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
  - xviii) Certification that the proposed antenna(s) will not cause interference with other telecommunication devices;
  - xix) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
- d) The applicant shall certify that the wireless telecommunication facility, foundation and attachments are designed and will be constructed to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads. This shall be required only at the time of application for a building permit. Applicants shall acknowledge this requirement in the application for a special use or zoning permit.
- e) The applicant shall certify that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property and are installed with appropriate surge protectors. This shall be required only at the time of application for a building permit. Applicants shall acknowledge this requirement in the application for a special use or zoning permit.
- An applicant will be required to submit an environmental assessment analysis and a visual addendum. Based on the results of the analysis, including the visual addendum, the Planning and Zoning Board may require submission of a more detailed visual analysis. If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.
- f) The applicant shall furnish a visual impact assessment which shall include:
- i) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town as may be appropriate, including but not limited to state highways and

other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents.

i) An assessment of the visual impact of the tower base, wires, cabling, and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.

g) All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually and physically intrusive means that is not technologically impracticable, and thereby have the least adverse visual effect on the environment of the neighborhood and the Town and its character, on existing vegetation, and on the residences in the general area of the wireless telecommunications facility. If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.

h) Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the Town. If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.

i) A person who holds a special use or zoning permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State, or United States, including but not limited to the most recent editions of the national electrical safety code and the national electrical code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of



the preceding the more stringent shall apply.

j) An applicant shall submit to the Zoning Administrator ten (10) completed applications four (4) weeks prior to the Planning and Zoning Board hearing.

k) The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four (4) additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:

- 1) The foreseeable number of FCC licenses available for the area;
- 2) The kind of wireless telecommunications facilities site and structure proposed;
- 3) Available space on existing and approved towers.

If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.

- 1) The owner of the proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
- 4) Respond within 60 days to a request for information from a potential shared-use applicant;
- 5) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
- 6) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges.



4) The holder or applicant of a special use for telecommunication tower or zoning permit shall notify the Town of any intended modification of a wireless telecommunication facility

and shall apply to the Town to modify, relocate or rebuild a wireless telecommunications facility.

m) In order to better inform the public, in the case of a new tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The applicant shall inform the Planning Department, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

n) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner. If co-locating a wireless facility on an existing tower, originally designed and constructed to support antennae, and the proposed wireless facility does not increase the height of the existing tower, this requirement shall be waived.

o) Applications shall be submitted in a 3 ring binder. The application shall contain a table of contents which shall list each section and subsection and the issue required to be addressed. Requests for waiver shall be clearly set forth and indicated in the table of contents, with an explanation for the request for waiver contained in the appropriate section of the application. Each issue or matter addressed in the Ordinance that requires a response shall be set forth in a separate section (i.e. tab), in the application including requests for waiver.

p) Applicants shall agree to make towers available for use by County Emergency Service agencies.

g) A fee as stated in the schedule of fees shall be paid to the Town of Bunn, North Carolina for each -special use permit for telecommunication tower permit application to cover the related administrative and advertising expenses associated with telecommunication tower location.

(B) **Location of Wireless Telecommunications Facilities.**

a) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and two (2) being the lowest priority.

i) On existing structures;

ii) On properties zoned R-20);

b) If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

c) An applicant may not bypass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as the preference of the Town. If such an option is not proposed, the applicant must explain to the reasonable satisfaction of the Town why co-location is impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of hardship.

d) Notwithstanding the above, the Town may approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood, or the site is a public necessity.

e) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.



(C). Shared use of Wireless Telecommunications Facilities and other structures.

The Town shall always prefer locating on existing towers or others structures, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying all existing towers and all other suitable structures that are within four (4) miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.

(D). Height of Telecommunications Tower(s).

- a) The Applicant shall submit documentation justifying the total height of any tower, Facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the minimum height needed to provide service to an area that is without service that is within the Town and surrounding area, to the extent practicable, unless good cause is shown.
- b) If the need for a new tower can be proven, the maximum permitted height of a new tower shall be the minimum needed to accommodate five (5) carriers, taking in to account the neighboring tree height or the height of any nearby obstruction that would effectively block the signal in that direction. No tower shall exceed two hundred and fifty (250) feet in total height including antennae and supporting antennae structures. All towers shall be designed to the maximum height of (250) feet, but shall be constructed only to the minimum height needed to accommodate five (5) carriers.
- c) No Wireless Facility constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, County, State, and/or any Federal statute, law, local law, County ordinance, code, rule or regulation.

(E). Appearance and Visibility of Wireless Telecommunications Facilities.

- a) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
- b) Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance and any conditions of the conditional use for telecommunication towers or zoning permit.
- c) If lighting is required, applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

d) Towers shall be limited to monopole-, mast-, or lattice structures only. Guyed towers shall not be permitted.

e) Landscaping shall be required around the perimeter of the secured area. Such landscaping shall, at a minimum, comply with the Warrenton Zoning Ordinance standards for landscape buffers and screening as identified in Article IX of this Ordinance. The Planning and Zoning Board may require additional landscaping to effectively screen the secured area.

(F). Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- a) All antennas, towers and other supporting structures, wires and cabling shall be made inaccessible to unauthorized individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- b) Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.
- c) All fencing shall be in harmony and concert with the nature and character of the neighborhood and be maintained in a manner so as to retain its originally installed appearance. In no case shall barbed wire fencing be installed or used in a residential district.

(G). Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. Advertising or other signs unrelated to the safety of the facility shall not be permitted.

(H). Lot Size and Setbacks.

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way, existing or proposed structures, and road and street lines by the greater of the following distances: A distance equal to the height of the proposed wireless telecommunications facility structure plus twenty percent (20%) of the height of the facility or structure, or the existing setback requirement of the underlying zoning district, whichever is greater.



(I). Retention of Expert Assistance.

The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for re-certification.

(J). Exceptions from a Special Use Permit for Telecommunication Towers Permit for Wireless Telecommunications Facilities.

- a) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this Ordinance without having first obtained a special use permit for a telecommunication tower or zoning permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities. Zoning permits may apply to non-commercial exceptions noted in the definition of wireless telecommunications facilities.
- b) All wireless telecommunications facilities existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility must comply with this Ordinance.

(K). Administrative Review.

Applications that qualify for administrative review are subject to requirements of this Ordinance and include:

- a) A) Installing an antenna on an existing non-residential structure other than a tower (such as a building, sign, light pole, water tower, utility pole, or other free-standing, non-residential structure) in any commercial or industrial district that is less than 50 feet in height so long as such addition does not add more than 10 feet to the height of the existing structure.
- b) Installing an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of the existing tower.
- c) Replacing an existing tower which adds no more than 10 feet to the overall height of the existing structure with only 1 replacement allowed.
- d) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free standing, non residential structure) that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure.



**Note:**

An increase in tower or structure height shall only be allowed once and any additional proposed increases shall require a Special Use Permit for a Site Plan Amendment. In the event that an increase in tower or structure height would require that an existing unlighted tower be lighted, a Special Use Permit shall be required for a Site Plan Amendment.

**(L). Public Hearing Exemptions.**

There shall be no public hearing required for an application for a Zoning Permit to co-locate on an existing tower or other structure, as long as it meets the provisions of this section.

(M). Performance Security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the Town a bond, renewable letter of credit, or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount of at least twenty five (25) percent of the towers construction cost. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use or zoning permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original conditional use or zoning permit.

(N). Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a special use or zoning permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

(O). Annual NIER Certification.

The holder of the conditional use or zoning compliance permit shall, annually, certify to the Town that NIER levels at the site are within the threshold levels adopted by the FCC.

(P). Indemnification.

Any application for wireless telecommunication facilities that is proposed for Town property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity,

which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

(Q). Default and/or Revocation.

- a) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the special use or zoning permit, then the Town shall notify the holder of the special use or zoning permit in writing of such violation. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Town may, at its sole discretion, order the violation remedied within twenty-four (24) hours.
- b) If within the period set forth in (A) above the wireless telecommunications facilities are not brought into compliance with the provisions of this Ordinance, or of the special use or zoning permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the Town may revoke such special use or zoning permit for wireless telecommunications facilities, and shall notify the holder of the conditional use or zoning permit within forty-eight (48) hours of such action.

(R). Removal of Wireless Telecommunications Facilities.

Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities.

- 1) Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding one hundred and eighty



(180) consecutive days or a total of three hundred and sixty five (365) days in any two (2) year period, except for periods caused by force major or Acts of God, in which case, repair or removal shall commence within 180 days;

2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;

3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use or zoning permit, or any other necessary authorization.

(S). Waiver.

Any applicant or permittee desiring waiver from any aspect or requirement of this chapter may request such from the Zoning Administrator, provided that the waiver is contained in the original application for either a special use or zoning permit, or in the case of an existing or previously granted conditional use or zoning permit a request for modification of its tower and/or facilities.

Such waiver may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested waiver is solely on the applicant to prove. No such waiver shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the waiver will have no significant affect on the health, safety and welfare of the Town, its residents and other service providers.

(T). Adherence to State and/or Federal Rules and Regulations.

- a) To the extent that the holder of a special use or zoning permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a special use or zoning permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

b) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use or zoning permit for wireless telecommunications facilities, then the holder of such a special use or zoning permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

#### **§151.105 ZONING ADMINISTRATOR.**

The zoning Administrator who shall be appointed by the Town Board of Commissioners is duly charged with the enforcement of the provisions of this chapter. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable impact on the staff member or if the applicant or other person has a close familial, business or other associational relationship. If a staff member has a conflict of interest under this section the decision shall be assigned to the supervisor of the staff person or such other staff persons as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or the building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Minor Modifications. The Zoning Administrator is authorized to review and approve administratively a minor modification to an approved Special Use Permit subject to the following limitations.

