



Workshop Meeting of the Town of Carolina Shores
Board of Commissioners
September 14, 2020 10:00am

This meeting is being conducted pursuant to NCGS 166A-19.24

Please click the link below to join the webinar:

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Call to Order

I. Public Hearings

1. Ordinance 21-1 a text amendment to make certain changes to the Unified Development Ordinance (Ch 91) of the Code of Ordinances pursuant to NCGS 160D changes. This is part 2 of a 2 part ordinance re-write and update.
2. Ordinance 21-2 an ordinance relinquishing ETJ Parcel Number 2250003911.

- II. Administrative Reports
 - 3. Administrative Reports
 - a. Administration Department
 - b. Finance Department
 - c. Public Works Department
 - d. Public Safety Department
 - 4. Committee & Volunteer Group Reports
- III. Old Business
 - 5. Right of Way Encroachment Agreement, The Farm at Brunswick
- IV. New Business
 - 6. Resolution 21-1 Ratification of the State of Emergency for Hurricane Isaias
 - 7. Resolution 21-2 Halloween Observance 2020
- V. Public Comment
- VI. Mayor and Board of Commissioner Comments
- VII. Closed Session: None
- VIII. Adjournment

ORDINANCE 21-1

AN ORDINANCE OF THE TOWN OF CAROLINA SHORES,
PROVIDING THAT ITS CODE OF ORDINANCES BE
AMENDED BY CHANGING AND ALTERING THE TEXT OF
THE UNIFIED DEVELOPMENT ORDINANCE AS REQUIRED
BY GENERAL STATUTE

A TECHNICAL ORDINANCE AS DEFINED IN GS 160A-77

Be it ordained by the Board of Commissioners of the Town of Carolina Shores as follows:

Section 1: Title IX: Planning and Regulation of Development, Chapter 91 Unified
Development be amended as follows in Exhibit A.

[Editorial note: Due to this being Part 2 of 2, in a two part change, Exhibit A
includes the strike-through of existing or edited Part 1 language and the highlight
of any new language. This Part 2 of 2 should be considered the final wording for
Chapter 91.]

Section 2: All ordinances and parts of ordinances in conflict with this ordinance are hereby
repealed.

Section 3: This ordinance shall be effective as of the date of the date of final adoption.

In the COUNTY OF BRUNSWICK

Adopted this ___ Day of _____, 2020

TOWN OF CAROLINA SHORES BOARD OF COMMISSIONERS

By: _____
Joyce Dunn, Mayor

Nicole Hewett, Clerk to the Board

ATTEST:

CHAPTER 91: UNIFIED DEVELOPMENT ORDINANCE

PURPOSE AND APPLICABILITY

§ 91.01 TITLE.

This chapter shall be known and may be cited as the Carolina Shores Unified Development Ordinance, hereinafter referred to as the Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 1.1)

§ 91.02 AUTHORITY.

(A) Zoning provisions enacted herein are under the authority of ~~G.S. §§ 160A-381 to 160A-392~~ **NCGS 160D, Article 7 Zoning**, which extends to towns/cities the authority to enact regulations which promote the health, safety, morals or the general welfare of the community. It is ~~further authorized under G.S. § 160A-382 which~~ authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

(B) Subdivision provisions enacted herein are under the authority of ~~G.S. § 160A-372~~ **NCGS 160D, Article 8 Subdivision Regulations**, which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

~~—(C) This UDO, which combines zoning and subdivision authority, is further enacted under § 1 of SL 2005-418, a revision to G.S. § 160A-363.~~

(Ord. eff. 9-6-2012, § 1.2)

§ 91.03 PURPOSE.

This Unified Development Ordinance and Zoning Map are made in accordance with a Comprehensive Plan and is designed to ~~lessen congestion in the streets; to secure safety from fire, panic and other dangers;~~ to promote **the public health, safety, and the general welfare.** **To that end, these regulations may address, among other things, the following public purposes:** to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the **efficient and** adequate provision of transportation, water, sewerage, **schools**, parks and other public requirements; to control

development of flood prone areas and regulate stormwater runoff/discharge; to regulate signs; and to establish proceedings for the subdivision of land; and to promote the health, safety, morals, or general welfare of the community. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.

(Ord. eff. 9-6-2012, § 1.3)

§ 91.04 APPLICABILITY.

(A) *Jurisdiction.*

(1) The regulations set forth in this Unified Development Ordinance shall apply to all property within the town limits, extraterritorial jurisdiction and within the various zoning districts as designated on the Official Zoning Map, as established in §§ 91.70 through 91.75, Zoning Districts.

(2) Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.

(B) *Exemptions.*

(1) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with G.S. § 160A-385.1 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Zoning Ordinance or Subdivision Ordinance.

(2) In accordance with G.S. § 160A-392, the Town of Carolina Shores UDO applies to state-owned lands only when a building is involved 160D-913, this UDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of NCGS 160D, no land owned by the State of North Carolina may be included within an overlay district, or a conditional zoning district without approval of the Council of State or its delegee.

(3) The following are not included within the definition of a subdivision (as provided in Appendix A), and are not subject to the regulations of this Unified Development Ordinance:

(a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are

equal to or exceed the standards of the municipality as shown on its subdivision regulations;

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

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

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

(e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(Ord. eff. 9-6-2012, § 1.4)

§ 91.05 CONFLICTS WITH OTHER REGULATIONS.

(A) In interpreting and applying the provisions of this Unified Development Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Unified Development Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties; ~~provided, however, that where this Unified Development Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, restrictive covenants or agreements, the provisions of this Unified Development Ordinance shall govern.~~

(B) When the requirements of this UDO, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D, the provisions of that statute or local ordinance or regulation shall govern.

(Ord. eff. 9-6-2012, § 1.5)

§ 91.06 NORTH CAROLINA STATE BUILDING CODE.

The Town Building Code with appendices and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Unified Development Ordinance is not intended to

conflict with or supersede the North Carolina State Building Code regulations. In addition, the Town's minimum housing code is also incorporated herein by reference. All quasi-judicial procedures prescribed in Article 4 apply to these codes/ordinances.

(Ord. eff. 9-6-2012, § 1.6)

§ 91.07 SEVERABILITY.

If any section or specific provision or standard of this Unified Development Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

(Ord. eff. 9-6-2012, § 1.7)

§ 91.08 INTERPRETATION.

(A) *Responsibility.* In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria or any other provision of the UDO, the UDO Administrator shall be responsible for interpretation and shall look to the Unified Development Ordinance for guidance. Responsibility for interpretation by the UDO Administrator shall be limited to standards, regulations and requirements of the UDO, but shall not be construed to include interpretation of any technical codes adopted by reference in the UDO, and shall not be construed as overriding the responsibilities given to any commission, board, building inspector or town officials named in other sections or articles of the UDO.

(B) *Permitted uses.*

(1) If a use is not specifically listed in any of the districts listed in this Unified Development Ordinance, then the UDO Administrator shall have the authority to interpret in which district the use, if any, should be permitted.

(2) If the UDO Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the UDO Administrator shall:

(a) Ensure that the citizen is provided with a copy of the interpretation in writing;

(b) Inform the citizen of the right to appeal the decision to the Board of Adjustment; and

(c) Assist with the development of a proposed zoning text change for consideration by the Planning Board and Board of Commissioners allowing policy-makers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

(C) *Delegation of authority.* Unless otherwise specified in the UDO, the identification of certain officials, including the UDO Administrator, Town Administrator, Town Attorney or any other town official to perform a task or carry out a specific responsibility, shall also include the designee of such official.

(D) *Computation of time.*

(1) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded.

(2) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice and the notice or paper is served by mail (certified mail/return receipt requested), three days shall be added to the prescribed period.

(Ord. eff. 9-6-2012, § 1.8)

§ 91.09 IDENTIFICATION OF OFFICIAL ZONING MAP.

(A) The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the town under the following words: "This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Carolina Shores, North Carolina," together with the date of the adoption of this Unified Development Ordinance and most recent revision date.

(B) If, in accordance with the provisions of this Unified Development Ordinance, changes are made in district boundaries or other items portrayed on the Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of Commissioners, with an entry on the Official Zoning Map denoting the date of amendment, description of amendment and signed by the Town Clerk. No amendment to this Unified Development Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

(C) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Unified Development Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Unified Development Ordinance and punishable as provided under § 91.14.

(D) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Town Clerk, shall be the final authority as to the zoning status of land and water areas, buildings and other structures in the town.

(E) In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Board of Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior zoning map. The new Official Zoning Map may correct drafting errors or other errors or omissions in the prior Official Zoning Map, but no correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing 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 being replaced), as part of the Unified Development Ordinance, Carolina Shores, North Carolina."

(F) Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

(G) Duly adopted zoning district maps shall be maintained for public inspection in the office of the Town Clerk. Current and prior zoning maps may be maintained in paper or a digital format approved by the Town.

(H) This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and Federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated State or Federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided in subsection (G).

(Ord. eff. 9-6-2012, § 1.9)

§ 91.10 ZONING MAP INTERPRETATION.

Where uncertainty exists with respect to the boundaries of any district shown on the Zoning Map, the following rules shall apply:

(A) *Use of property lines.* Where district boundaries are indicated as approximately following street lines, alley lines and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, watercourses and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

(B) *Use of the scale.* In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shall be determined by use of the scale appearing on the Map.

(C) *Vacated or abandoned streets.* Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.

(D) *Board of Adjustment.* In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the Map as to location of such boundaries.

(Ord. eff. 9-6-2012, § 1.10)

~~§ 91.11 CERTIFICATE OF ZONING COMPLIANCE.~~

~~—Refer to § 91.62(G), Development Review Process.~~

~~(Ord. eff. 9-6-2012, § 1.11)~~

§ 91.11 RELATIONSHIP TO COMPREHENSIVE PLAN

(A) *Applicability.* As a condition of adopting and applying zoning regulations, the Town of Carolina Shores shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The Town's comprehensive plan is intended to guide coordinated, efficient, and orderly development throughout the Town's corporate limits based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, the Town may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

(B) *Comprehensive Plan Contents.* A Comprehensive Plan may, among other topics, address any of the following as determined by the Town:

(1) Issues and opportunities facing the Town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.

(2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.

(3) Employment opportunities, economic development, and community development.

(4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.

(5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

(6) Recreation and open spaces.

(7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.

(8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.

(9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

(10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(C) *Adoption and Effect of Plans.* Plans shall be adopted by the Board of Commissioners with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by § 91.50. Plans adopted under NCGS 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under NCGS 160D shall be advisory in nature without independent regulatory effect. Plans adopted under NCGS 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under NCGS 160D. Plans adopted under NCGS 160D shall be considered by the Planning Board and Board of Commissioners when considering proposed amendments to zoning regulations as required by § 91.50(D) and (E).

If a plan is deemed amended by § 91.50(E) by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

~~§ 91.12 VIOLATION OF UDO REGULATIONS.~~

~~—(A) *Complaints regarding violations.* Whenever the UDO Administrator receives a written, signed complaint alleging a violation of the Unified Development Ordinance, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions will be taken.~~

~~—(B) *Persons liable for violations.* The owner, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Unified Development Ordinance may jointly and/or independently be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.~~

~~—(C) *Procedures upon discovery of violations.*~~

~~—(1) If the UDO Administrator finds that any provision of this Unified Development Ordinance is being violated, he or she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the UDO Administrator's discretion.~~

~~—(2) The final written notice (and the initial written notice may be the final notice) shall state what action the UDO Administrator intends to take if the violation is not corrected and shall advise that the UDO Administrator's decision or order may be appealed to the Board of Adjustment in accordance with § 91.53(A).~~

~~—(3) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of the Unified Development Ordinance or pose a danger to the public health, safety or welfare, the UDO Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in division (D) below.~~

~~—(D) *Penalties and remedies for violations.*~~

~~—(1) Violations of the provisions of this Unified Development Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits shall be punishable by a civil penalty in accordance with a fee schedule as established by resolution of the Board of Commissioners filed in the office of the Town Clerk (see § 91.34). If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.~~

~~—(2) This Unified Development Ordinance may also be enforced by any appropriate equitable action.~~

~~—(3) Each day that any violation continues after notification by the UDO Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section. Separate notices will not be provided for each violation.~~

~~—(4) Any one, all, or a combination of the foregoing penalties and remedies may be used to enforce this Unified Development Ordinance.~~

~~—(E) *Permit revocation.*~~

~~—(1) Any permit issued under this Unified Development Ordinance may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to:~~

~~—(a) Develop or maintain the property in accordance with the plans submitted, the requirements of this Unified Development Ordinance or any additional requirements lawfully imposed by the permit issuing board; or~~

~~—(b) The permit was issued based on erroneous information.~~

~~—(2) Before permits other than special use may be revoked, the UDO Administrator shall give the permit recipient ten days' notice of intent to revoke the permit, shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations, and shall comply with the notice and hearing requirements set forth in § 91.53(E) and (F). If the permit is revoked, the UDO Administrator shall provide to the permittee a written statement of the decision and the reasons therefor. Appeals may be made to the Board of Adjustment as provided for in § 91.53(A).~~

~~—(3) No person may continue to make use of land or building in the manner authorized by any permit issued under this Unified Development Ordinance after such permit has been revoked in accordance with this Unified Development Ordinance.~~

~~{Ord. eff. 9-6-2012, § 1.12}~~

§ 91.12 DEVELOPMENT APPROVALS RUN WITH THE LAND.

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land.

§ 91.13 REFUND OF ILLEGAL FEES.

If the Town of Carolina Shores is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

§ 91.14 ENFORCEMENT.

(A) *Notices of Violation.* When the UDO Administrator determines work or activity has been undertaken in violation of the Unified Development Ordinance or other local development regulations or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation shall be posted on the property. The UDO Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or GS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to § 91.54(A).

(B) *Stop Work Orders.* Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated

to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to § 91.54(A). No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(C) Remedies.

(1) Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any development regulation or other regulation made under authority of NCGS Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises.

(2) When a development regulation adopted pursuant to authority conferred by NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the Town, the Town and the property owner shall certify that the application or enforcement of the Town UDO is not under coercion or otherwise based on representation by the Town that the Town's development approval would be withheld without the application of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.

(3) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated by the Town of Carolina Shores 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 UDO, the Town, 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 UDO for violation of this Ordinance.

§ 91.15 EFFECTIVE DATE.

These regulations shall become effective on September 6, 2012.

(Ord. eff. 9-6-2012, § 1.13)

§§ 91.16—91.19 RESERVED.

GENERAL REGULATIONS

§ 91.20 APPLICABILITY OF GENERAL REGULATIONS.

The following general regulations of this subchapter shall apply in all situations unless otherwise indicated.

(Ord. eff. 9-6-2012, § 2.1)

§ 91.21 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

No yard or lot existing at the time of passage of this Unified Development Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Unified Development Ordinance shall meet at least these minimum requirements.

(Ord. eff. 9-6-2012, § 2.2)

§ 91.22 STREET ACCESS.

No building shall be erected on a lot which does not abut a street or have access to a public right-of-way. A building(s) may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

(Ord. eff. 9-6-2012, § 2.3)

§ 91.23 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved or structurally altered, shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except in the case of a designed complex of professional, residential or commercial buildings in an appropriate zoning district, i.e., school campus, apartments, condominiums, shopping center and industrial park. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

(Ord. eff. 9-6-2012, § 2.4)

§ 91.24 REQUIRED YARDS NOT TO BE USED BY BUILDING.

The minimum yards or other open spaces required by this Unified Development Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

(Ord. eff. 9-6-2012, § 2.5)

§ 91.25 LOT REQUIREMENTS/DIMENSIONS.

(A) Insofar as practical, side lot lines which are not right-of-way lines shall be at right angles to straight street lines or radial to curved street lines.

(B) Every lot shall have sufficient area, dimensions and street access to permit a principal building to be erected thereon in compliance with all lot size and dimensions, yard space, setback and other requirements of this Unified Development Ordinance.

(C) The location of required front, side and rear yards on irregularly shaped lots shall be determined by the UDO Administrator. The determination will be based on the spirit and intent of this Unified Development Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

(Ord. eff. 9-6-2012, § 2.6)

§ 91.26 STREET INTERSECTION SIGHT VISIBILITY TRIANGLE.

(A) The land adjoining a street intersection or egress to a street from off-street parking areas shall be kept clear of obstructions to protect the visibility and safety of motorists and pedestrians.

(B) On a corner lot, nothing shall be erected, placed or allowed to grow in a manner so as materially to impede vision between a height of three feet 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.

(C) A clear view shall be maintained on corner lots from three to ten feet in vertical distance.

(Ord. eff. 9-6-2012, § 2.7)

§ 91.27 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH UNIFIED DEVELOPMENT ORDINANCE PROVISIONS.

(A) Subject to §§ 91.110 through 91.116 of this Unified Development Ordinance (Nonconforming Situations), no person may use, occupy or sell any land or buildings or authorize or permit the use, occupancy or sale of land or buildings under his or her control except in accordance with all of the applicable provisions of this Unified Development Ordinance.

(B) For purposes of this section, the USE or OCCUPANCY of a building or land relates to anything and everything that is done to, on or in that building or land.

(Ord. eff. 9-6-2012, § 2.8)

§ 91.28 HEIGHT LIMITATION EXCEPTIONS.

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas (except satellite dish antennas) and similar structures and necessary mechanical appurtenances are not subject to the height limit regulations contained in this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 2.9)

§ 91.29 LOT SIZE WITHOUT ALL PUBLIC UTILITIES.

All lots not served by public or community sewer and/or water shall meet the minimum lot size requirements established by the Brunswick County Health Department.

(Ord. eff. 9-6-2012, § 2.10)

§ 91.30 PROPERTY DEDICATED FOR PRIVATE USE.

Any property dedicated for private ownership, including, but not limited to, property owners' association ownership, for any use permitted by this Unified Development Ordinance is not the maintenance responsibility of the town.

(Ord. eff. 9-6-2012, § 2.11)

§ 91.31 TEMPORARY BUILDINGS.

(A) No temporary building will be constructed in the town zoning jurisdiction for commercial or residential use.

(B) However, temporary buildings may be authorized upon issuance of a temporary certificate of occupancy by the Building Inspector under the following circumstances:

(1) As a facility for use as a sales office during development of a subdivision. Such, however, must be located on the property of the subdivision;

(2) As a construction site office, storage area; provided, however, such is located on the construction site and is not used for residential purposes;

(3) As a site for temporary residence under circumstances where a residence has been destroyed by fire or an act of God; provided, however, that there is clear intent to rebuild the destroyed property in compliance with §§ 91.110 through 91.116, Nonconforming Situations. Such, however, does not include use of a temporary residence during the initial development of a residential property; and

(4) As a temporary facility in connection with town activities or other civic uses which shall be authorized by the UDO Administrator.

(Ord. eff. 9-6-2012, § 2.12)

§ 91.32 BUSINESS USES OF MANUFACTURED HOMES AND TRAILERS.

No manufactured home or trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a manufactured home sales lot or when used as a temporary use in accordance with the following requirements:

(A) *Mobile offices.*

(1) Mobile offices may be used on a temporary basis for such purposes as construction offices, blood mobiles, book mobiles and traveling museums. However, such uses must obtain a temporary occupancy permit from the UDO Administrator for UDO compliance if the use is to last more than 48 hours at one site.

(2) Mobile offices may also be used for other office or business purposes in cases where the permanent structure has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained before the use of the mobile office is initiated. This occupancy permit shall be valid for a specified period of time while reconstruction takes place not to exceed six months and may be renewed no more than once.

(B) *Manufactured homes.* Temporary use of a manufactured home as a residence shall be permitted in any residential district in cases where the permanent home has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained from the UDO Administrator for UDO compliance before the use of the manufactured home is initiated. This occupancy permit shall be valid for a specified period of time not to exceed six months while reconstruction takes place and may be renewed no more than once.

(Ord. eff. 9-6-2012, § 2.13)

§ 91.33 PERMIT TO CONSTRUCT DRIVEWAY REQUIRED.

No person shall construct, reconstruct or repair any driveway within the town right-of-way without first obtaining from the UDO Administrator a zoning permit to do so. Such person shall construct, reconstruct and repair such driveway under the supervision of the UDO Administrator, and in accordance with town standards. All driveway improvements constructed in a public right-of-way are the responsibility of the adjacent property owner(s). The town may remove or alter such improvements at its discretion. Minor repairs, such as sealing and patching of cracks, may be exempted by the UDO Administrator.

(Ord. eff. 9-6-2012, § 2.14)

§ 91.34 FEES.

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for all permits issued under this Unified Development Ordinance, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Unified Development Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.

(B) Fees established in accordance with division (A) above shall be paid upon submission of a signed application or notice of appeal.

(Ord. eff. 9-6-2012, § 2.15)

~~§ 91.35 PERMIT CHOICE.~~

~~—(A) If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit 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. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.~~

~~—(B) This section applies to all development permits and land development regulations issued by the State and by the Town of Carolina Shores.~~

~~—(C) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the Town or State government for a period of six consecutive months or more, the applicant review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.~~

~~—(D) Any person aggrieved by the failure of a State agency or the Town to comply with this section or NCGS 160A-360.1 may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the offending agency or Town, and the~~

court shall have jurisdiction to issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts

§ 91.35 SPLIT JURISDICTION.

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Carolina Shores and Brunswick County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the Town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Brunswick County register of deeds within 14 days of the adoption of the last required resolution.

§ 91.36 PENDING JURISDICTION.

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

§§ 91.37—91.39 RESERVED.

ADMINISTRATIVE/LEGISLATIVE AUTHORITY

§ 91.40 UDO ADMINISTRATOR ADMINISTRATIVE STAFF.

~~—(A) The UDO Administrator, to be designated by the Board of Commissioners, is hereby authorized and it shall be his or her duty to enforce the provisions of this Unified Development Ordinance. This official shall have the right to enter upon any premises regulated by this Unified Development Ordinance at any reasonable time necessary to carry out his or her duties. It is the intention of this Unified Development Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the UDO Administrator. Appeal from his or her decision may be made to the Board of Adjustment. The UDO Administrator may be assisted by other town staff and volunteers in performing the duties herein.~~

~~—(B) In administering the provisions of this Unified Development Ordinance, the UDO Administrator shall:~~

~~—(1) Make and maintain records of all applications for permits, special uses, special uses and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved;~~

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

~~—(3) Transmit to the Planning Board, Board of Commissioners and/or the Board of Adjustment all applications and plans for which their review and approval is required;~~

~~—(4) Review and approve minor site plans, minor subdivisions, engineering drawings and final plats; and~~

~~—(5) Conduct inspections of premises and, upon finding that any of the provisions of this Unified Development Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The UDO Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or of additions, alterations or structural changes thereto which are not compliant with the UDO; discontinuance of any illegal work being done; or shall take any other action authorized by this Unified Development Ordinance to ensure compliance with or to prevent violation of its provisions.~~

~~—(C) In addition, the UDO Administrator shall have the following duties:~~

~~—(1) Prepare a report of his or her recommendations for the Planning Board, Board of Adjustment or Board of Commissioners as may be required;~~

~~—(2) Provide administrative interpretations of the UDO~~

~~—(3) Provide nonconformity determinations, including expansions of nonconforming uses and structures;~~

~~—(4) Review and approve zoning compliance applications;~~

~~—(5) Review and approve applications for temporary uses, including special events;~~

~~—(6) Conduct concept meetings with applicants for development approval as necessary or appropriate;~~

~~—(7) Maintain the Official Zoning Map and the public records of the Planning Board and Board of Adjustment;~~

~~—(8) Perform site inspections; and~~

~~—(9) Appoint volunteers as necessary to aid in administration of the UDO.~~

~~—(D) The UDO Administrator is responsible application of the regulation outlined throughout the UDO.~~

(A) *Authorization.* In accordance with NCGS § 160D-402, the Town may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the UDO Administrator.