##### A. General Limitations. The minor modification:

i. Does not involve a change in in uses permitted or the density of the overall development permitted.



ii. does not increase the impacts generated by the development of traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and

iii. Meets all other ordinance requirements.

B. Site Design. Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as condition to a special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

i. Comply with underlying zoning standards and other applicable conditions of the approval;

ii. Be limited to a minor change such as , without limitation, a minor adjustment to road configuration or internal circulation , a minor adjustment to building location , or a minor adjustment to utility alignment.

C. Dimensional Standards. Dimensional standard modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.

D. Appeals and Variances. A decision on minor modification may be appealed to the Board of Adjustment as an administrative determination. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

(Ord. passed 12-16-85)

## **§151.106 ZONING PERMIT.**

(A) No building or structure or any part thereof shall be erected, extended, enlarged, or structurally altered or moved until a zoning permit has been issued by the Zoning Administrator or the Zoning Administrator's authorized representative. A fee of \$25 shall be charged for the issuance of each zoning permit.

(B) All applications for permits shall be in the form prescribed by the Zoning Administrator and shall include a plot of site plan drawn to scale which shall clearly show:

- (1) The actual shape and dimensions of the lot to be built upon or used and total acreage in the lot;
- (2) The location of the proposed structure or use on the lot;
- (3) The exact location and size of existing structures and uses;
- (4) The existing and intended use of each structure or part of structure;
- (5) The number of dwelling units the building is designed to accommodate, if applicable;
- (6) The height and number of stories of the structure;
- (7) The location and design of any off-street parking and/or loading;
- (8) The location and dimensions of driveways. Driveway approval procedures as required by the State Department of Transportation shall be initiated;
- (9) Date of plan preparation;
- (10) Location and descriptions of landscaping, buffering, and signs;
- (11) Such other information as may be necessary for determining whether the provisions of this chapter are being met.

(C) In addition to the information required in §151.106(B), any use which involves the grouping of more than one principal building or use on the same lot shall include the following information:

- (1) A vicinity map showing the relationship of the proposed development to the surrounding area;
- (2) North arrow and declination;
- (3) Detailed layouts for all utilities, right-of-ways, and roads and other improvements;
- (4) Railroads, bridges, culverts, storm drains, wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds, and any other similar features affecting the site;

(5) A copy of any proposed deed restrictions or similar covenants;

(6) For projects over an acre in size, or if otherwise required by the Zoning Administrator, a topographic map showing vertical contours every two feet;

(7) The names, addresses, and telephone numbers of owners, mortgagees, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development.

(D) The Zoning Administrator may, in writing, exempt the applicant from meeting any plan requirement which is clearly inapplicable to the proposed use.

(E) Mobile home parks and shopping centers shall comply with the requirements of §151.091(C) in lieu of the requirements in this section.

(F) As provided in G.S. § 160D-108 (d) (1), any building permit issued shall become invalid and expire unless the work authorized by it shall have been commenced within six months of its date of issue, or if the work authorized by it is suspended or abandoned for a period in excess of one year.

(G) Zoning Compliance Permits

1. Pursuant to G.S. § 160D-108(d) (2), zoning compliance permits shall expire within one year from date of issuance unless work has substantially commenced.

2. For these purposes, "substantially commenced includes but is not limited to application for and timely pursuit of a building permit, grading permit, or other permit necessary to commence installation of infrastructure or establishment of the intended use

3. Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to G.S. § 160D-108.

(H) A record of all zoning permits shall be kept on file and open to the public, subject to state law.

(Ord. passed 12-16-85)



**§151.107 CERTIFICATE OF OCCUPANCY/COMPLIANCE.**

No land shall be used or complied, and no building or structure erected or altered shall be used or changed in use until a certificate of occupancy/compliance has been issued by the Zoning Administrator stating that the building and/or the proposed use complies with the provisions of this chapter. A certificate of the same shall be required for the purpose of changing any existing use; as well as for maintaining, reviewing, changing, or extending any nonconforming use. The aforementioned certificate shall be applied for coincidentally with the application for a zoning permit and shall be issued within ten working days after the erection or alterations of such building or part shall have been completed in conformity with the provisions of this ordinance. A record of all such certificates shall be kept on file and open to the public, subject to state law.

(Ord. passed 12-16-85)

#### **§151.108 CONFORMANCE WITH PLANS.**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction.

(Ord. passed 12-16-85)

#### **§151.109 RIGHT OF APPEAL.**

If the zoning permit and/or occupancy/compliance certificates are denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment

Duties of Zoning Administrator, Zoning Board, Courts and Town Board of Commissioners as to Matters of Appeal

It is the intention of this ordinance that all questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Zoning Board only on appeal from the Zoning Administrator; and that from the decision of the Zoning Board recourse shall be had to courts as provided by law. It is further the intention of this ordinance that the duties of the Town Board in connection with the ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set in the ordinance, and that the duties of the Town Board in connection with this ordinance, shall be only the duty of considering.

(Ord. passed 12-16-85)

#### **§151.110 BOARD OF ADJUSTMENT.**

(A) Pursuant to G.S. § 160D-301, there shall be and is hereby created a Board of Adjustment (hereinafter called the Board) consisting of five members, including three residents of the town of and two members of the one-mile extraterritorial jurisdiction. All members of the Board shall have voting power on all matters of business. The town residence members of the Board shall be appointed by the Town Board of Commissioners. Residents of the one-mile extraterritorial jurisdiction shall be appointed by the Warren County Board of Commissioners in accordance with G.S. §160D-307(a). The members of the Board of Adjustment shall have initial terms of office as follows: one member appointed for a term of one year; two members appointed for terms of two years; and two members appointed for terms of three years. An alternate member appointed from within the corporate limits of the town may serve on the



Board only in the absence of a regular member appointed from within the town's corporate limits. The alternate member from the extraterritorial jurisdiction of the town may serve on the Board only in the absence of the regular member from that area. Subsequent terms shall be for three years. If the Board of County Commissioners fail to appoint the extraterritorial members within 90 days after receiving a resolution from the Town Board of Commissioners requesting that there appointments be made, the Town Board of Commissioners may make them. All members appointed to the boards under this section shall, before entering their duties , qualify by taking and oath of office as required by G.S. § 160D-309.

(B) The Board of Adjustment shall elect a chairman and vice-chairman from its regular members, who shall serve for one year or until re-elected or until their successors are elected. The Board shall adopt rules and bylaws in accordance with the provisions of this chapter and of N.C.G.S. Ch. 160D-301. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board of Adjustment is necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter, or to grant a variance from the provisions of this chapter. Hearings by the Board of Adjustment shall be conducted in accordance with §151.112.

(C) All decisions shall be made part of the tape recorded or transcribed record of the public hearing and the written minutes. The decision shall include: A) Information Presented The information presented before the decision-making body. B) Documentary Evidence The documentary evidence submitted into the record; and C) Statement of Approval, Approval with Conditions, or Disapproval a clear statement of approval, approval with conditions, or disapproval, whichever is appropriate.

(D) The Board of Adjustment shall have the following powers and duties:

(1) Appeals – G.S. § 160D-405

A) Purpose: Any person aggrieved by any decision or interpretation made by the Zoning Administrator (except construction plans, final plats and minor subdivisions for subdivision) or other officials administering this Ordinance may appeal such decision to the Board of Adjustment, which shall review the decision or interpretation pursuant to the requirements of this Section.

(B) Authorization: On the action appealed from, the Board of Adjustment shall have the same authority as the reviewing body to make the correct order, requirement, decision or determination.

C) Procedures

1) Initiation of appeals. Notices of Appeal shall be filed within the time prescribed in the Rules of Procedure of the Town Board of Adjustment.

2) Contents of appeal. The Notice of Appeal shall include a statement of the error or improper decision or interpretation made by the Zoning Administrator or other officer, the date of that decision, and all support materials related to the decision. The specific form of the Notice of Appeal shall be established by the Zoning Administrator.

3) Forwarding record to the appellate body. Upon receiving the Notice of Appeal, the Zoning Administrator shall forward the Notice of Appeal and the record of the decision on which the appeal is based to the Board of Adjustment.

4) Notice procedures. Notice of the time and place of the hearing on the appeal shall be mailed to the Appellant by the Zoning Administrator at least 14 days prior to the date of the hearing. Notice of the hearing shall also be published by the Zoning Administrator at least 14 calendar days prior. At the hearing on the appeal, the Appellant or the Appellant's agent shall state the grounds for the appeal and include any materials or evidence to support the appeal. The Zoning Administrator, or a designated representative, shall be provided the opportunity to respond, as well as any other persons the Board of Adjustment deems necessary. After the conclusion of the hearing, the Board of Adjustment shall either affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the Standards. 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 on appeal.

#### (D) Action by the Town Board

(1) Notice and Public Hearing shall be made in accordance with G.S. § 160D Article 6.

No amendment shall be adopted by the Town Board until after public notice and hearing.

Notice of Public Hearing shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Warrenton, North Carolina. Said notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing.

Whenever there is a proposed zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing and also properties separated from the subject property by street, railroad, or other transportation corridor, shall be mailed a notice of public hearing on



the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Town Board that fact, and such certificate shall be deemed conclusive in the absence of fraud.

The first class mail notice required under this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for above, or may as an alternative elect to publish notice of the hearing once a week for two successive calendar weeks in a newspaper of general circulation in the Town of Warrenton, as required by G.S. § 160D-602, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement must show the boundaries of the area affected by the proposed zoning map amendment and explain the nature of the proposed change. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the first class mail notice provisions above.

When a zoning map amendment is proposed, the Town shall also prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

E) Stay: An appeal shall stay all proceedings in furtherance of the action appealed, unless the Town Attorney certifies that by reason of facts stated in the appeal, a stay would cause imminent peril to life or property.

F) Standards: A decision/interpretation of the Zoning Administrator or other official under this Ordinance shall not be reversed or modified unless there is demonstrated evidence that the interpretation/decision is inconsistent with the intent and standards of this Ordinance.

G) Hearing on Record: All appeals will be held solely on the record.

H) Conflicts on Quasi-Judicial Matters( G.S. §160D-109)

A member of the Planning and Zoning Board or any other body exercising the functions of a Planning and Zoning Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to a hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse him or herself, the remaining members shall by majority vote rule on the objection.

(2) *Variances.* To authorize upon appeal in specific cases, such variance from the terms of this chapter will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in practical difficulty, or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance. Such variance may be granted in such individual cases of unnecessary hardship upon a finding that all standards set out in N.C.G.S § 160D-705(d) have been met and that the following conditions exist:

(a) There are exceptional conditions pertaining to the particular piece of property, in question because of its shape, size, or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this chapter unrealistic;

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located;

(c) A literal interpretation of the provisions of this chapter would deprive the applicant or rights commonly enjoyed by other residents of the district in which the property is located;

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;

(e) The special circumstances are not the result of the actions of the applicant;

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure;

(g) The variance is not a request to permit a use which is not a permitted or special use in the district involved.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the federal Fair Housing Act for a person with a disability.

~~(3) *Conditional uses.* To hear and decide whether to allow specific conditional uses to be established in the districts indicated; to decide such questions as are involved in determining whether a conditional use should be granted; to grant conditional uses with such conditions and safeguards as are appropriate under this chapter, or to deny conditional uses when not in harmony with the purpose and intent of this chapter. Application for conditional uses shall be decided in accordance with the provisions of §§151.111 through 151.113.~~

~~(3) *Map Interpretation.* To interpret the official zoning map in accordance with §151.044 of this chapter.~~

(Ord. passed 12-16-85)



**§151.111 SPECIAL CONDITIONS AND USES.**

The provisions of this chapter permit some uses to be established by right in the appropriate district while other uses are listed which require a permit from the Board of Adjustment or Town Board of Commissioners. ~~Those~~<sup>FF1</sup> which require a permit from the Board of Adjustment are termed ~~conditional~~ special uses by this chapter, while those which involve broader policy considerations and therefore require a permit from the Town Board of Commissioners are termed special uses. Both types of uses, in some special ~~or conditional~~ uses, but they may also have characteristics which could have detrimental effects on adjacent properties, or even the entire area of the town, if not properly designed and controlled. ~~Special and conditional~~ uses shall be in accordance with the requirements in §151.113 as well as all other applicable requirements of this chapter.

(Ord. passed 12-16-85)

**§151.112 APPLICATION AND REVIEW PROCEDURES.**

This applicant shall submit the appropriate appeal for administrative review or for a variance or an application for a special use permit accompanied by a site plan prepared in accordance with §151.106 in the number of copies established by and along with any other information required by the Zoning Administrator for proper review of the application. The Board of Adjustment or the Board of Commissioners shall give due notice of the hearing to the parties involved. In the case of a special use permit application, the planning board shall be given 60 days to review the application, before the hearing. The hearing shall not be held until a Planning Board recommendation has been received or 60 days has elapsed. The Planning Board shall give due notice to the applicant of any meetings at which the application will be considered. The hearing shall be conducted in accordance with the general law and court decisions of this state. More specifically, any interested party must be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based on sworn evidence or testimony unless the party or parties before the Board stipulate the facts or waive this requirement. A simple majority is necessary for the Board of Adjustment or the Board of Commissioners to issue a special use permit. For the granting of a variance, no fewer than 4/5ths (4/5) of the board must be present and vote in favor of the said action. The Clerk of the Board shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. A fee of \$25 shall be paid to the town for each application, for an administrative review, for a variance or special advertising and other administrative expenses involved. No application will be processed until the above fee has been paid.

(Ord. passed 12-16-85)

**§151.113 CONDITIONS WHICH MUST BE MET BY SPECIAL AND  
CONDITIONAL USES.**

(A) In order for any special or conditional use to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the Board to find that the following conditions exist where applicable:

- (1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied;
- (2) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency;
- (3) Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- (4) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use;
- (5) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts;
- (6) The type, size, and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.
- (7) The use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- (8) The use will not be a detriment or deterrent to economic development;
- (9) The use will be in harmony with the existing development and uses within the area in which it is to be located.
- (10) The use or development conforms to the general plans for the physical development of the Town and is consistent with any Town Comprehensive Plan.



(B) If the appropriate board approves a special or conditional use, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to insure that the criteria for the granting of such a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community. Where appropriate, such conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made of recreational space and facilities.

(C) In addition to the general conditions in §151.113(A), special uses shall meet specific conditions for the type of use as indicated in this section.

(1) Use: Multi-family dwellings and complexes as a special use in R-8, R-20 and O&I.

(a) Requirements: Maximum density shall be as indicated in §151.045(B)

(b) Where more than one building is to be located at the site, building separation shall be determined as follows: The minimum horizontal distance between the vertical projections of any points on two adjacent buildings shall be determined according to the following table. The vertical projections for each building shall be drawn from that point on each building which is horizontally closest to the other building.

<u>Height of Taller Building</u>	<u>Minimum Horizontal Distance Between Vertical Projections (Feet)</u>
<u>20 or less</u>	<u>16</u>
<u>Between 20.1 and 25.0</u>	<u>25</u>
<u>Between 25.1 and 30.0</u>	<u>30</u>
<u>Between 30.1 and 35.0</u>	<u>40</u>

(c) Distance related to windows: The minimum distance between the centers of facing windows of different dwelling units shall be 20 feet.

(d) A yard of at least 50 feet shall be provided around the entire perimeter of the site, with the exception of driveways. Parking spaces and accessory buildings shall not be allowed in the required yard.

(e) Access for emergency vehicles to all parts of the complex and to each dwelling unit shall be provided.

(f) Accessory buildings and uses for multi-family dwellings shall not be placed in the fifty foot yard around the perimeter of the site.

(g) The Board may approve the inclusion of leasing offices, and of coin-operated laundry facilities, swimming pool snack bars, and similar service uses for residents of the multi-family dwelling provided that they are intended to serve residents of the dwelling or complex only, and will not attract outside traffic to the site.

(2) Use: Planned Unit Developments as a special use in R-20, R-12, and R-8.

(a) A planned unit development is a project which is at least two gross acres in size to be located on land under unified control, planned as a whole, and developed in a single development operation or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development.

(b) A planned unit development may contain any of the permitted, special, or conditional uses listed for the R-20, R-12, or R-8 districts, subject to approval of the plans by the Board of Commissioners. Board of Adjustment approval of those listed as conditional—special uses is not needed in a planned unit development. Dimensional and density requirements for multi-family dwellings in a planned unit development shall be as indicted for multi-family dwellings in §151.045(B) and in this section. Dimensional requirements for nonresidential uses in a planned unit development shall be those listed for other principal use in §151.045(B) for the district in which the planned unit development is located. Shopping centers are also permitted in a planned unit development. Uses allowed in such shopping centers are: grocery stores, drug stores, laundry and dry cleaning establishments, offices, gift shops, card shops, camera and photography shops, barber and beauty shops, and restaurants.

(c) In addition to the uses allowed in R-20, R-12, and R-8 districts and shopping centers, the following uses are allowed in planned unit developments:

(i) *Clustered detached single-family dwellings.* These are dwellings in which the lot size for each individual dwelling may be reduced, but may not be less than 6,000 square feet provided that the difference between the required dimensions for the district, as indicated in §151.045(B), and the



reduced dimensions, is dedicated to a homeowner's association as common open space.

(ii) Zero lot line dwellings. These are detached single-family dwellings on lots without a side yard requirement on one side of the lot. The lot for a zero lot line dwelling may be reduced, but may not be less than 6,000 square feet provided that the difference between the required dimensions for the district as indicated in §151.045(B), and the reduced dimensions, is dedicated to a homeowner's association as common open space.

(d) Common areas and common open space shall be deeded to an owners' association and the developer or owner shall file with the Zoning Administrator and record in the County Register of Deeds office a declaration of covenants and restrictions as well as regulations as bylaws that will govern the open space. Provisions shall include, but not be limited to, the following:

(i) The association shall be established before the homes, buildings, or uses are sold;

(ii) Membership shall be mandatory for the buyer and all successive buyers, unless another arrangement is approved by the Board of Commissioners which adequately protects the interests of the town and the owners;

(iii) The association shall be responsible for the liability insurance, local taxes, and maintenance of recreation and other facilities;

(iv) Any sums levied by the association that remain unpaid shall become a lien on the individual owners' property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the Town Board which adequately protects the interests of the town and the owners;

(v) Any owner of each dwelling unit or each homeowner or other building owner shall have voting rights in the association;

(vi) Uses of common property shall be appropriately limited;

(vii) The following information shall also be provided:

(a) The name of the association;

(b) The manner in which directors of the association are to be selected;

(c) The post office address of the initial registered office;

- (d) The name of the city and county in which the registered office is located; and
- (e) The number of directors constituting the initial board of directors.