(B) *Duties.* Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to NCGS Chapter 160D; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order to adequately enforce the laws and development regulations under the Town's jurisdiction. A development regulation may require that designated staff members take an oath of office. The Town of Carolina Shores shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this UDO. The administrative and enforcement provisions related to building permits set forth in Article 11 of NCGS Chapter 160D shall be followed for those permits.

(C) *Alternative Staff Arrangements.* The Town may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purchase.

In lieu of joint staff, the Board of Commissioners may designate staff from any other city or county to serve as a member of its staff with the approval of the Board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the Town. The Board of Commissioners may request the governing board of the second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the Town's jurisdiction, and they shall thereupon be empowered to do so until the Town officially withdraws its request in the manner provided in NCGS 160D-202.

The Town may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The Town shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the Town as it does for an individual who is an employee of the Town. The company or individual with whom the Town contracts shall have errors and omissions and other insurance coverage acceptable to the Town.

(D) *Financial Support.* The Town may appropriate for the support of the staff for any funds that it deems necessary. It shall have the power to fix reasonable fees for support, administration, and implementation of programs authorized by this Ordinance and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the Town, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under NCGS 143-151.12(9)a, the Town shall promptly return to the permit holder the fee collected by the Town for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings.

Ord. eff. 9-6-2012, § 3.1)

§ 91.41 PLANNING BOARD.

(A) *Authority.* The Planning Board of the town is created pursuant to G.S. § ~~160A-361~~ 160D-301.

(B) *Purpose.* The Planning Board shall act in an advisory capacity to the Board of Commissioners in the matter of guiding and accomplishing a coordinated and harmonious development of the area within the town jurisdiction.

(C) *Membership.*

(1) *Generally.* The Planning Board shall consist of five members and two alternates. Four of the members and the alternates shall be residents of the town and shall be appointed by the Town Board of Commissioners; provided, however, one of the alternates may reside in the ETJ. The initial terms shall be three years for two members and the two alternates, and two years for the remaining two members. All terms shall be three years thereafter. The term of the member appointed by the County Commissioners pursuant to division (C)(2) below shall be three years. Vacancies occurring for reasons other than expiration of term shall be filled by the Town Board of Commissioners as they occur for the period of the unexpired term. Members may be removed from office by the Town Board of Commissioners for neglect of duty, failure to attend three consecutive meetings, or failure to attend 75% of the meetings. A written statement of the reasons for removal shall be filed with the Town Clerk at the time of removal.

(2) *County resident member.* The remaining one member shall be a resident of Brunswick County who resides outside the town but within the extraterritorial jurisdiction of the town and shall be appointed by the Brunswick County Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. If a vacancy occurs for reasons other than expiration of term, it shall be filled by the County Board of Commissioners for the period of the unexpired term. The member may be removed from office for reasons previously cited. However, if such were to occur, a written statement of the reasons for removal shall be requested from the County Board of Commissioners by the Town Board of Commissioners at the time of removal. ~~Note~~

~~for information: a transitional period will be required to adjust to this new membership requirement.~~

(D) *Jurisdiction and voting.* The member appointed by the County Board of Commissioners shall have equal rights, privileges and duties with the other members of the Planning Board in all matters pertaining to the regulation of both the extraterritorial area and the areas within the corporate limits. Majority of the sitting members of the Planning Board shall constitute a quorum for the taking of any official action. **All appointed members shall, before entering their duties, qualify by taking an oath of office.**

(E) *Operational procedures.*

(1) The Planning Board shall elect a Chairperson and a Vice-Chairperson, and create and fill such other offices as it may deem necessary.

(2) The term of the Chairperson and other offices shall be one year, with eligibility for re-election. The election shall be held the first regular meeting in January, or as soon thereafter as possible.

(3) Proceedings of the Planning Board shall be conducted in accord with Robert's Rules of Order or other rules as may be adopted by the Planning Board.

(4) A record shall be maintained of its members' attendance and of its resolutions, discussions, findings and recommendations which shall be a public record.

(5) The Planning Board shall hold publicly-advertised meetings as necessary to conduct business, and all of its meetings shall be open to the public.

(6) Majority of the sitting members of the Planning Board shall constitute a quorum for taking any official action.

(7) To recommend to the Board of Commissioners the approval or disapproval of major site plans and major subdivisions in accordance with § 91.64.

(F) *General powers and duties.* The general powers and duties of the Planning Board (with prior approval by the Board of Commissioners) are:

~~—(a) To make studies of the area within its jurisdiction and present recommendations to the Board of Commissioners;~~

~~—(b) To determine objectives to be sought in the development of the study area and present recommendations to the Board of Commissioners;~~

~~—(c) To prepare and recommend plans for achieving these objectives;~~

(1) **To Prepare, review, maintain, monitor, and periodically update and recommend to the Board of Commissioners** ~~and from time to time amend and revise a comprehensive and coordinated plan for the physical, social and economic development of the area and present recommendations to the Board of Commissioners for consideration~~ **and such other plans as**

deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

— 1. The Comprehensive Plans, with the accompanying maps, plats, charts and descriptive matter, shall show the Planning Board's recommendation to the Board of Commissioners for the development of the area, including, among other things, the general location, character and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks and aviation fields; and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, power, gas, sanitation, transportation, communication and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, properties, utilities or terminals; and

— 2. The Comprehensive Plans and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities, services and other public requirements. Should also require stormwater management certification.

(2) Facilitate and coordinate citizen engagement and participation in the planning process.

(3) To prepare Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner. promoting orderly development along lines indicated in the Comprehensive Plan and advise concerning proposed amendments of such ordinances;

— (f) To determine whether proposed developments conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan;

(4) To approve major site plans and major subdivisions in accordance with § 91.64.

(5) To keep Advise the Board of Commissioners and the general public informed and advised as to these matters; concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by NCGS 160D-604.

(6) To Perform any other duties that the Board of Commissioners may lawfully be assigned to it.

(7) In order to effectively carry out its powers and duties, the Planning Board is empowered to:

(a) With prior approval of the Board of Commissioners, gather statistics on past trends and present conditions with respect to population, property values, the economic base of the area and land use; and such other information as is important or likely to be important in determining the amount, direction and kind of development within the town's jurisdiction and its various parts;

(b) With prior approval by the Board of Commissioners, make, cause to be made, or obtain special studies on the location, the condition and the adequacy of specific facilities, which may include, but are not limited to, studies of housing; commercial and industrial facilities; recreation area; public facilities; and traffic and parking facilities; and

(c) Develop committees comprised of Planning Board members dedicated to participating in any areas of study, ordinance development, or for any other specific purpose within the Planning Board's jurisdiction. Such committees shall be responsible to the Planning Board and shall be advisory in nature. The development/appointment of any other committees will require prior approval by the Board of Commissioners.

(G) *Miscellaneous powers and duties.* The Planning Board shall have the authority to promote public interest in the understanding of its recommendations, plans, reports and other materials. With prior approval of the Board of Commissioners, the Planning Board may publish and distribute copies of materials and may employ other means of publicity and education as it deems necessary.

(H) *Zoning amendments.* The Planning Board may initiate from time to time proposals for amendments of the UDO and Zoning Map, based upon its studies and plans. It shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the UDO and Zoning Map.

(I) *Subdivision regulations.* The Planning Board shall review, from time to time, the existing regulations for the control of land subdivision in the area and submit to the Board of Commissioners its recommendations, if any, for the revision of these regulations.

(J) *Public hearings.* The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the plans. Before recommending any such plans to the Board of Commissioners, the Planning Board may hold a public hearing thereon in accordance with § 91.50 through 91.57.

(K) *Annual report.* The Planning Board may each year submit in writing to the Board of Commissioners a report of its activities, and an analysis of the expenditures to date for the current fiscal year; and shall submit to the Board of Commissioners for budget consideration its requested budget of funds needed for operation during the ensuing fiscal year.

(Ord. eff. 9-6-2012, § 3.3; Am. Ord. 15-2, passed 3-5-2015)

§ 91.42 BOARD OF ADJUSTMENT.

(A) *Membership.* The Board of Adjustment shall consist of five members (also concurrent members of the Planning Board) and two alternates. Four members and the alternates shall be residents of the town and shall be appointed by the Town Board of Commissioners; provided, however, one of the alternates may reside in the extraterritorial jurisdiction (ETJ). One member shall be appointed by the County Board of Commissioners and shall be a resident of the ETJ. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. The initial terms for members appointed by the Town Board of Commissioners shall be three years for two members and the two alternates, and two years for the remaining two members. The term of the member appointed by the County Commissioners shall also be three years. All terms shall be three years thereafter. All members of the Board of Adjustment, and alternates (when sitting in the absence of a member), shall have equal voting rights in all matters being considered by the Board of Adjustment. Members of the Board of Adjustment and alternates serving at the time of adoption of this Unified Development Ordinance shall continue in office until such time as the terms of their office expire or action is taken to remove as described in division (A)(2) below. Vacancies occurring for reasons other than expiration of terms shall be filled by the Board of Commissioners (in the case of the ETJ member, by the County Board of Commissioners), as such may occur and for the period of the unexpired term. ~~(Note for information: a transitional period will be required to adjust to this new membership requirement.)~~ All appointed members shall, before entering their duties, qualify by taking an oath of office.

(1) *Conditions.* All members wishing to sit on the Board of Adjustment shall attend a scheduled seminar on the statutory powers and duties of the Zoning Board of Adjustment.

(2) *Removal.* Members may be removed from office by the Board of Commissioners for just cause, including neglect of duty. A written statement of the reasons for removal shall be filed with the Town Clerk at the time of removal.

(3) *Officers.* The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from its membership and such other officers as the Board of Adjustment deems best.

(4) *Meetings.* Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the majority of the Board of Adjustment may determine. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be taken, all of which shall be of public record.

(B) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of this Unified Development Ordinance. As used in this section, the term DECISION includes any final and binding order,

requirement or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development. If any board other than the Board of Adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a Board of Adjustment in making quasi-judicial decisions;

(2) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of the Unified Development Ordinance; and

(3) Any other matter the Board is required to act upon by any other city ordinance.

(C) *Rules of procedure.* The Board of Adjustment shall adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Unified Development Ordinance. Such rules of procedure shall not be effective until approved by the Board of Commissioners. All meetings held by the Board of Adjustment shall be held in accordance with G.S. Chapter 143A, Article 33 B, or as may be amended. The Board shall keep minutes of its proceedings suitable for review in court showing:

(1) The factual evidence presented to the Board of Adjustment by all parties concerned;

(2) The findings of fact and the reasons for the determinations by the Board of Adjustment; and

(3) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.

~~(D) *Conflicts on quasi-judicial matters.* A member of the Board of Adjustment or any other body exercising quasi-judicial functions pursuant to this Unified Development Ordinance 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 violations of due process include, but are not limited to, a member having a fixed opinion prior to 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 member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote, rule on the objection.~~

(E) *Quorum and voting.* The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this section, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board of Adjustment for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(Ord. eff. 9-6-2012, § 3.4)

§ 91.43 CONFLICTS OF INTEREST.

~~Members of the Board of Commissioners, Planning Board and Board of Adjustment must act in the public interest and not to advance their own financial interests. A member of an elected board, Planning Board or Board of Adjustment may not vote on an UDO action where there is a potential financial conflict of interest. If the outcome of the vote is “reasonably likely to have a direct, substantial and readily identifiable financial impact” on the member, the member must not vote on it. If a Planning Board or Board of Adjustment makes special use, variance, appeal or interpretation decisions, they must not participate in the discussion or voting if they have a personal bias, a predetermined opinion on the matter, a close family or business tie to a party, or a financial interest in the outcome. When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member’s participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.~~

(A) *Governing Board.* A Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D 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 Board of Commissioners 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 is a person with whom the member has a close familial, business, or other associational relationship.

(B) *Appointed Boards.* Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed 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 is a person with whom the member has a close familial, business, or other associational relationship.

(C) *Administrative Staff.*

(1) No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member 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 person as may be designated by this Ordinance.

(2) 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 building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support

shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

(D) *Quasi-Judicial Decisions.* A member of any board exercising quasi-judicial functions pursuant to this Ordinance 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 violations of due process include, but are limited to, a member having a fixed opinion prior to 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.