(3) Use: Public buildings, uses, utilities as a special use in R-20, R-12, R-8, O&I.

- (a) Requirements: The Board shall review each application carefully and shall deny the permit if the benefit to the public will not outweigh any adverse effects the use might have.

(4) Use: Radio and TV stations and transmission towers as a special use in R-20.

- (a) Requirements: The minimum distance from the center of the transmission tower to the nearest property line shall be two times the height of the tower or the height of the tower plus 200 feet, whichever is greater. Off-street parking shall be provided at the rate of one space for each employee.

(5) Use: Community centers as a conditional use in R-12, R-8, private clubs as a conditional use in R-20, R-12, R-8.

- (a) Requirements: Noise from a public address system shall not be heard beyond the neighboring residential uses.
- (b) The use will not be located in an area where traffic congestion will be a problem for neighboring residential uses.

(6) Use: Fraternal organizations not open to the public as a conditional use in R-20, R-12, R-8.

- (a) Requirements: The use shall be located where there shall be no disturbance to residences and shall be adequately designed for its size and purpose.
- (b) Noise from the public address system shall not be heard beyond the property where the use is located.
- (c) The use shall not be located in an area where traffic congestion will be a problem for neighboring residential uses.

(7) Use: Temporary uses such as circuses, carnivals, fairs, as a special use in R-20, R-12, R-8.

- (a) Requirements: This site shall be located at least 200 feet from the nearest occupied residential structure and shall be adequately designed for its size and purpose. The use shall meet any applicable County Health Department requirements.



(8) Use: Other temporary uses.

(a) Requirements: The Board shall consider the effects of the use on adjacent properties, and shall set a time limit on the temporary use.

(9) Use: Commercial amusements as a conditional use in C-2.

(a) Requirements: No outdoor activities including parking shall be located within 2,000 feet of and residentially zoned land. No lights may shine where they will produce glare which will not be directly cast on a residential structure. Noise from commercial amusements shall not be a nuisance to any residentially zoned land. The Board will pay close attention to buffering.

(b) For indoor activity, the Board will take into consideration the proposed size of the operation and number of patrons and their effect on neighboring areas.

(c) Hours of operation will be limited to 10:00 a.m. to 10:00 p.m.

(10) Use: Retail or wholesale businesses, service establishments, or public uses other than those specifically listed with outdoor sales, service, storage areas or which would emit smoke, odor, dust, fumes, or noise from the building in which they are located or involve possible fire hazard.

(a) Requirements: The Board will carefully consider the effects of the individual operation on neighboring property and the town and shall deny the permit if an adverse effect would be created.

(11) Use: Any manufacturing, processing, or warehousing or transportation or public use or utility which involves outdoor storage, services, operations, emits or will emit smoke, odor, dust, fumes, glare, noise, or vibration from the building in which it is located, or involves storage of combustible materials, or is among the uses listed as exceptions to permitted uses.

(a) Requirements: The Board will carefully consider the effects of the individual operation on neighboring property and the town and shall deny the permit if an adverse effect would be created.

(b) The Board shall require sufficient buffering to screen the outdoor use or portion of the use from view of streets and neighboring property.

(c) The outdoor use or portion of the use shall be maintained in a sanitary condition at all times so as not to harbor mosquitoes, vermin, or otherwise be a menace to public health and safety.

(d) Where a use could involve potential fire or other health hazards, the Fire Chief, and where applicable, the County Health Department, shall have an

opportunity to review the application. The applicant shall provide all needed information to enable the appropriate officials to determine the safety of the operations and any storage measures.

(12) Use: Townhouses as a special use in R-8.

(a) Requirements:

(i) Minimum lot area, width, depth, and lot coverage requirements shall be as indicated in §151.045(B) of this chapter;

(ii) The yard requirements around the perimeter of townhouse projects with more than two attached townhouses shall be increased to 50 feet;

(iii) The minimum number of townhouses attached to each other shall be two and the maximum shall be eight;

(iv) Any common areas and common open space shall be deeded to a homeowners' association which meets the requirements of §151.113(C). For the use, townhouses as a special use in §151.113(C)(13)(b)5.e;

(v) Recreation and open space:

(b) Every person or corporation who establishes a townhouse project for residential purposes shall be required to dedicate a portion of such land for the purposes of park, recreation, and open space sites to serve the residents of the townhouse project;

(c) The minimum amount of land that shall be dedicated for recreation, parks, or open space in all townhouse projects shall be one-half acre for each townhouse or 5% of the gross acreage, whichever is greatest;

(d) Criteria for evaluating suitability of proposed recreation, parks, and open space areas shall include, but not be limited to, the following, as determined by the Board of Commissioners in consultation with the Planning Board;

(i) The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The Board of Commissioners may require that parcels be connected, and may require the dedication of a connecting path of up to 60 feet, and in no case less than 30 feet in width in addition to the land required in §151.113(C)(13)(b)5.b. of this use;

(ii) The dedicated land shall be located so as to serve the creation needs of the townhouse project.



(iii) Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement may be required to be up to 60 feet in width and shall in no case be less than 30 feet in width;

(iv) The dedicated land shall be usable for active recreation (play areas, ball fields, tennis courts, or similar recreation uses). Lakes may not be included in computing amount of land to be dedicated unless acceptable to the Board of Commissioners. If the Board of Commissioners determines that active recreation needs are being met by other dedicated parcels or existing recreation facilities, then land that is suitable for open space may be dedicated.

(13) The Board of Commissioners may, in cases of unusual or exceptional nature, allow adjustments in the dedication requirements established in or required by this chapter. Such adjustments shall be reviewed by the Planning Board before action by the Board of Commissioners;

(14) The land required by this section may be dedicated to the town, or may be deeded to a homeowners' association, the developer or owner shall file with the Zoning Administrator and record with the final townhouse project plat a declaration of covenants and restrictions as well as regulations and bylaws that will govern the open space. Provisions shall include but not be limited to, the following:

(a) The association shall be established before the homes were sold;

(b) Membership shall be mandatory for each home buyer and all successive buyers, unless another arrangement is approved by the Board of Commissioners which adequately protects the interest of the town and the owners;

(c) The association shall be responsible for the liability insurance, local taxes, and maintenance of the recreation and other facilities;

(d) Any sums levied by the association that remain unpaid shall become a lien on the individual homeowners' property which shall be subordinate only to tax and mortgage liens unless another arrangement is approved by the Board of Commissioners which adequately protects the interests of the town and the owners;

(e) If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the town to satisfy the requirements for public recreation space under this section of the chapter;

(f) An owner of each dwelling unit or each homeowner shall have voting rights in the association;

(g) Uses of common property shall be appropriately limited;

(h) The following information shall also be provided:

(i) The name of the association; B. The manner in which directors of the association are to be selected;

(ii) The post office address of the initial registered office;

(iii) The name of the city and county in which the registered office is located;

(iv) The number of directors constituting the initial board of directors. Nothing herein shall be construed to limit the amount of privately controlled open space which may be included in this agreement, over and above the recreation and park site obligation.

(15) Use: Commercial amusement buildings as a special use in C-1, C-2, electronic and pinball machines as a special use in C-1, C-2.

(a) Requirements: The Board will take into consideration the proposed size and number of patrons and their effect on neighboring uses. Hours of operation will be limited to 10:00 a.m. to 10:00 p.m.

(16) Use: Day nurseries as a conditional use in R-20, R-12, R-8.

(a) Requirements: Before a day care center may be occupied, licensing is required by the North Carolina Day Care Licensing Board as provided in N.C.G.S. §§110-85 *et seq.*

(17) Use: Amusement parks as a special use in C-2, I.

(a) Requirements: No activities including parking, shall be located within 2,000 feet of any residentially zoned land. No lights from the park may shine where they will produce glare which will not directly cast on a residential structure. Noise from the park shall not be a nuisance to any residentially zoned land. The Board will pay close attention to buffering.

(18) Use: Campground for youth or organized groups as a special use in R-20.

(a) Requirements: The site shall be located where there shall be no disturbance to residences, and shall be adequately designed for this size and purpose. The use shall meet any applicable County Health Department requirements.

(19) Use: Outdoor storage yards as a special use in I.



(a) Requirements: The board shall require sufficient buffering to completely screen the use from view of streets and neighboring property.

(b) The use shall be maintained in a sanitary condition at all times so as not to harbor mosquitoes, vermin, or otherwise be a menace to public health and safety.

(20) Use: Campground as a conditional use in R-20.

(a) Requirements: The site shall be located where there shall be no disturbance to residences, and shall be adequately designed for its size and purpose. The use shall meet any applicable County Health Department requirements.

(21) Use: Storage of inflammable liquids and other hazardous substances as a conditional use in I.

(a) Requirements: The Fire Chief, and where applicable, the County Health Department, shall have an opportunity to review the application. The applicant shall provide all needed information to enable the appropriate officials to determine the safety of the storage measures.

(22) Use: Mobile homes and individual lots as special use in R-20.

(a) Requirements: All requirements for the location of a single-family dwelling on an individual lot shall be met. Any mobile home constructed before July 1, 1970 must be approved by Underwriters Laboratories and any mobile home constructed after that time must meet all applicable state and federal standards. All mobile homes shall be tied down in accordance with the state regulations for mobile homes and modular housing. All County Health Department requirements shall be met.

(23) Use: Short Term Rental as a special use in R-20, R-12, R-8..