(E) *Resolution of Objection.* If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(F) *Familial Relationship.* For purposes of this Part, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. eff. 9-6-2012, § 3.2)

§§ 91.44—91.49 RESERVED.

LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

~~§ 91.50 AMENDMENT/REZONING PROCEDURES.~~

~~—(A) *Procedure.* The Board of Commissioners may amend, supplement or change the text of this Unified Development Ordinance and Zoning Map following review and recommendation of the Planning Board according to the procedures established in this subchapter.~~

~~—(B) *Action by applicant.* The following action shall be taken by the applicant.~~

~~—(1) Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board or by one or more interested parties.~~

~~—(2) An application for any change or amendment shall contain a description and statement of the present and proposed zoning regulation or district boundary to be applied, the names and addresses of the applicant, the owner of the parcel of land involved in the change if different from the applicant, and all adjacent property owners as shown on the Brunswick County tax listing. The applicant shall have approval of all owner(s) of the property included in the application. Five copies of such application shall be filed with the UDO Administrator not later than 20 calendar days prior to the Planning Board meeting at which the application is to be considered.~~

~~—(3) When a proposed amendment is initiated by individuals or parties other than the Board of Commissioners or Planning Board, a fee established by the Board of Commissioners shall be paid to the town for each application for an amendment to cover the necessary administrative costs and advertising.~~

~~—(4) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town.~~

~~—(C) *Action by the Planning Board.* The Planning Board shall advise and comment on whether the proposed text amendment or map amendment is consistent with the adopted Comprehensive Plan and any other applicable officially adopted plans. The Planning Board shall provide a written recommendation with staff report to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. The statement of consistency must specifically state why the proposed amendment is consistent or inconsistent with the Comprehensive Plan.~~

~~—(D) *Action by the Board of Commissioners.* Action to consider a rezoning petition, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.~~

~~—(1) *Notice and public hearings – zoning text amendment.* No amendment shall be adopted by the Board of Commissioners until after public notice and hearing. Notice of such a public hearing shall be published once a week for two successive calendar weeks in a local newspaper of general circulation in the town.~~

~~—(2) *Notice and public hearings – zoning map amendment.*~~

~~—(a) In any case where the Board of Commissioners will consider a change in the zoning classification of a parcel of land, notice of the proposed petition or application shall be mailed by first class mail to the owner of that parcel of land and all abutting property owners as shown on the Brunswick County tax listing at the last addresses listed for such property owners on the Brunswick County tax abstracts. The party applying for the change in zoning classification shall submit the following material with the request for rezoning; the application shall be considered incomplete without such material:~~

~~—— 1. A list of names of owners, their addresses and the tax parcel numbers of the property involved in the change and the properties immediately adjacent to the property of the request, including the property owners directly opposite the proposed request but separated by a street right-of-way, as shown on the Brunswick County tax listing; and~~

~~—— 2. Two sets of plain, letter sized envelopes equal in number to the above list of names shall be furnished by the applicant. Both sets of envelopes are to be unsealed,~~

stamped and addressed for mailing to the adjacent property owners as shown on the Brunswick County tax listing, and bear the return address of the town.

~~—(b) At least ten but no more than 25 calendar days prior to the date of the meeting at which the Board of Commissioners will consider the request for rezoning, the Town Clerk shall mail a letter of notification in the supplied envelopes containing a description of the request and the time, date and location of the public hearing. Additionally, the site proposed for rezoning or an adjacent public right-of-way shall be posted with a notice of the public hearing not less than ten calendar days prior to the Board of Commissioners meeting at which the rezoning is to be considered. When multiple parcels are included in a proposed zoning map amendment, a posting of each individual site is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons. The Town Clerk shall certify to the Board of Commissioners that such notices have been made and such certification shall be deemed conclusive in the absence of fraud.~~

~~—(c) The first class mail notice required under divisions (D)(2)(a) and (D)(2)(b) above shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the town elects to use the expanded published notice. In this instance, the town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish a notice of the hearing as required by G.S. § 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Brunswick County property tax listing for the affected property, shall be notified according to the provisions of divisions (D)(2)(a) and (D)(2)(b) above.~~

~~—(3) *Recommendations of Planning Board.* Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation and staff report on each proposed zoning amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 60 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board.~~

~~—(a) No member of the Board of Commissioners shall vote on any zoning map amendment or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.~~

~~—(b) Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether the action is consistent with the adopted Comprehensive Plan and any other applicable officially adopted plans and explaining why the Board of Commissioners considers the action taken to be reasonable and in the public interest. The statement of consistency must specifically state why the proposed amendment is consistent or inconsistent with the Comprehensive Plan. The~~

Planning Board and staff recommendations must be recorded in the Board of Commissioners minutes of the meeting at which Board action was taken.

~~—(c) The Board of Commissioners shall adopt a statement of reasonableness for all small-scale re-zonings as defined by the state statutes.~~

~~—(E) Changes to land development regulations.~~

~~—(1) Citizen comments. Subject to the limitations in this Ordinance, these regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to this Ordinance, including a zoning map or text, that has been properly initiated as provided in G.S. § 160A-394, to the Clerk to the Board at least two business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under G.S. § 160A-388, or any other statute, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board of Commissioners shall not disqualify any member of the Board from voting.~~

~~—(2) Amendments in land development regulations shall not be applicable or enforceable without the written consent of the owner with regard to any of the following:~~

~~—(a) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with § 91.35.~~

~~—(b) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with § 91.35.~~

~~—(c) A vested right established pursuant to G.S. § 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. § 160A-385.1.~~

~~—(d) A vested right established by the terms of a development agreement authorized by Part 3D of NCGS Article 19, Planning and Regulation of Development.~~

~~—(e) A multi-phased development as provided for in this subdivision, in accordance with § 91.35. A multi-phased development shall be vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subdivision shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.~~

~~—(3) Subject to subsection (5) of this section, upon issuance of a development permit, the statutory vesting granted by § 91.51 for a development shall be effective upon filing of the application in accordance with § 91.35, for so long as the permit remains valid pursuant to law. Unless otherwise specified by statute, local development permits expire one year after issuance unless work authorized by such permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the~~

applicable governmental agency or by the applicable governmental agency as a court directive.

~~—(4) Subject to subsection (5) of this section, where multiple local development permits are required to complete a development project, this section, together with § 91.35, authorizes the development permit applicant to choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit shall not be considered an initial development permit.~~

~~—(5) The establishment of a vested right under any subdivision of subsection (2) of this section does not preclude vesting under one or more other subdivisions of subsection (2) of this section or vesting by application of common law principles. A vested right, once established as provided for in this section, precludes any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on such development or use. Except where a longer vesting period is provided by statute, the statutory vesting granted by this section shall expire for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property shall expire if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period shall be automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period shall also be tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting. The vested rights granted by this section shall run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2, in which case the rights granted by this section shall run with the owner of a permit issued by the North Carolina Department of Transportation.~~

~~—(5) Statement of consistency. Prior to adopting or rejecting any zoning text and/or map amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted Comprehensive Plan and explaining why the Board of Commissioners considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.~~

~~—(F) *Withdrawal of application.* An applicant may withdraw his or her application at any time by written notice to the UDO Administrator and may resubmit at a subsequent date in compliance with the submittal schedule contained herein.~~

~~{Ord. eff. 9-6-2012, § 4.1; Am. Ord. 16-1, passed 4-7-2016}~~

~~§ 91.51 ESTABLISHMENT OF VESTED RIGHTS.~~

~~—The Board of Commissioners may establish a zoning vested right upon the approval of a site-specific development plan in accordance with the requirements of G.S. § 160A-385.1. Civil action for declaratory relief, injunctive relief, other remedies; joinder of compliant and petition for writ of certiorari may be pursued under G.S. § 160A-393.1.~~

~~{Ord. eff. 9-6-2012, § 4.2}~~

~~§ 91.52 MORATORIUM.~~

~~—The town may adopt temporary moratoria on any town development approval required by North Carolina General Statutes in accordance with G.S. § 160A-381.~~

~~{Ord. eff. 9-6-2012, § 4.3}~~

§ 91.50 PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS

(A) Procedure for Adopting, Amending, or Repealing this Ordinance.

(1) *Hearing with Published Notice.* Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the Town Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(2) A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.

(3) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town.

(B) Notice of hearing on Proposed Zoning Map Amendments.

(1) *Mailed Notice.* This Ordinance provides for the manner in which zoning regulations and the boundaries of zoning districts are determined, established, and enforced, and from time to time may be amended, or changed, in accordance with the requirements of this Part. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addressed listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning

map amendment is being proposed in conjunction with an expansion of the Town's ETJ, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(2) *Optional Notice for Large-Scale Zoning Map Amendments.* The first-class mail notice required under subsection (1) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed notice provided for in subsection (1) of this section or, as an alternative, elect to publish notice of the hearing as required by § 91.50(A), provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (1) of this section.

(3) *Posted Notice.* When a zoning map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. 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.

(4) *Actual Notice.* Except for Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the Town that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under NCGS 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the Town that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

(C) *Citizen Comments.* Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under

NCGS Chapter 160D-705 or any other statute, the Town Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

(D) Planning Board Review and Comment.

(1) *Zoning Amendments.* Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulations or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the Board of Commissioners may act on the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

(2) *Review of Other Ordinances and Actions.* Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.

(3) *Plan Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.

(4) *Separate Board Required.* Notwithstanding the authority to assign duties of the Planning Board to the Board of Commissioners as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Board of Commissioners and must be performed by a separate board.

(E) Board of Commissioners Statement.

(1) *Plan Consistency.* When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Board was aware of and considered the Planning Board's recommendations and any relevant portions of an

adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a "large scale rezoning" under § 91.50(B), the Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(2) *Additional Reasonableness Statement for Rezonings.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under § 91.50(B), the Board of Commissioners statement on reasonableness may address the overall rezoning.

(3) *Single Statement Permissible.* The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

§ 91.51 MORATORIA.

In accordance with NCGS 160D-107, the Town of Carolina Shores may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

§ 91.52 VESTED RIGHTS AND PERMIT CHOICE.

(A) *Findings.* Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

(B) *Permit Choice.* If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Ordinance and a development regulation 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 development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in subsection (D).

(C) *Process to Claim Vested Right.* A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The UDO Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided in G.S. 160D-405(c).

(D) *Types and Duration of Statutory Vested Rights.* Except as provided by this section and subject to subsection (B), amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

(1) *Six Months - Building Permits.* Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.

(2) *One Year - Other Local Development Approvals.* Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(3) *Two to Five Years - Site Specific Vesting Plans.*

(a) *Duration.* A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town. The Town may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made in

the discretion of the Town and shall be made following the process specified by subsection (3) below for the particular form of a site-specific vesting plan involved.

(b) *Relationship to Building Permits.* A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this section exists.

(c) *Requirements for Site Specific Vesting Plans.* For the purposes of this section, a “site-specific vesting plan” means a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by the Town. Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. The Town of Carolina Shores uses existing development approvals, such as a preliminary plat, a special use permit, or a conditional zoning, to approve a site-specific vesting plan. A variance shall not constitute a “site specific vesting plan,” and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

(d) *Process for Approval and Amendment of Site-Specific Vesting Plans.* If a site-specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting established by this subsection. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The Town may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Town shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the Town’s decision approving the plan or such other date as determined by the Board of Commissioners upon approval. An approved site specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: Any substantial

modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(4) *Seven Years - Multi-phase Developments.* A multi-phase development shall be vested for the entire development with the Unified Development Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phase development. For the purposes of this subsection, "multi-phase development" means a development containing 100 acres of more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(5) *Indefinite - Development Agreements.* A vested right of reasonable duration may be specified in a development agreement approved under § 91.53 of this Article.

(D) *Continuing Review.* Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(E) *Exceptions.*

(1) A vested right, once established as provided for by subsections (C) or (D) of § 91.52, precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:

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

(b) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;

(c) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approved by the Town, together with interest as is provided in § 91.13. Compensation shall not include any diminution in the value of the property that is caused by such action;

(d) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material

misrepresentations that made a difference in the approval by the Town of the vested right; or

(e) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

(2) The establishment of a vested right under subsections (C) or (D) of § 91.52, shall not preclude the application of overlay zoning or other development regulation 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 development regulation by the Town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

(F) *Miscellaneous Provisions.*

(1) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.