(a) Requirements:

i. The use shall be managed and carried on by a resident of the property who shall submit to and maintain with the Zoning Administrator a contact telephone number by which said resident may be reached at any time during a short term rental stay.

ii. The use shall not allow displays of goods, products, services or other advertising shall be visible from outside of the dwelling.

iii. The use shall not allow activities other than lodging shall be provided.

- iv. The use shall not require additional off-street parking.
- v. The use shall not allow signage visible from the exterior of the residence.
- vi. The use shall only allow appropriate exterior residential in nature lighting.
- vii. The use shall require the owner or operator to pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entity.
- viii. The dwelling unit utilized for the short term rental shall comply with all current and applicable residential building codes.
- ix. The overnight lodging shall not exceed 30 consecutive days for any one person. Following the expiration of the 30 day period, no short-term lodger shall occupy the same dwelling without a gap of at least 7 consecutive calendar days.
- x. Short-term lodgers may not utilize the premises for holding special events or gatherings.
- xi. The owner of such premises shall maintain a list of all short-term lodgers who stay in his dwelling. Said list shall contain the names of lodgers for the last three year period.
- xii. Each violation of these and other special use condition shall is subject to Penalties under Section 151.999.
- xiii. Operation of a short-term rental without the required special use permit is subject to Penalties under Section 151.999.

(Ord. passed 12-16-85)



**§151.114 AMENDMENTS.**

(A) This zoning code, including the official zoning map, may be amended only by the Board of Commissioners of the town, according to the procedures of this section. Proposed amendments may be initiated by the Board of Commissioners, Planning Board, or Board of Adjustment. Proposed amendments to the text of the zoning ordinance map also be initiated by any resident or property owner within the jurisdiction covered by this chapter, and any property owner within the jurisdiction covered by this chapter may initiate a request for a change in the zoning classification of his property.

(B) Except for amendments initiated by the Town Board, Planning Board, or Board of Adjustment, no proposed amendment shall be considered by the Town Board nor a public hearing held until an application containing the following information is submitted by the applicant: a statement of the present zoning regulations or district boundary, the name and signature of the applicant, and if an amendment of the zoning map is proposed, the tax parcel number of the lot proposed to be rezoned, the names and addresses of the owners of the lot in question, and the use of each adjacent property. When the applicant proposing the amendment is not the property owner, the burden of notifying the property owner as shown on the county tax listing shall be required by the third party requesting to certify that the property owner has received actual notice of the application and the scheduled public hearing. Actual notice may be provided by means of personally delivered or sent registered, certified, or delivery-receipt mail. The applicant shall provide any additional information related to the proposed amendment requested in writing by the Planning Board or Board of Commissioners. The Zoning Administrator shall transmit the original application to the Town Board and a copy to the Planning Board. The original application shall be filed in the office of the Zoning Administrator after consideration by the Town Board.

(C) No amendment shall be adopted by the Board of Commissioners until they have held a public hearing on the amendment, and shall have given the Planning Board at least 30 days after the public hearing to make a recommendation concerning the amendment. Board of Commissioners decisions may be contested for the validity of a zoning or development ordinance text amendment for a period of one year after the decision is recorded by the clerk. Zoning map amendments may not be contested after a decision is made by the Board of Commissioners.

(D) (D) When an application for amendment is denied by the Board of Commissioners, a period of 12 months must elapse before another application for the same property previously involved may be submitted.

(E) Town Board Action

Before taking such lawful action as it may need advisable, the Town Board shall consider the Planning and Zoning Board's written recommendation on each proposed zoning amendment. If no recommendation is received from the Planning and Zoning Board within thirty (30) days after a public hearing by the Town Board, the proposed amendment shall be deemed to have been approved by the Planning Board. A simple majority of the Board of Commissioners shall be required to amend this ordinance following a recommendation by the Planning Board.

A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment has a close familial, business, or other associational relationship.

(F) Town Board Statement

Prior to adopting or rejecting any zoning amendment, the Town Board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board considers the action taken to be reasonable and in the public interest.

(G) Minutes of all proceedings shall be taken and maintained by the Town Clerk or other designee. G.S. 160D-308

(Ord. passed 12-16-85)

**§151.115 VIOLATION REMEDIES.**

In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Administrator or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

Enforcement of Zoning Ordinance

a. Purpose-

In order to ensure compliance with the Zoning Ordinance, and in particular accordance with G.S. § 160D-404, the following procedures describe the enforcement procedures.



b. Applicability-

The procedures described herein apply, as appropriate, within the jurisdiction of the Town of Warrenton.

c. Enforcement

Whenever a complaint is received alleging a violation of this ordinance, the Zoning Administrator or designee shall investigate the complaint and take whatever action is warranted.

On receiving complaints or other information suggesting a violation of this Ordinance, the Administrator or designee shall investigate the situation and determine whether a violation exists.

If inspecting the premises, it will be performed during reasonable hours and upon presenting credentials, will have consent of the premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. §160D-403(e).

d. Initial Notice of Violation

On determining that a violation exists, the Administrator shall give the landowner(s) of the property and the holder of any development approvals a written notice of the violation, either in or by personal delivery, electronic delivery, or first class mail or posted on the property. The notice shall describe the nature of the violation, state the options necessary to correct the violation, and invite the alleged violator to meet the Administrator or designee for a hearing to discuss the violation and how it may be corrected /resolved. The Administrator may provide the alleged violator additional notices of violations.(G.S.160D-404(a)

e. Final Notice of Violation, Correction Order

The Administrator's final written notice of violation (which may also be the initial notice) shall also order correction of the violation, specify a reasonable time period within which the violation must be corrected, state which of the remedies and penalties authorized in this section, the Administrator may pursue if the violation is not corrected within the specific time limit, and state that the correction order may be appealed to the Board of Adjustment.

f. Appeal to the Board of Adjustment

Pursuant to G.S § 160D-405 , Any person aggrieved by the Administrator's determination of a violation or correction order may appeal that determination or order to the Board of Adjustment in accordance with the provisions of this Chapter. As provided by that Article, an appeal generally stays all further actions to enforce a correction order until the Board of Adjustment has decided the appeal.

If the recipient of a correction order does not appeal to the Board of Adjustment within the time

limit specified in the Chapter, that person may not later appeal to the Board of Adjustment the subsequent imposition of any remedy specified in the order.

g. Extension of Time Limit to Correct Violation

The recipient of a correction order, or the owner of the property on which the violation occurs may submit to the Administrator a written request for extension of the order's specified time limit for correction of the violation . On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

h. Enforcement Action after Time Limit to Correct Violation

Following the time limit for correction of the violation, including any stay or extension thereof, the Administrator shall determine whether the violation has been corrected. If the violation has been corrected, the Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the Administrator may act to impose one or more of the remedies and penalties specified in the correction order.

a. Persons Liable

Any landowner or holder of a development approval who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

b. Penalties and Remedies

The Administrator may pursue one or more of the following remedies and penalties to prevent, correct, or abate a violation of this Ordinance, Use of one of the authorized remedies and penalties does not preclude the Administrator from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one remedy or penalty from imposition of any authorized remedies or penalties.

i. Permit Revocation

In accordance with the provisions of this Ordinance, the Administrator or Building Inspector may revoke any development approval granted under this Ordinance for any substantial departure from the approved application, plans, or specifications, for refusal or failure to comply with any local



development regulation or any state law delegated to the Town of Warrenton by the State for enforcement.

The Administrator or Building Inspector shall notify the holder of the development approval of the revocation in writing.

All development approval revocations shall follow the same procedures required for the initial issuance of the development approval including any written notice(s) or hearing(s).

c. Permit Denial

As long as a violation of this Ordinance remains uncorrected, the Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.

d. Civil Penalties

A 15 day grace period on all offenses that do not endanger public safety or wellbeing.

The Administrator may impose a civil penalty by giving the violator a written citation, either in person or by certified or registered mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the Town of Warrenton within 10 days of the date the citation is received. If the violator fails to either pay the civil penalty or correct the violation within this time limit, the Administrator may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty

For purposes of assessing the amount of a civil penalty, each day the violation remains uncorrected after receipt of the correction order (or receipt of the citation itself in the case of emergency enforcement) shall constitute a separate violation that subjects the violator to additional civil penalty. The amounts are noted below:

\$250.00 fine per day for first 15 days (beginning immediately for offenses that endanger public safety or wellbeing)

\$250.00 fine per day for next 15 days

\$2500.00 fine per day for remainder of the violation<sup>[FF2]</sup>

e. reserved for future use

e. Criminal Penalty

Violation of this Ordinance constitutes a Class 3 misdemeanor punishable by a maximum fine of \$500.00 and as otherwise provided in Section 14 of the General Statutes.

f. Stop Work Orders

Pursuant to G.S. § 160D-404, the Administrator may issue a stop work order in the following cases:

1. If the work or activity substantially violates state laws (provided the State has delegated the Town to enforce the law)
2. If the work or activity substantially violates local law
3. If the work or activity could endanger life or property
4. The stop work order shall apply exclusively to the specific part(s) of the work or activity that meets the above criteria.
5. The Town (or designee) shall deliver the stop work order to the holder of the development approval and the owner of the property via personal delivery, electronic delivery, or first class, certified mail.
6. Violation of a stop work order shall constitute a Class 1 misdemeanor.

g. Other Equitable Relief

In addition to the above remedies and penalties, the Administrator may institute any other appropriate action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

(Ord. passed 12-16-85)

**§ 151. 116 Site – Specific Vesting Plans**

- a. An approved site-specific vesting plan precludes any zoning action by the Town of Warrenton , which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan and in accordance with applicable limitations and exceptions.
- b. The development approvals listed below are determined by the Town of Warrenton to qualify as site-specific vesting plans.