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

§ 91.53 DEVELOPMENT AGREEMENTS.

(A) *Authorization.*

(1) In accordance with NCGS 160D-1002, the Town of Carolina Shores finds:

(a) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

(b) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

(c) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

(d) Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(e) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

(f) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the Town needs flexibility to negotiate such developments.

(2) The Town may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the Town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(3) This Part is supplemental to the powers conferred upon the Town and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the Town's development regulations. When the Board of Commissioners approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of § 91.50(E) apply.

(4) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

(B) *Definitions.* The following definitions apply in this Part:

(1) *Development.* The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(2) *Public Facilities.* Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

(C) Approval of Board of Commissioners Required.

(1) The Town of Carolina Shores may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Board of Commissioners following the procedures specified in subsection (E).

(2) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

(D) Size and Duration. The Town of Carolina Shores may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

(E) Public Hearing. Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of § 91.50(B) applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

(F) Content and Modification.

(1) A development agreement shall, at a minimum, include all of the following:

(a) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(b) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(c) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(d) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery

date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(e) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

(f) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(g) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(2) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to subsection (H) but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(3) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(4) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(5) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to subsection (C) or as provided for in the development agreement.

(6) Any performance guarantees under the development agreement shall comply with § 91.67(E)(4).

(G) *Vesting.*

(1) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(2) Except for grounds specified in subsection (H)(5), the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(3) In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.

(4) This section does not abrogate any vested rights otherwise preserved by law.

(H) *Breach and Cure.*

(1) Procedures established pursuant to subsection (C) may require periodic review by the UDO Administrator or other appropriate officer of the Town, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(2) If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(3) If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by § 91.54(A).

(4) An ordinance adopted pursuant to subsection (C) or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the Town to enforce applicable law.

(5) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

(I) *Amendment or Termination.* Subject to the provisions of § 91.53(F)(5), a development agreement may be amended or terminated by mutual consent of the parties.

(J) *Change of Jurisdiction.*

(1) Except as otherwise provided by this Article, any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the Town assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(2) The Town, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the Town determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the Town, or both, in a condition dangerous to their health or safety, or both.

(K) *Recordation.* The developer shall record the agreement with the Brunswick County Register of Deeds within 14 days after the Town and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

(J) *Applicability of Procedures to Approve Debt.* In the event that any of the obligations of the Town in the development agreement constitute debt, the Town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of this debt.

§ 91.54 APPEALS, VARIANCES AND INTERPRETATIONS.

(A) *Appeals.*

(1) *Standing.* Any person who has standing as defined in Appendix A or the town may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the town staff.

(2) *Judicial Challenge.* A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is ultra vires, preempted, or otherwise in excess of statutory authority without filing an appeal under subsection (1).

(3) *Notice of Decision.* The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail or by first-class mail.

(4) **Time to Appeal.** The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

~~—(5) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision,” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an Unified Development Ordinance provision to the contrary, posting of signs shall not be required.~~

(5) **Record of Decision.** The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(6) **Stays.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, including any accumulation of fines, during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. § 160A-393 or during the pendency of any civil proceeding authorized by law, including G.S. § 160A-393.1, or appeals therefrom and accrual of any fines assessed, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Unified Development Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by the Superior Court of Brunswick County. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit development approval or otherwise affirming that a proposed use of property is consistent with the Unified Development Ordinance shall not stay the further review of an application for permits or permissions development approvals to use such property; in these situations, the appellant or town may request and the Board may grant a stay of a final decision of permit development approval applications, including or building permits affected by the issue being appealed.

~~—(7) Subject to the provisions of division (A)(6) above, the Board of Adjustment shall hear and decide the appeal within a reasonable time.~~

~~—(8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision or determination that ought to be made. The Board shall have all the powers of the official who made the decision.~~

~~—(9) When hearing an appeal pursuant to G.S. § 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. § 160A-393(k).~~

(7) **Alternative Dispute Resolution.** The parties to an appeal that has been made under this division (A) may agree to mediation or other forms of alternative dispute resolution.

(B) *Variances.*

(1) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the UDO Administrator. Applications shall be handled in the same manner as applications for permits **development approvals.**

(2) When unnecessary hardships would result from carrying out the strict letter of the Unified Development Ordinance, the Board of Adjustment shall vary any of the provisions of the Unified Development Ordinance upon a showing of all of the following.

(a) Unnecessary hardship would result from the strict application of the Unified Development Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(b) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. **A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.**

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(d) The requested variance is consistent with the spirit, purpose and intent of the Unified Development Ordinance, such that public safety is secured, and substantial justice is achieved.

(3) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance **development regulation** that regulates land

use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this division (B).

(4) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Unified Development Ordinance.

(C) *Interpretations.*

(1) The Board of Adjustment is authorized to interpret the Zoning Map and to act upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the UDO Administrator, they shall be handled as provided in division (A) above.

(2) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a standard town appeal form with the UDO Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(3) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation as specified in § 91.10 shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in division (A) above of this Unified Development Ordinance.

(4) Interpretations of the location of floodway and floodplain boundary lines may be made by the UDO Administrator as provided in Part I. Flood Damage Prevention of the Environmental Regulations.

(D) *Requests to be heard expeditiously.* As provided in §§ 91.40 through 91.43, the Board of Adjustment shall hear and decide all applications, appeals, variance requests and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with § 91.55(B), and obtain the necessary information to make sound decisions.

(E) *Burden of proof in appeals and variances.*

(1) When an appeal is taken to the Board of Adjustment in accordance with division (A) above, the UDO Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(2) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in division (B)(2) above, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

§ 91.55 QUASI-JUDICIAL PROCEDURES.

(A) *Hearing required on appeals, variances and interpretations and applications.*

(1) Before making a decision on an appeal or an application for a variance, special use permit, or interpretation, or a petition from the planning staff to revoke a special use permit, the Board of Adjustment or Board of Commissioners, as the case may be, shall hold a hearing on the appeal or application within 30 days of the submittal of a completed appeal or application.

(2) Subject to division (E)(3) below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in by the Chairperson prior to the presentation of any evidence or arguments.

(3) The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

~~—(4) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.~~

(4) Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(5) The required application fee and all supporting materials must be received by the UDO Administrator before an application is considered complete and a hearing scheduled.

(B) *Notice of hearing.* The UDO Administrator shall give notice of any hearing required by division (E) above as follows.

(1) Notice of **evidentiary** hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Unified Development Ordinance. In the absence of evidence to the contrary, the town must rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date

of the hearing. Within the same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(2) In the case of special use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one time not less than ten days nor more than 25 days prior to the hearing.

(3) The notice required by this section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

(C) *Administrative Materials.* The UDO Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board, a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

(D) *Evidence/presentation of evidence.*

~~(1) The provisions of this section apply to all hearings for which a notice is required by division (F) above.~~

The applicant, the Town, and any person who would have standing to appeal the decision as defined in Appendix A shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair's ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(E) *Appearance of Official; New Issues.* The official who made the decision or the person currently occupying that position if the decisionmaker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

(F) *Oaths.* All persons who intend to present evidence to the decision-making board, rather than arguments only, shall be sworn in by the Chairperson. The Chairperson of the Board or any member acting as Chairperson and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment Board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor (refer to § 91.14).

~~— (4) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, material, and substantial evidence. The term COMPETENT EVIDENCE, as used in this division, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (1) the evidence was admitted without objection or (2) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term COMPETENT EVIDENCE, as used in this division, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:~~

~~— (a) The use of property in a particular way would affect the value of other property;~~

~~— (b) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety; and~~

~~— (c) Matters about which only expert testimony would generally be admissible under the rules of evidence.~~

~~— (5) The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.~~

~~— (6) Parties to a quasi-judicial hearing have a right to cross-examine witnesses.~~

~~— (7) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.~~

~~— (8) If a member of the decision-making board has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the decision-making board and parties at the beginning of the hearing.~~

(G) *Subpoenas.* The decision-making board making a quasi-judicial decision under this article, through the Chairperson or, in the Chairperson's absence, anyone acting as the Chairperson may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, or any person with standing as defined under Appendix A under G.S. § 160A-393(d) may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the

Chairperson may be **immediately** appealed to the full decision-making board. If a person fails or refuses to obey a subpoena issued pursuant to this division, the decision-making board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(H) *Modification of application at hearing.*

(1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the applicant may agree to modify his or her application, including the plans and specifications submitted.

(2) Unless such modifications are so substantial or extensive that the decision-making board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the decision-making board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the UDO Administrator.

(I) *Record.*

(1) A record shall be made of all hearings required by § 91.55(A) and such recordings shall be kept as provided by state law. Minutes shall also be kept of all such proceedings. A transcript may be made, but is not required.

(2) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town in accordance with G.S. § ~~160A-393(f)~~ **160D-1402.**

(J) *Appeals in Nature of Certiorari.* When hearing an appeal pursuant to NCGS 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in GS 160D-1402(k).

(K) ~~*Quasi-judicial decision*~~ ***Voting.*** The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(L) *Decision.* The Board shall determine contested facts and make its decision within a reasonable time. **When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.** Every quasi-judicial decision shall be based upon competent material and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and

their application to the applicable standards, **and be approved by the Board and** ~~The written decision shall be~~ signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official as this Unified Development Ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail or by first-class mail to the applicant, **property land** owner and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify **to the Town** that proper notice has been made **and the certificate shall be deemed conclusive in the absence of fraud.**

(M) *Judicial Review.* Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

(Ord. eff. 9-6-2012, § 4.4; Am. Ord. 16-1, passed 4-7-2016)

§ 91.56 SPECIAL USE PERMITS.

(A) *Purpose and applicability.* This Unified Development Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, this Unified Development Ordinance allows some uses to be allowed in these districts as a special use subject to issuance of a special use permit by the Board of Commissioners upon recommendation of the Planning Board. Board of Commissioners consideration of special use permits are quasi-judicial decisions. The purpose of having the uses being special is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this section. All special use permits require some form of a site plan as outlined in § 91.66(D).

(B) *Application process/completeness.*

(1) The deadline for which a special use permit application shall be filed with the UDO Administrator is 20 calendar days prior to the meeting at which the application will be heard. Permit application forms shall be provided by the UDO Administrator. In the course of evaluating the proposed special use, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Planning Board or Board of Commissioners.

(2) No application shall be deemed complete unless it contains or is accompanied by a site plan drawn to scale which complies with the requirements contained in § 91.66(D) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of special use permit applications.

(3) One hard copy of the application, and all attachments and maps, for a special use permit shall be submitted to the UDO Administrator.

(C) *Planning Board review and comment.*

(1) The Planning Board may, in its review, suggest reasonable conditions to the location, nature and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. The conditions may include dedication of any rights-of-way or easements for streets, water, sewer or other public utilities necessary to serve the proposed development.

(2) The Planning Board shall forward its recommendation to the Board of Commissioners within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

(3) All comments prepared by the Planning Board shall be submitted by a Planning Board representative to the Board of Commissioners as testimony at the public hearing required by this section. This representative of the Planning Board shall be subject to the same scrutiny as other witnesses. Review of the special use application by the Planning Board shall not be a quasi-judicial procedure. The Planning Board shall include in its comments a statement as to the consistency of the application with the town's currently adopted Comprehensive Plan. Comments of the Planning Board may be considered with other evidence submitted at the public hearing.

(D) *Board of Commissioners action.*

(1) Board of Commissioners' consideration of special use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decisions must be conducted in accordance with § 91.55. For the purposes of this section, vacant positions on the Board of Commissioners and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(2) Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the Board of Commissioners shall hold a public hearing to consider the application at its next regularly scheduled meeting. A quorum of the Board of Commissioners is required for this hearing. Notice of the public hearing shall be as specified in § 91.55(B).