Subdivision plats, site plans, special use permits

- c. A vested right established pursuant to this ordinance shall run for a period of 2 years from the effective date of the approval of the underlying development application..

**(A) Process for submittal, approval, and amendment of a site-specific vesting plan**

- a. Each site-specific vesting plan shall include the information required by the Town of Warrenton for the underlying type of development plan.
- b. Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan.
- c. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as required for the underlying type of development plan.
- d. Upon following the same process as required for the original approval, the decision –making board or official may extend the vesting of a site –specific vesting plan up to three years ( with total length of vesting not to exceed five years) upon finding that:
  - i. The permit has not yet expired
  - ii. Conditions have not changed so substantially as to warrant a new application; and
  - iii. The extension is warranted in light of all other relevant circumstances- including, but not limited to the size of the development, economic cycles, and market conditions or other considerations.

**(B) Limits of site-specific vesting plans**



- a. Nothing in the ordinance shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance. The development remains subject to subsequent review and approvals to ensure compliance with the terms and conditions of the original approval or by applicable regulations.
- b. The establishment of a vested right pursuant to this ordinance shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land regulation by the Town of Warrenton including but not limited to, building, fire, plumbing, electrical, and mechanical codes.
- c. New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right shall become effective upon the expiration or termination of the vested rights period provided for in this ordinance.
- d. Upon issuance of a building permit, the provisions of G.S. § 160D-1111 and 160D-1115 apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.
- e. Any vested rights for a site-specific vesting plan are subject to exceptions specified at G.S. § 160D- 108.1.
- f. Pursuant to G.S. § 160D-108(d)(4), multi-phase developments shall be vested in their entirety with the regulations and ordinances in place at the time of site plan approval for the initial development phase. The vesting period for multi-phase developments shall be seven (7) years.

**§151.999 PENALTY. Reserved for future use**

Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding \$50 or by imprisonment not to exceed 30 days. Each day a violation continues shall be deemed a separate offense.

(Ord. passed 12-16-85)



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## CHAPTER 153: HISTORIC DISTRICT

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**§153.01 PURPOSE**

The historical heritage of the Town of Warrenton is a valued and important asset. The conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State. This Ordinance establishes a historic preservation commission for the following purposes:

(A) To safeguard the heritage of Warrenton by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and

(B) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the Town and the State as a whole.

**§153.02 CREATION OF THE HISTORIC PRESERVATION COMMISSION FOR THE TOWN OF WARRENTON, NORTH CAROLINA**

(A) There is hereby established a Historic Preservation Commission ("Commission") for the Town of Warrenton under the authority of Chapter 160 ~~DA, Article 19, Part~~ of the North Carolina General Statutes. N.C.G.S §160 ~~D-303A-400.7~~

(B) The Commission's jurisdiction for its activities shall coincide with the Town's Zoning Jurisdiction as delineated and shown on the official zoning map for the Town of Warrenton. (Ord. 151.040, et seq.)

**§153.03 Commission Composition; Terms of Office; Attendance; Officers; Meetings; Establishment of Rules; Directive to Survey**

(A) Composition: The Commission shall consist of seven (7) members. All the members shall reside within the territorial jurisdiction of the town. Members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. Two members of the Commission shall be recommended by Preservation Warrenton, two members of the Commission shall be recommended by the Jacob Holt Foundation, two members as recommended by the Board of Commissioners from the public and the seventh member of the Commission shall be a member of the Board of Commissioners of the Town of Warrenton (herein referred to as "BOC"), although Commission members recommendations by Preservation Warrenton and/or the Jacob Holt Foundations as set forth herein need not be members of those organizations. Upon the recommending The BOC shall appoint members.

(B) Terms of Office: Members of the Commission shall serve terms of four years. Terms shall be staggered with the initial term of members being as follows: one (1) member for two (2)

years, three (3) members for three (3) years and three (3) members for four (4) years. A member may be reappointed for consecutive terms. In the event that a member should need replacement, the replacing member shall serve the remainder of the current term and shall be recommended to the BOC from the appropriate organization as set forth above.

(C) Attendance: Any member of the Commission who misses more than three consecutive regular meetings shall be replaced or reappointed by the BOC pursuant to this ordinance. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

(D) Officers: The Historic Preservation Commission shall elect from among its members a chairman, vice-chairman and treasurer. Officers shall be elected annually and may be re-elected. A staff member of the Town of Warrenton may be appointed to serve as a secretary or an administrative advisor for the Commission. The Commission may appoint advisory bodies and committees as appropriate.

(E) Meetings: The Commission shall hold at least one regular meeting each month, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules and procedures. All meetings shall be subject to the North Carolina Open Meeting laws and a public record shall be kept of the Commission's resolutions, proceedings, and actions.

(F) Rules and Procedures: The Historic Preservation Commission shall adopt rules of procedure for the conduct of its business in keeping with the provisions of this Ordinance. The rules and procedures shall at least provide for the selection and duties of the officers of the Commission, the time and place of its regular meetings and the calling of special meetings, and the procedures for the conduct of its meetings and public hearings.

Upon its first formal meeting and prior to performing any duties under this ordinance or under ~~Article 19, Part 3C of~~ Chapter 160D-303A of the North Carolina General Statutes, the Commission shall adopt rules of procedure ("Rules and Procedure") for the conduct of its business. Said rules and procedures shall be submitted to the BOC for approval. The Commission shall prepare and submit an annual report in April of each year to the BOC. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the Commission as well as any budget requests or recommendations which need to be described to maintain the Town's designation as a Certified Local Government (CLG) as required by the State Historic Preservation Officer. The Commission shall keep as public record an accurate account of its meeting attendance and adopted resolutions, findings, and recommendations.



The Commission shall perform the duties of both a separate historic districts commission and a separate historic properties commission as required and shall conform their actions to this ordinance and the statutory directive when acting in either capacity.

**§153.04 Powers, Duties and Responsibilities of the Commission**

Pursuant to Chapter 160~~D-942A, Article 19, Part 3C~~ of the North Carolina General Statutes and this ordinance, the Commission shall have the following powers, duties and responsibilities:

(A) Review the inventory of properties of historical, architectural, archaeological, and/or cultural significance as designated in the 1976 survey of properties for the Town of Warrenton.

(B) Recommend to the BOC additional districts or areas to be designated in the ordinance as “Historic Districts” within the Town of Warrenton and its extraterritorial zoning jurisdiction.

(C) Recommend to the BOC that designation of any district or area as a historic district or part thereof be revoked or removed for just cause.

(D) Recommend to the BOC individual structures, buildings, sites, areas or objects to be designated by ordinance as “historic properties.”

(E) Recommend to BOC that designation of any building, structure, site, area or object as a historic property be revoked or removed.

(F) Conduct an educational program with respect to historic properties and districts within its jurisdiction.

(G) Publish information about, or otherwise inform the owners of property within the district or of designated historic properties, of any matters pertinent to its duties, organization, procedures, responsibilities, functions or requirements.

(H) Cooperate with the State, Federal and local governments in pursuance of the purposes of this ordinance. The Commission when authorized by the BOC may contract with the State or the United States of America, or any agency of either or with any other organization provided the terms are not inconsistent with State or Federal law, for services or funds.

(I) Recommend to the BOC and the State of North Carolina structures, sites, objects or districts worthy of national, state or local recognition.

(J) Communicate with other boards or commissions or agencies of the Town of Warrenton or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.

(K) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(L) Prepare and recommend the official adoption of a preservation element as part of the Town of Warrenton's comprehensive plan.

(M) Consider and act upon applications for Certificates of Appropriateness in accordance with the Rules of Procedure and applicable Zoning Ordinance of the Town of Warrenton as set forth in Section 153 et al.

(N) Act as, establish or designate a group, body or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties, such as fenestration, architectural, and landscape features.

(O) Attend and present its recommendations at public hearings on applications for Certificates of Appropriateness where the BOC deems that such a hearing is necessary.

(P) Recommend guidelines to be established under which the Town Administrator or his/her designee may approve applications for Certificates of Appropriateness for minor modifications of historic properties or building structures or sites in a historic district on behalf of the Commission, provided no application shall be denied by the Town Administrator without first being considered by the Commission.

(Q) Undertake programs of information, research, or analysis relating to any matters under its purview.

(R) Report violations of this ordinance, or related ordinances such as Zoning Ordinance and building code, to the County Building Inspector.

(S) Negotiate at any time with the owner of a building, structure, site, area, or object for its preservation when such an action is reasonably necessary or appropriate.

(T) Take steps during the period of postponement of demolition of any historic property to ascertain what the BOC can or may do to preserve such properties, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of potential acquisition by the Town of Warrenton when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic, architectural and archaeological significance.

(U) Assist Town staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis when requested.

(V) Recommend to the BOC changes to this or any other ordinance and propose new ordinances or laws relating to historic properties and historic districts or relating to a total program for the protection and/or development of the historic resources of the Town of Warrenton and its environs.

(W) Exercise such other powers and perform such other duties as are required elsewhere by this ordinance, the General Statutes of North Carolina or by the Town of Warrenton.

SECTIONS 153.1 through 153.4 ADOPTED BY THE WARRENTON BOARD OF COMMISSIONERS ENACTED AUGUST 13, 2007.