(3) In approving an application for a special use permit **development approval** in accordance with the principles, conditions, safeguards and procedures specified herein, the Board of Commissioners may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. **The applicant/landowner must consent in writing to all conditions imposed by the special use permit.** Conditions and safeguards imposed under this division shall not include requirements for which the town does not have authority under statute to regulate, nor requirements for which the courts have held to be

unenforceable if imposed directly by the town, including without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other authorized limitations on the development or use of land.

(4) The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which division (5) below requires.

(5) The Board of Commissioners shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

(a) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety or general welfare;

(b) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish or impair property values within the neighborhood;

(c) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(d) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood;

(e) Adequate utilities, access roads, drainage, parking or necessary facilities have been or are being provided;

(f) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

(g) The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located;

(h) Public access shall be provided in accordance with the recommendations of the town's land use plan and access plan or the present amount of public access and public parking as exists within the town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern; and

(i) The proposed special use shall be consistent with recommendation and policy statements as described in the adopted land use plan.

(6) Conditions and guarantees: prior to the granting of any special use, the Planning Board may recommend, and the Board of Commissioners may require, conditions and restrictions upon the establishment, location, construction, maintenance and operation of

the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which special uses are granted, the Board of Commissioners shall require evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with. The reasons/justifications for conditions must be stated/tied to § 91.56(D)(5).

(7) In the event that a rezoning is sought in conjunction with a special use permit, such deliberation would be legislative in nature and not part of the quasi-judicial process.

(E) *Effect of approval.* If an application for a special use permit is approved by the Board of Commissioners, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the special use permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

(F) *Binding effect.* Any special use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Board of Commissioners.

(G) *Certificate of occupancy.* No certificate of occupancy for a use listed as a special use shall be issued for any building or land use on a piece of property which has received a special use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the special use permit approved by the Board of Commissioners. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

(H) *Change in special use permit.* An application to materially change a special use permit once it has been issued must first be submitted, reviewed and approved in accordance with divisions (C) and (D) above, including payment of a fee in accordance with the fee schedule approved by the Board of Commissioners.

(I) *Implementation of special use permit.* A special use permit, after approval by the Planning Board and Board of Commissioners shall expire six months after the approval date if work has not commenced or in the case of a change of occupancy the business has not opened; however, it maybe, on request, continued in effect for a period not to exceed six months by the UDO Administrator. No further extension shall be added except on approval of the Board of Commissioners. If such use or business is discontinued for a period of 12 months, the special use permit shall expire. Any expiration as noted or any violation of the conditions stated on the permit shall be considered unlawful and the applicant will be required to submit a new special use application to the appropriate agencies for consideration and the previously approved special use permit shall become null and void.

(Ord. eff. 9-6-2012, § 4.5; Am. Ord. 16-1, passed 4-7-2016)

§ 91.57 REHEARINGS.

When an application involving a quasi-judicial procedure/petition is denied by the Board of Commissioners or Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself.

(Ord. eff. 9-6-2012, § 4.6)

~~§ 91.56 APPEALS OF QUASI-JUDICIAL DECISIONS.~~

~~—(A) Every quasi-judicial decision shall be subject to review by the Superior Court of Brunswick County by proceedings in the nature of certiorari pursuant to state law.~~

~~—(B) A petition for review shall be filed with the Brunswick County Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with § 91.53(L). When first class mail is used to deliver notice, three days shall be added to the time to file the petition.~~

~~—(C) A copy of the writ of certiorari shall be served upon the town.~~

~~(Ord. eff. 9-6-2012, § 4.7)~~

§§ 91.58—91.59 RESERVED.

DEVELOPMENT REVIEW PROCESS

§ 91.60 APPLICABILITY.

(A) The purpose of this subchapter is to establish an orderly process to develop land within the town **in accordance with the legislative authority granted through NCGS 160D**. It is also the intent of this subchapter to provide a clear and comprehensible development **approval** process that is fair and equitable to all interests including the petitioners, affected neighbors, town staff, related agencies, the Planning Board and the Board of Commissioners. Approved plans shall be the guiding documents for final approval and permitting.

(B) The development review process applies to all development actions within the town except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this subchapter shall be applicable for **development approvals including** all minor and major subdivisions and minor and major site plans. The UDO Administrator may waive the required development review **approval** process only in the following cases when he or she determines that the submission of a development plan in accordance with this subchapter would serve no useful purpose:

- (1) Accessory structures;
- (2) Any enlargement of a principal building by less than 20% of its existing size provided such enlargement will not result in parking or landscaping improvements; and

(3) A change in principal use where such change would not result in a change in lot coverage, parking or other site characteristics.

~~—(C) If a permit applicant submits a permit application for any type of development and a rule or ordinance changes between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit.~~

~~—(D) The town may enter into a development agreement with a developer for the development of property as provided in this section for developable property of any size, including property that is subject to an executed Brownfields Agreement pursuant to G.S. Chapter 130A, Art. 9, Part 5. Development agreements shall be of a reasonable term specified in this agreement.~~

(Ord. eff. 9-6-2012, § 5.1; Am. Ord. 16-1, passed 4-7-2016)

§ 91.61 ADMINISTRATIVE DEVELOPMENT APPROVALS AND DETERMINATIONS.

(A) *Development Approvals.* To the extent consistent with the scope of regulatory authority granted by NCGS Chapter 160D, no person shall commence or proceed with development without first securing any required development approval from the Town of Carolina Shores. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(B) *Determinations and Notice of Determinations.* The UDO Administrator or his designee is designated as the staff member charged with making determinations under this Unified Development Ordinance. The UDO Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, providing the sign remains on the property for at least ten days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six (6) inches high and shall identify the means to contact an official for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the

determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(C) *Duration of Development Approval.* A development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If after commencement, the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under § 91.52.

(D) *Changes.* After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. Minor modifications to development approvals can be exempted or administratively approved. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(E) *Inspections.* The UDO Administrator may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(F) *Revocation of Development Approvals.* In addition to initiation of enforcement of enforcement actions under § 91.14, development approvals may be revoked by the Town issuing the development approval by notifying the holder in writing stating the reasons for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable Town of Carolina Shores development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to § 91.54(A). If an appeal is filed regarding a development regulation adopted by the Town pursuant to NCGS Chapter 160D, the provisions of § 91.54(A)(6) regarding stays shall be applicable.

(G) *Certificate of Occupancy.* The Town of Carolina Shores may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of Chapter 160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

§ 91.62 PRE-APPLICATION MEETING AND SKETCH PLAN.

(A) The applicant shall schedule a pre-application meeting with the UDO Administrator to review a sketch plan of the proposed development, including minor and major subdivisions and minor and major site plans. The sketch plan shall meet the requirements of division (C) below. The UDO Administrator will advise the applicant of all applicable town regulations and policies, suggest development alternatives, application procedures and fees (see § 91.34). The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the town and does not confer upon the applicant any development rights. The UDO Administrator may submit a sketch plan to other departments or agencies for input and recommendations. Within 15 days of receipt of the sketch plan, the UDO Administrator shall forward all appropriate comments to the applicant. This timeframe may be extended if comments are requested from other agencies.

(B) The applicant is encouraged to incorporate the recommendations of the UDO Administrator or authorized staff reviewer into the development plan before submittal. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the development plan; furthermore, sketch plan review does not constitute approval of the development plan and may not be substituted for any required approvals.

(C) Three copies of the sketch plan, drawn to scale, shall be submitted, including the following:

- (1) A scale, preferably the same scale as required for development plan submittal;
- (2) Property boundaries and total acreage;
- (3) Major topographical and physical features such as creeks, buildings, streets and the like;
- (4) Proposed streets, buildings and/or lot arrangements, including proposed lot sizes;
- (5) Existing and proposed land use, drawn to scale, with brief project description including building sizes, unit sizes, lot sizes, open space, amenities and the like;
- (6) Name, address and telephone number of applicant and persons (firm) preparing the development plan;
- (7) Adjacent street names, numbers and right-of-way widths;

(8) Zoning district classification of site and surrounding properties, including those across streets; and

(9) The boundaries of any proposed phasing.

(Ord. eff. 9-6-2012, § 5.2)

§ 91.63 ADMINISTRATIVE **DEVELOPMENT** APPROVAL - MINOR SITE PLAN OR SUBDIVISION.

(A) *Administrative **development** approval.* Administrative **development** approval includes:

(1) Minor site plans. Includes the following:

(a) Buildings or additions with an aggregate enclosed square footage of less than 20,000 square feet;

(b) Buildings or additions involving land disturbance of less than one acre;

(c) Multi-family development involving less than ten dwelling units;

(d) Parking lot expansions which comply with this Unified Development Ordinance with no increase in enclosed floor area;

(e) Revision to landscaping, signage or lighting which comply with the requirements of this Unified Development Ordinance;

(f) Accessory uses which comply with the requirements of this Unified Development Ordinance; and

(g) Site plans which do not require a variance or modification of the requirements of this Unified Development Ordinance, and otherwise comply with this UDO.

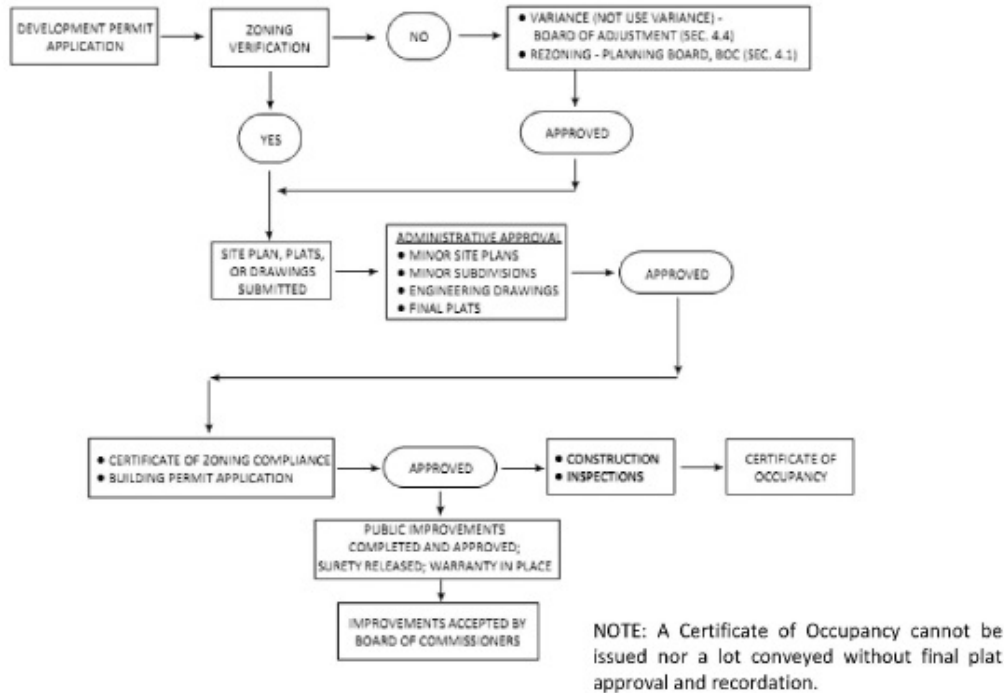
(2) Minor subdivisions. Includes all subdivisions that do not involve a public street dedication, public easement dedication, dedication of floodplain and open space, or other property dedication; or a subdivision containing ten lots or less.

(3) Engineering drawings. Engineering drawings; and

(4) Final plats. Final plats.

Note: A sketch plan and/or pre-application meeting is not required for a final plat submittal.

Administrative Approval Flowchart



(B) *Development permit approval application/zoning verification.* A development permit approval application shall be submitted and zoning compliance verified by the UDO Administrator. If the zoning is in compliance agreement, the applicant may proceed with submittal of site plan, plats or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see § 91.50) or a variance (see § 91.54(B)) before proceeding with site plan, plat or drawing submittal.

(C) *Minor site plan, minor subdivision plat or drawings submitted for review.* A plan of the proposed development shall be submitted in accordance with §§ 91.65 through 91.67, and shall be accompanied by the completed application and payment of a fee as adopted by the Board of Commissioners (see § 91.34).

(D) *Staff review.* The UDO Administrator may circulate the plan to relevant governmental agencies and officials. The reviewing government agencies and officials may include, but not necessarily be limited to, the following:

- (1) UDO Administrator;
- (2) Town Administrator;
- (3) Police Department;
- (4) Town Engineer or consulting engineer;
- (5) Town Attorney;

- (6) Other town representatives appointed by the Town Administrator;
- (7) Utilities providers;
- (8) Brunswick County Health Department;
- (9) Brunswick County Board of Education;
- (10) Cape Fear Area Rural Planning Organization;
- (11) State Department of Transportation;
- (12) State Department of Environment and Natural Resources;
- (13) U.S. Army Corps of Engineers; and
- (14) Calabash Fire Department.

(E) *Approval.* If the site plan, engineering drawings or final plat is found to meet all of the applicable regulations of this Unified Development Ordinance, then the UDO Administrator shall issue a ~~zoning permit~~ **development approval** for site plans or approve final subdivision plats.

(F) *Appeal of administrative denial.* Administrative denial of an application for **development** approval ~~of a minor site plan, minor subdivision, engineering drawings or final plats~~ may be appealed by the applicant to the Planning Board within 30 days following written notification of denial by the UDO Administrator.

(G) *Certificate of zoning compliance.*

(1) No land shall be used or occupied and no building hereafter constructed, structurally altered, erected or moved, shall be used, or its use changed until a certificate of zoning compliance shall have been issued by the UDO Administrator stating that the building or the proposed use thereof complies with the provisions of this Unified Development Ordinance.

(2) A certificate of zoning compliance, either for the whole or a part of a building, shall be applied for prior to the application for a building permit and shall be issued together with the building permit.

(3) Application for certificate of zoning compliance: each application for a preliminary certificate of zoning compliance shall be accompanied by a site plan (if not already submitted in accordance with division (C) above) in duplicate, drawn to scale, one copy of which shall be returned to the owner upon approval. The plan shall show the following:

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

(b) The location of the lot with respect to adjacent rights-of-way;

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

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

(e) The location and dimensions of off-street parking and the means of ingress and egress to the space; and

(f) Any other information which the UDO Administrator may deem necessary for consideration in enforcing the provisions of this Unified Development Ordinance. The UDO Administrator may waive any of the above requirements which may not be applicable or otherwise deemed necessary by the UDO Administrator.

(H) *Building permit required.*

(1) No building or other structure shall be erected, moved, added to, demolished or structurally altered without a building permit issued by the Building Inspector and a zoning permit issued by the UDO Administrator. No building permit shall be issued by the Building Inspector except in conformity with the provisions of the State Building Code and this Unified Development Ordinance unless he or she receives a written order from the Board of Adjustment in the form of a variance to this Unified Development Ordinance as provided for by this Unified Development Ordinance.

(2) Application for building permit: all applications for building permits shall be accompanied by plans, including a survey not more than six months old, as specified by the State Building Code. The application shall include other information as lawfully may be required by the Building Inspector, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, dwelling units or rental units the building is designed to accommodate; conditions existing on the lot; floodplain development permit; and any other matters as may be necessary to determine conformance with, and provide for the enforcement of this Unified Development Ordinance. A minimum of two copies of the plans shall be required. One copy of the plans shall be returned to the applicant by the Building Inspector, after he or she shall have marked the copy either as approved or disapproved and attested to same by his or her signature on the copy. One copy of the plans, similarly marked, shall be retained by the Building Inspector.

(I) *Inspections and certificates of occupancy.*

(1) No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a certificate of occupancy.

(2) A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance and shall be issued within five business days after the erection or structural alteration of such building or part shall have been

completed in conformity with the provisions of this Unified Development Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Unified Development Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the State Department of Cultural Resources requirements (G.S. § 132-8) and copies shall be furnished on request to any persons having a proprietary or tenancy interest in the building or land involved.

(3) For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to town standards. The Board of Commissioners must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Board of Commissioners as specified in § 91.67(E)(4).

(4) For minor site plans and minor subdivision final plats, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

(Ord. eff. 9-6-2012, § 5.3)

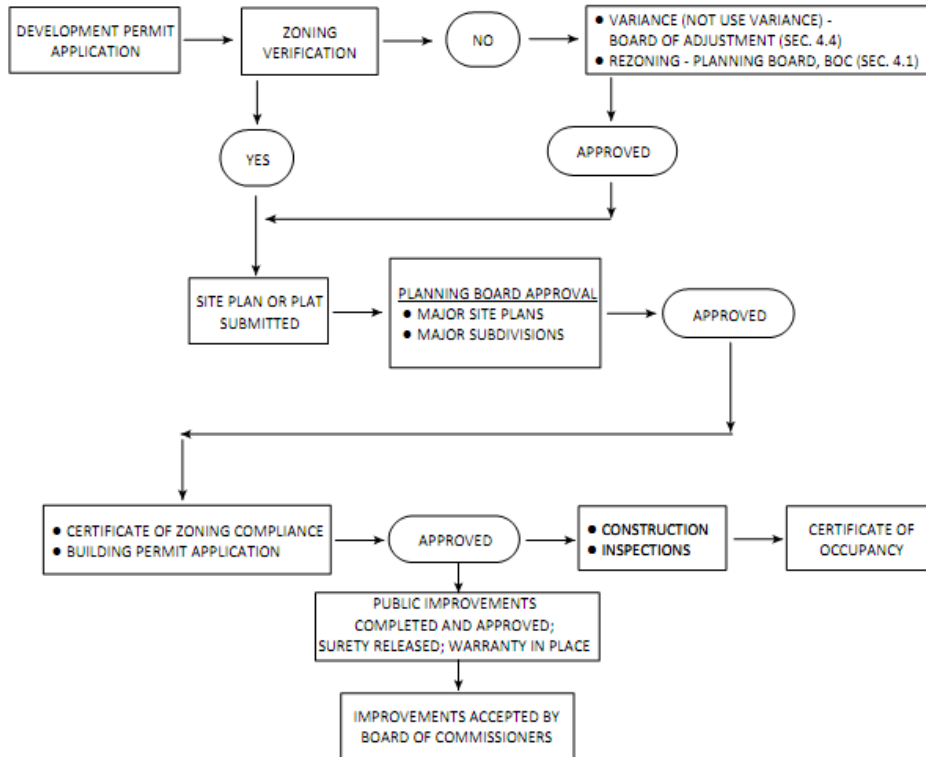
§ 91.64 PLANNING BOARD REVIEW AND DEVELOPMENT APPROVAL (MAJOR SITE PLAN OR SUBDIVISION)

(A) *Generally*. Planning Board review and development approval applies to the following:

(1) Major site plans. Includes all site plans for projects not meeting the requirements for a minor site plan; and

(2) Major subdivisions. Includes all subdivisions not meeting the requirements for a minor subdivision.

Planning Board Approval Flowchart



(B) *Development approval permit application/zoning verification.* A development approval permit application shall be submitted and zoning compliance verified by the UDO Administrator. If the zoning is in compliance agreement, the applicant may proceed with submittal of site plan, plats or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see § 91.50) or a variance (see § 91.54(B)) before proceeding with site plan, plat or drawing submittal.

(C) *Major site plan, major subdivision plat or drawings submitted for review.* All major site plans and major subdivision preliminary plats shall be submitted in accordance with §§ 91.66 and 91.67, and shall be accompanied by the completed application and payment of a fee as adopted by the Board of Commissioners (see § 91.34).

(D) *Staff review.* The UDO Administrator may require that the plan be circulated to relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but not necessarily be limited to, those listed in § 91.63(D).

(E) *Review process.*

(1) Following a complete technical review, the UDO Administrator shall schedule the application for review by the Planning Board.

(2) The Planning Board shall have up to 30 days from the date of referral by the UDO Administrator to recommend approval, recommend approval with conditions or recommend denial of the request to the Board of Commissioners.

(3) The Planning Board, via the UDO Administrator, shall forward their recommended action to the Board of Commissioners for review and action as appropriate by the Board of Commissioners.

(F) *Approval.* All required local, state and/or Federal permits must be obtained prior to authorization to construct, but shall not be required to obtain plan approval pursuant to this section.

(G) *Reapplication.* Following denial by the Board of Commissioners, the applicant may file a new application and associated fee after waiting one year from the date of denial. Such application shall be considered to be filed de novo by the Planning Board and Board of Commissioners.

(Ord. eff. 9-6-2012, § 5.4; Am. Ord. 15-2, passed 3-5-2015)

§ 91.65 ENGINEERING DRAWING REVIEW REQUIREMENTS.

(A) *Applicability and process.* The engineering drawings for ~~minor site plans, major site plans, major subdivisions and other site-specific plans~~ **development approvals** shall be submitted in accordance with this section except where specifically noted. Upon determination by the UDO Administrator that an application is complete (including a town tree removal permit, as specified in §§ 91.140 through 91.150), the engineering drawings shall follow the administrative approval process outlined in § 91.63. Engineering drawings shall constitute the complete submittal requirements for minor site plan or minor subdivision **development approvals** prior to the issuance of a zoning permit or final plat approval.

(B) *Submittal requirements.* Engineering drawings shall be drawn to the specifications in § 91.66(D)(4). The types of plans to be included in a set of engineering drawings are as follows:

- (1) Site plan or preliminary plat;
- (2) Existing conditions;
- (3) Grading plan;
- (4) Soil and erosion control plan;
- (5) Landscaping plan (including a town tree removal permit, if applicable, in accordance with §§ 91.140 through 91.150);
- (6) Lighting plan;
- (7) Street details;

(8) Infrastructure details; and

(9) Stormwater control plan.

(Ord. eff. 9-6-2012, § 5.5)

§ 91.66 SITE PLAN PROCEDURES.

(A) *Pre-application meeting and sketch plan.* The applicant shall schedule a pre-application meeting with the UDO Administrator to review a sketch plan of the proposed site plan. The UDO Administrator will determine if the plan constitutes a minor or major site plan, in accordance with the definitions in Appendix A, and advise the applicant of all applicable town regulations and policies, applications procedures and fees.

(B) *Minor site plans.* Minor site plans follow the administrative **development** approval process **and are not subject to Planning Board review**. Minor site plans shall be submitted ~~as part of~~ **with** a full set of engineering drawings. Engineering drawing approval is required prior to the issuance of a zoning permit. Refer to § 91.65, Engineering Drawing Requirements.

(C) *Major site plans.* Major site plans follow the Planning Board **development** approval process. The major site plan shall be reviewed by the UDO Administrator for completeness, compliance with this Unified Development Ordinance, and soundness of design. The plan shall then be reviewed for recommendation and approval by the Planning Board. Following Planning Board approval, engineering drawings may be submitted and reviewed in accordance with § 91.65. Engineering drawing approval is required prior to the issuance of a zoning permit.

(D) *Site plan requirements.*

(1) *Information to be shown on site plan.* The site plan shall be prepared by a professional engineer, registered land surveyor or architect and shall be drawn to scale of not less than one inch equals 30 feet. The site plan shall be based on the latest tax map information and shall be of a size as required by each individual site plan. The site plan shall contain the following information:

(a) A key map of the site with reference to surrounding areas and existing street locations;

(b) The name and address of the owner and site plan applicant, together with the names of the owners of all contiguous land and of property directly across the street as shown by the most recent tax records;

(c) Lot line dimensions;

(d) Location of all structures, streets, entrances and exits on the site and on contiguous property directly across the street;

- (e) Location of all existing and proposed structures, including their outside dimensions and elevations;
- (f) Building setback, side line and rear yard distances;
- (g) Location of flood zones;
- (h) All existing physical features, including watercourses, existing trees greater than eight inches in diameter measured four and one-half feet above ground level, and significant soil conditions;
- (i) Topography showing existing and proposed contours at two-foot intervals. All reference benchmarks shall be clearly designated;
- (j) Parking, loading and unloading areas shall be indicated with dimensions, traffic patterns, access aisles and curb radii per the requirements of §§ 91.120 through 91.129;
- (k) Improvements such as roads, curbs, bumpers and sidewalks shall be indicated with cross-sections, design details and dimensions;
- (l) Location and design of existing and proposed stormwater systems, sanitary waste disposal systems, water mains and appurtenances, and method of refuse disposal and storage;
- (m) Landscaping and buffering plan showing what will remain and what will be planted, indicating names of plants, trees and dimensions, approximate time of planting, and maintenance plans per the requirements of §§ 91.140 through 91.150;
- (n) Lighting plan indicating type of standards, location, radius of light and intensity in footcandles per the requirements of §§ 91.170 through 91.177;
- (o) Location, dimensions and details of signs per the requirements of §§ 91.190 through 91.201;
- (p) North arrow; and
- (q) Location of all 404 wetland areas.