#### **§153.05 Part 1: Designation of Historic District**

(A) The Warrenton Historic District Commission has conducted an investigation and submitted a report describing the significance of the buildings, structures, features, sites or surroundings to be included in the Warrenton Historic District, and a description of the boundaries of such district has been prepared, and

(B) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, has made an analysis of and recommendations concerning such report and description of proposed boundaries.

(C) The Warrenton Historic District shall be comprised of the 1973 National Registry District.

(D) The Town of Warrenton Historic District map and its building inventory shall be available for public inspection at the Town Hall during regular business hours.

#### **Part 2: Designation of Landmark**

Upon complying with N.C.N.C.G.S. §160~~D-945A-400.6~~, the Town Board may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The Historic District Commission shall make recommendations for such designation in accordance with the rules of the Commission and this chapter.

No property shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic District Commission to be of special significance in terms of its historical, prehistoric, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall include a description of each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistoric value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the ordinance shall also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right of way.

As a guide for the identification and evaluation of landmarks, the Historic District Commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistoric, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic District Commission or the Town Board, until all of the following procedural steps in compliance with N.C.G.S §160D303A-400.06 have been taken.

Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the preservation commission shall pay a reasonable fee for filing and indexing. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Historic District Commission to give notice thereof to the tax supervisor of Warren County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.



**§153.07 RESERVED**

**§153.08 RESERVED**

**§153.09 Certificate of Appropriateness required**

(A) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a certificate of appropriateness (herein and after "certificate") as to exterior features has been submitted to and approved by the preservation commission. The Town requires a certificate to be issued by the Historic Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part.

(B) A certificate of appropriateness shall be required whether or not a building or other permit is required.

(C) For purposes of this ordinance, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(D) Except as provided in (e) below, the Historic Commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district.

(E) Notwithstanding subsection (a) of this section, jurisdiction of the Historic Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the Warren County Registry of Deeds and indexed according to the name of the

owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(F) Prior to any action to enforce a landmark or historic district ordinance, the Historic Commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition.

(G) Prior to issuance or denial of a certificate of appropriateness the Historic Commission shall take such steps as may be reasonably required in the ordinance and rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.

(H) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the Historic Commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(I) An appeal may be taken to the Board of Adjustment from the Historic Commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed (30 Days), and (iii) shall be in the nature of *certiorari*.

(J) Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Warren County.

(K) All of the provisions of this Part are hereby made applicable to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina.

(L) The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under N.C.G.S. §121-12(a) from any decision of the Warrenton Historic District commission. The commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing

applications of the State for certificates of appropriateness. The decision of the commission shall be final and binding upon both the State and the preservation commission.

#### **§153.10 Conflicts with other laws**

Whenever any part of this ordinance adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions require a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance or regulation shall govern. (1989, c. 706, s. 2.)

#### **§153.11 Remedies**

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this Part is about to be demolished whether as the result of the deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or other provisions of this Part, the city or county, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of a municipal ordinance. (1989, c. 706, s. 2) SEE N.C.N.C.G.S. §160D950A-400.11

#### **§153.12 Appropriations**

A city or county governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Part in any amount that it may determine necessary for the expenses of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed. (1989, c. 706, s. 2) SEE N.C.N.C.G.S. §160D-943A-400.12

**§153.12 Certain Changes not prohibited**

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material, or appearance thereof nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition. SEE N.C.N.C.G.S. §160D-948A-400.13

**§153.13 Delay in demolition of landmarks and buildings within historic District.**

(A) An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided below in subsection (C). However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Historic District Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition, or removal. If the Historic District Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Town Board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission or planning board for a period of up to 180 days or until the local governing board takes final action on the designation, whichever occurs first. SEE N.C.N.C.G.S. §160D-949A-400.14

(B) The Town Board or the Historic District Commission may prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(C) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places shall be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.



**§153.14-19 RESERVED**

**§153.90 Civil Remedies**

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this ordinance is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the Town or County, the Historic District Commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by the General Statutes for violation of a municipal ordinance.

**§153.91 Other Remedies and penalties of enforcement.**

(A) Permit denial: An application for a Town permit or renewal thereof hereunder may be denied by the Town manager or his designee if the prospective Town permittee fails to comply with any of the requirements of sections of the Historic District ordinance, above or if a material violation exists of any provision of this article.

(B) Permit revocation: The Town permit shall be revoked by the Town manager or his designee for any material violation of this article or for false representations made in securing a permit hereunder. The Town manager or his designee may revoke the Town permit by notifying the Town permittee holder in writing and stating the reason for revocation. any Town permittee whose permit is denied or revoked may appeal said denial or revocation to the full board of commissioners.

(C) Civil penalty: Violation of this article subjects a violator to a civil penalty in the amount of \$100.00. The Town manager or his designee may impose a civil penalty by giving the violator a written citation either in person or by registered mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty being imposed, and inform the violator to pay the civil penalty or correct the violation or both within the time limit. Any order to correct a violation shall specify a reasonable time period in which the violation may be brought into compliance (the "compliance period") and no additional penalties shall be assessed until the compliance period has expired. The Town may institute a civil action in the nature of a debt collection in a court of competent jurisdiction to recover any civil penalty assessed hereunder.

(D) Each violation and each day that a violation continues after the expiration of the compliance period shall be considered a separate offense for the purposes of the civil penalty specified in this section.

(E) *Injunction and abatement order:* The Town manager or his designee may institute an action in a court of competent jurisdiction for mandatory or prohibitory injunction and order of abatement commanding the violator to correct or cease the violation of this article.

(F) *Other equitable relief:* In addition to the above remedies and penalties, the Town may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct or abate a violation of this chapter.

(G) *Attorney fees:* If it is necessary to institute a civil or equitable action under this section, ~~attorneys~~attorney's fees incurred by the Town shall be taxed to the defendant as an additional civil penalty hereunder if the Town is the prevailing party.

(H) *Primacy of state and federal law:* Nothing herein shall be read to allow the Town to impose civil penalties or initiate a civil action for the violation of a federal or state law, rule, regulation.



The Town of Warrenton Historic Preservation Commission

**HISTORIC DISTRICT RULES OF PROCEDURE**

**1.0 PURPOSE**

To establish procedures for organizing the business of the Warrenton Historic Preservation Commission (“Commission”); for processing applications for a Certificate of Appropriateness (“COA”); for pursuing the designation of historic properties; and to fulfill any other duties contained and/or implied in the Historic Preservation Ordinances (“Ordinance”).

**2.0 GENERAL RULES**

The Commission shall be governed by the regulations pertaining to historic properties as incorporated in the Town’s Zoning Ordinance and by the terms of Chapter 160D-303 Historic Districts and Landmarks of the North Carolina General Statutes. For procedures not covered by the aforementioned the Commission shall follow the rules contained in the current edition of Robert’s Rules of Order.

**3.0 JURISDICTION**

The Commission’s jurisdiction for its activities shall coincide with the Town’s Zoning Jurisdiction as delineated and shown on the official zoning map for the Town of Warrenton.

**4.0 MEMBERS, OFFICERS AND DUTIES**

The Commission shall be composed of seven (7) members, whose qualifications and terms of office are set forth in the Warrenton Historic Preservation Zoning Ordinance.

**4.1 Chairman**

The members of the Commission shall elect a Chairman from among the Commission’s members. The Chairman shall decide all points of order and procedure subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Commission.



**4.2 Vice-Chairman**

The Commission shall elect a Vice-Chairman from among the Commission's members in the same manner as the Chairman. The Vice-Chairman shall serve as acting Chairman in the absence of the Chairman and, at such times, shall have the same powers and duties as the Chairman.

**4.3 Secretary**

The Town Administrator shall also serve as Secretary to the Commission. The Secretary, subject to the direction of the Chairman of the Commission, shall keep all records, conduct all correspondence of the Commission, and generally supervise the clerical work of the Commission. The Secretary, being an exofficio member of the Commission, shall not be eligible to vote on any matter which comes before the Commission.

**4.4 Elections**

The election of officers shall be held at the first regular meeting following the enactment of this ordinance. Thereafter, the election of officers shall be held at the first regular meeting in July of each year. Members shall be notified by the Secretary in writing of the election of officers at least thirty days prior to the regular July meeting.

**4.5 Attendance at Meetings**

Faithful and prompt attendance at all meetings of the Commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Commission. Should a member fail to attend three consecutive regular meetings of the Commission and should there be no adequate excuse for such absences, the Chairman, with the concurrence of a majority of the members of the Commission present at a regularly scheduled meeting, shall recommend to the Board of Commissioners ("Board") that a vacancy be declared and that the vacated position be filled.

**4.6 Applications Involving Member**

No Commission member shall take part in the hearing, consideration or determination of any case in which he/she is a part or has a financial interest.

#### **4.7 Conflicts of Interest**

4.7.1 No member of the Commission shall seek to influence a decision, participate in any action or cast a vote involving any matter that is before the Commission which may result in a private benefit to themselves, their immediate relatives or their business interests. In applying this rule, the following procedure shall govern:

(a) A Commission member, who determines there exists a conflict of interest, shall declare the existence of a conflict and shall seat himself apart from the remaining Commission members at such times as when said matter is being discussed by the Commission. Said member shall abstain from voting on said matter but may voice his/her opinion, as a non-voting citizen on the mailer.

(b) A Commission member who believes there may exist a conflict of interest shall declare the possible conflict and ask for a determination by the Commission. A majority vote of the Commission shall determine whether or not a conflict of interest exists.

4.7.2 A challenge of the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Commission. Such a challenge may be an appeal for a review of the finding of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Commission shall be supported by competent evidence and shall be submitted to a properly convened meeting of the -Commission. The Commission shall hear all evidence and shall, by majority vote, make the final determination as to the existence of a conflict of interest.

4.7.3 Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict exists. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.

#### **4.8 Knowledge of Controlling Rules and Regulations**

Each member of the Commission shall be thoroughly familiar with all Statutes, Laws, Ordinances and Rules of Procedure relating to historic properties and the authority of the Commission.

#### **5.0 Meetings**

##### **5.1 Regular Meetings**

Regular meetings of the Commission shall be held on the third Monday of each month at

7:00 p.m. in the Warrenton Town Hall; provided that the meetings may be held at some other convenient place if directed by the Chairman in advance of the meeting.

## **5.2 Special Meetings**

Special meetings of the Commission may be called at any time by the Chairman in compliance with the North Carolina General Statutes regarding open meetings.

## **5.3 Cancellation of Meetings**

Meetings of the Commission may be cancelled at any time by the Chairman in compliance with the North Carolina General Statutes regarding open meetings.

## **5.4 Quorum**

A quorum shall consist of four (4) members of the Commission.

## **5.5 Conduct of Meetings**

All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) roll call; (b) approval of minutes of previous meeting; (c) time for public comments; (d) report of committees; (e) unfinished business; (f) consideration of applications; (g) new business to be brought to the attention of the Commission; (h) adjournment.

## **6.0 APPLICATION PROCEDURES — CERTIFICATE OF APPROPRIATENESS**

### **6.1 Certificate of Appropriateness Required**

Once a property or area is designated a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a Certificate of Appropriateness (COA) as to exterior features has been submitted to and approved by the Commission. Such COA must be issued by the Commission prior to the issuance of a zoning permit, building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing

structures, which such COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance. A COA shall be required whether or not a building or other permit is required. Normal maintenance such as painting, yard maintenance and the repair of broken glass is considered a minor work and does not require a COA.

For purposes of this Ordinance, “exterior features” shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, “exterior features” shall be construed to mean the style, material, size, and location of all such signs. Such “exterior features” may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

## **6.2 Filing of Application**

An application must be filed by the first Thursday of each month with the Secretary to the Commission prior to the next meeting of the Commission, accompanied by sketches, drawings, photographs, specifications, descriptions, etc., of the proposed project.

## **6.3 Notice to Neighboring Property Owners**

The Secretary shall notify all of the individuals, firms, or corporations owning property adjacent to the side, rear, and in front of (across the street from) the property being considered for a COA.

## **6.4 Review Sub-Committee**

It shall be the policy of the Commission in regard to applications involving new construction or extensive alterations that a sub-committee of the Commission shall be available to meet with representatives of the persons or organizations involved in the coming application at some early stage in the design process in order to advise them informally concerning the Commission’s guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. This sub-committee collectively and individually shall refrain from any indication of approval or disapproval, but shall not, for that reason, be barred from a reasonable discussion of the applicant’s proposal. No advice or opinion given, or reported as having been given, by any member of the subcommittee at such an informal meeting shall be in any way official or binding upon the Historic Preservation Commission at anytime. Notice of the need for such a conference should be given to future applicants by the Town at the earliest appropriate time.



**6.5 Public Hearings**

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

**6.6 Time for Decision**

The Commission must take formal action to issue or deny a COA within a reasonable time, not to exceed 180 days from the date the application for a COA is filed. The imposed time limit may be extended upon mutual agreement of the applicant and the Commission.

**6.7 Approved Application**

If the application is approved, the Secretary for the Commission shall transmit to the applicant, a COA in letter form, clearly describing the nature of the work which has been approved. The Secretary shall attach a copy of the minutes of the meeting at which approval was granted and forward this information to the Inspections Department, which is responsible for its enforcement.

**6.8 Denied Applications**

If an application is denied, a copy of the minutes of the meeting and written reasons for denial shall be made available to the applicant.

**7.0 CONSIDERATION OF APPLICATIONS**

Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of applications for a COA shall be as follows:

- (a) The Chairman, or such person as he/she shall direct, shall give a preliminary statement describing the application.
- (b) The applicant shall present the arguments in support of the application.
- (c) Persons opposed to granting the application shall present the arguments against the application.
- (d) Statements or arguments submitted by an official, commission, or Department of the Town of Warrenton, any State agency, or any local historical,

preservation, or neighborhood association should be presented as directed by the Chairman.

(e) The Chairman, or such person as he shall direct, shall summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections.

(f) The Commission shall proceed to deliberate thereafter to grant the application or to deny it in a manner consistent with the provisions set forth herein.

The Commission may, in its discretion, view the premises subject to the application and obtain additional facts concerning any application before arriving at a decision. All decisions of the Commission shall be supported by appropriate Findings of Fact, and where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances.

In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

## **8.0 RECONSIDERATION OF APPLICATIONS WHICH HAVE BEEN DENIED**

The order of business for reconsideration of applications for a COA which previously have been denied shall be as follows:

8.1 The Chairman shall entertain a motion from a member of the Commission that the applicant be allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence or conditions relating to the application provided, however, that the applicant shall be given the opportunity to present any other additional supporting evidence, if the Commission decides to reconsider the application.

8.2 After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence or conditions relating to the application, which would warrant reconsideration. If the Commission finds that there has been such a change, it shall treat the request as a new application received at that time.

## **9.0 MODIFICATIONS OF APPLICATIONS**

An approved or pending application for a COA may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches, where necessary. If the Commission finds that the modifications constitute a substantial change, which might affect surrounding property owners, it shall request the Secretary to notify affected property owners following the procedures set in Section 6.2 before taking action on the modification. The Commission shall treat the request in the same manner as any other application as outlined in Section 6.0.

#### **10.0 ACTION BY THE BOARD**

All actions of the Commission shall have been put before the Commission members in the form of a motion, duly seconded, and voted upon by all members present for a quorum.

#### **11.0 APPEALS**

Appeals from decisions of the Commission shall be made to the Board of Adjustments within thirty days of the approval by the Commission of the minutes of the meeting containing the decision being appealed.

#### **12.0 DESIGNATION OF HISTORIC PROPERTIES (Districts and Landmarks)**

##### **12.1 Identification and Evaluation of Historic Properties**

The commission shall maintain an inventory of properties thought to have historical, architectural, pre-historical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History (State of North Carolina) for comment. Listing in the inventory shall be a prerequisite for pursuing local designation as a historic district or landmark.

##### **12.2 Initiating the Designation of Historic Properties**

Any individual or group with interest in historic preservation may seek the Historic Preservation Commission's assistance in advancing a certain property for consideration of designation. Any property owner may request and enlist the assistance of the Commission in pursuing the designation of a property, which he/she/they own. Also, the Commission may of its

own volition initiate the local designation of historic properties. When designation is not being initiated by the property owner, the Commission shall notify the property owner of the designation application and extend to the property owner an opportunity to appear before the Commission at a regularly scheduled meeting to voice his/her/their support or lack thereof for the designation application.

### **12.3 Designation Recommendations**

The Commission shall forward local designation recommendations to the Town Board for formal action. No property shall be recommended for designation unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistoric, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association. A report addressing these items shall be prepared in writing and upon review and formal approval of the Commission shall be forwarded to the Division of Archives and History for comment. After which, the same, along with any comments obtained from the State Agency, shall be presented to the Town Board for consideration prior to formal action being taken on the designation of historic properties.

### **12.4 Town Board Designations**

The designation of a historic landmark or district shall become effective upon the adoption of an Ordinance by the Warrenton Town Board. Upon the adoption of the Ordinance, the owners and occupants of each designated landmark or property within a designated district shall be given written notification of the designation along with a copy of Section 6.0 of this Ordinance.

### **13.0 AMENDMENTS**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a majority of the members of the Commission, provided that such amendment shall have first been presented to the membership of the Commission in writing at a regular or special meeting preceding the meeting at which their vote is taken.







Walter M. Gardner, Jr. – Mayor  
Robert F. Davie, Jr. – Town Administrator

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**AMENDMENT REGARDING ADOPTING NORTH CAROLINA GENERAL STATUTE 160D LAND USE REGULATIONS FOR CONSISTENCY WITH STATE LAW**

Whereas the Town of Warrenton Board of Commissioners herby adopt the following Plan Consistency Statement:

The State of North Carolina passed major Planning enabling legislation creating a new Chapter 160D applicable to Land Use Regulations and mandated that local governments adopt land use regulations consistent with state law as prescribed by Chapter 160D. These amendments are consistent with state law as prescribed by Chapter 160D of the North Carolina General Statutes.

The amendments will work in conjunction with the proposed Comprehensive Plan when approved to provide orderly growth and opportunities within the Town of Warrenton's Town Limits and Extraterritorial Zoning Jurisdiction.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF WARRENTON BOARD OF COMMISSIONERS THAT:**

**The Town of Warrenton Zoning Ordinance, Historic Preservation Commission Ordinance and Historic District Rules of Procedure are adopted and herby approved.**

**Should any provision of these ordinances amendments be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall have no effect to the validity of the Town of Warrenton Zoning or Historic Preservation Commission Regulations as a whole or any part thereof than the part so declared to be unconstitutional or invalid.**

**The amendments shall take effect and be in force upon the date and time of adoption.**

**These amendments duly adopted by the Board of Commissioners of the Town of Warrenton, this the 11<sup>th</sup> day of July, 2022.**

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Walter Gardner, Mayor

Attest:

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Robert Davie, Town Clerk

Approved as to legal form:

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Town Attorney