(2) *Performance standards.* In reviewing any site plan, the Planning Board shall consider:

- (a) Pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the site, between buildings, and between buildings and vehicles. The Planning Board shall ensure that all parking spaces comply with §§ 91.120 through 91.129. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site;

(b) The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact of surrounding development, and contiguous and adjacent buildings and lands;

(c) Adequate lighting, based upon the standards set forth in §§ 91.170 through 91.177, shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board;

(d) Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties in accordance with §§ 91.140 through 91.150;

(e) Landscaping shall be provided as part of the overall site design and integrated into building arrangements, topography, parking and buffering requirements in accordance with §§ 91.140 through 91.150;

(f) Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians (refer to §§ 91.190 through 91.201);

(g) Storm drainage, sanitary waste disposal, water supply and garbage disposal shall be reviewed for compliance with applicable Federal, state and local requirements. Particular emphasis shall be given to the adequacy of existing systems, and the need for improvements, both on-site and off-site, to adequately carry run-off and sewage, and to maintain an adequate supply of water at sufficient pressure; and

(h) Environmental elements relating to soil erosion, preservation of trees, protection of watercourses, and resources, noise, topography, soil and animal life shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements.

(E) *Certificate of zoning compliance/building permit.* An application for a certificate of zoning compliance may be requested in advance of or concurrently with an application for a building permit in accordance with §§ 91.63(G) and (H).

(F) *Inspections and certificates of occupancy.*

(1) No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a certificate of occupancy.

(2) A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance and shall be issued within five business days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this Unified Development Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and

occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Unified Development Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the State Department of Cultural Resources requirements (G.S. § 132-8) and copies shall be furnished on request to any persons having a proprietary or tenancy interest in the building or land involved.

(3) For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to town standards. The Board of Commissioners must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Board of Commissioners as specified in § 91.67(E)(4).

(4) For major sites plan **development approvals**, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

(Ord. eff. 9-6-2012, § 5.6)

§ 91.67 SUBDIVISION PROCEDURES.

(A) Purpose. This section provides for the orderly growth and development of the Town of Carolina Shores, for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(B) Subdivision exceptions.

(1) This section shall be applicable to all subdivisions except those which are exempt in accordance with §§ 91.04(B)(3). The Planning Board may authorize exceptions for subdivisions from any portion of this Unified Development Ordinance when, in its opinion, undue hardship may result from their strict compliance. In granting an exception, the Planning Board shall hold a quasi-judicial public hearing and make the findings required herein, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No relief shall be granted unless it is found:

(a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Unified Development Ordinance would deprive the applicant of the reasonable use of his or her land;

(b) That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(c) That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Unified Development Ordinance; and

(d) That the granting of the relief will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which said property is situated.

(2) Every decision of the Planning Board pertaining to the granting of subdivision exceptions shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the Planning Board is filed in the office of the UDO Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the UDO Administrator at the time of the Planning Board's hearing of the case, whichever is later.

(C) *Pre-application meeting and sketch plan.* The applicant shall schedule a pre-application meeting with the UDO Administrator to review a sketch plan of the proposed subdivision in accordance with § 91.62. The UDO Administrator will determine if the subdivision constitutes a major or minor subdivision, in accordance with the definitions in Appendix A, and advise the applicant of all applicable town regulations and policies, application procedures and fees.

(D) *Review procedure for minor subdivisions.*

(1) The developer shall submit a sketch development plan, as specified in § 91.62, to the UDO Administrator. At this stage, the UDO Administrator and the developer shall informally review the proposal.

(2) After this initial review has been completed, the subdivider or his or her authorized representative shall prepare a final plat as specified in § 91.213 and submit it to the UDO Administrator. At the time of submission, the subdivider shall pay to the town an application fee as established by the Board of Commissioners in accordance with § 91.34. Refer to §§ 91.210 through 91.228 for plat requirements.

(3) The UDO Administrator shall approve or disapprove the final plat. If the subdivider disagrees with the decision of the UDO Administrator, the subdivider may appeal to the Planning Board at their next regular meeting.

(E) *Review procedure for major subdivisions.*

(1) *Preliminary plat.*

(a) Following a complete technical review and the payment of requisite fees as established by the Board of Commissioners, the UDO Administrator shall schedule the preliminary plat for review by the Planning Board.

(b) The Planning Board shall have up to 30 days from the date of referral by the UDO Administrator to recommend approval, recommend approval with conditions or recommend denial of the request to the Board of Commissioners.

(c) The Planning Board, via the UDO Administrator, shall forward their recommended action to the Board of Commissioners for review and action as appropriate by the Board of Commissioners.

(d) All required local, state and/or Federal permits must be obtained prior to authorization to construct, but shall not be required to obtain preliminary plat approval pursuant to this section.

(2) *Final plat.*

(a) Within 24 months after approval of the preliminary plat, the subdivider shall submit a final plat showing that the subdivision has been complete in conformity to the approved preliminary plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plat, provided that all required improvements have been installed as called for in the approved preliminary plat or a surety bond or similar financial instrument has been approved the Board of Commissioners, in accordance with this chapter.

(b) *Final plat process.*

1. Following a complete technical review and the payment of requisite fees as established by the Board of Commissioners, the UDO Administrator shall schedule the final plat for review by the Planning Board.

2. The Planning Board shall have up to 30 days from the date of referral by the UDO Administrator to recommend approval, recommend approval with modifications or recommend denial of the request to the Board of Commissioners. If the final plat substantially conforms to the approved preliminary plat, the plat should be approved.

3. The Planning Board, via the UDO Administrator, shall forward their recommended action to the Board of Commissioners for review and action as appropriate by the Board of Commissioners.

4. The Board of Commissioners shall review the final plat and if it substantially conforms to the preliminary plat shall approve the final plat. The Board of Commissioners shall also, as part of the final plat approval process, accept any public improvements or sureties thereof as outlined in this chapter.

5. Only after the final plat has been approved and recorded in the Brunswick County Register of Deeds office shall any lots be transferred or conveyed.

(3) *Appeals of decisions on subdivision plats.* A decision to approve or deny a preliminary or final subdivision plat is administrative, and that decision shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of the written notice of the decision, which shall be made as provided in § 91.54(A).

(4) *Performance guarantees.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners, if all other requirements of this section are met. The town shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

(a) Type. The subdivider shall provide one of the following performance guarantees, elected at the subdivider's discretion, in lieu of installation:

1. Surety bond issued by any company authorized to do business in this state;
2. Letter of credit issued by any financial institution licensed to do business in this state; or
3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(b) Duration. The duration of the performance guarantee shall initially be one year, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration.

(c) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

(d) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the town that the improvements for which the performance guarantee is being required are complete. The town shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the town, or upon acceptance of the required improvements, if the required improvements are subject to town acceptance. When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to town acceptance, upon request by the developer, the town shall timely provide written acknowledgement that the required improvements have been completed.

(e) Amount. The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued. The town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(f) Timing. The town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(g) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(h) Legal Responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

1. The Town to whom such performance guarantee is provided.
2. The subdivider at whose request or for whose benefit such performance guarantee is given.
3. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

(i) The town may release a portion of any security posted as the improvements are completed and recommended for approval by the UDO Administrator. Within 30 days after receiving the UDO Administrator's recommendation, the Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted.

(j) For subdivisions which are underwritten or constructed with Federal funds and for which the specifications for facilities or improvements are equal to or of higher standard than those required by the town, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.

(k) Multiple Guarantees. The subdivider shall have the option to post one type of a performance guarantee as provided for in subdivision (a) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

(F) *Procedure for plat recordation.*

(1) After the effective date of this Unified Development Ordinance, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of the plat by the chairperson or head of that agency. All publicly dedicated improvements must be accepted by the Board of Commissioners contingent upon final plat recordation or acceptance of an approved performance bond.

(2) A plat shall not be filed or recorded by the County Register of Deeds of any subdivision located within the town's jurisdiction that has not been approved in accordance with this Unified Development Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Unified Development Ordinance.

(G) *Transfer of lots in an unapproved subdivision.*

(1) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the town, thereafter subdivides his land in violation of applicable town ordinances the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under applicable town ordinances such regulation and recorded in the office of the Brunswick County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to NCGS 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

(2) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for

which a final plat has not yet been properly approved under the subdivision regulation or recorded with the Brunswick County Register of Deeds, provided the contract does all of the following:

(a) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(b) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(c) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(d) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(3) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Brunswick County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Brunswick County Register of Deeds.

(H) *Issuance of permits and conveyance of subdivision lots.*

(1) Zoning permits and building permits may be issued by the town for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Unified Development Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Brunswick County Health Department, if required. A certificate of occupancy may not be issued until the final plat has been approved and recorded.

(2) After the effective date of this Unified Development Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Unified Development Ordinance, to subdivide his or her land in violation of this Unified Development Ordinance or to transfer or sell land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Unified Development Ordinance.

(3) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Board of Commissioners, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Unified Development Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. § 14-4. Civil penalties may be issued in accordance with § 91.14.

(I) *Roadway acceptance procedure.*

(1) At the time of submittal of a preliminary plat with streets proposed to be dedicated for acceptance by the town as public, the Board of Commissioners will decide if it will approve the dedication, subject to the street or streets complying with all requirements for acceptance. The town is not obligated to accept a street for maintenance.

(2) Before a request for acceptance by the town is made, the petitioner(s) for street dedication must provide the following to the UDO Administrator:

(a) Town Engineer's certification that the street(s) have been properly constructed to town specifications;

(b) As-built drawings of all street, drainage and other improvements;

(c) All easement agreements;

(d) Lien waiver executed by all providers of materials and services; and

(e) Deed for roadway right-of-way conveyance.

(3) If the town agrees to accept the offer of dedication, it will be obligated to maintain the street. The obligation to maintain the street does not impose any requirement on the town to immediately make improvements to the street in question. Necessary improvements to the street in question will be made by the town as funds are available.

(4) The warranty period shall run for a minimum of one year from the date of acceptance by the Board of Commissioners. Warranty inspections will be conducted by the Town Engineer at six months and 12 months after acceptance or at any time that deficiencies are discovered. All repairs will require an additional one-year warranty.

(5) Acceptance of roadway dedication will be provided by adoption of a resolution of acceptance by the Town Board of Commissioners.

(J) *School site reservation.* If the Board of Commissioners and the Brunswick County Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with the Town Comprehensive Plan, staff shall immediately notify the Board of Education in writing whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

(K) *Dedication of land for park, recreation and open space.* Every subdivider who proposes a subdivision of land for residential purposes shall dedicate for public or private use a portion of land or pay a fee in lieu thereof, in accordance with this section, for public park, greenway, recreation and open space sites to serve the recreational needs of the residents of the subdivision or development. The town prefers that ownership and maintenance of parks, recreation or open space lands be by a private entity, such as a property owners' association. Dedication of land, or fee in lieu of, must be approved by the Board of Commissioners prior to approval of the preliminary plat by the Planning Board.

(1) At least one-thirty-fifth of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development.

(2) The minimum amount of land which shall be dedicated for a public park, recreation or open space site shall be no less than two acres in size. When the area to be provided is less than two acres, the subdivider may be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park or open space sites which would serve the needs of the residents of the subdivision.

(3) Except as otherwise required by the Board of Commissioners, all dedications of land shall meet the following criteria.

(a) The dedicated land shall form a single parcel of land, except where the Board of Commissioners determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In these cases, the Board of Commissioners may require that the parcels be connected by a dedicated strip of land at least 30 feet in width.

(b) Two-thirds of the dedicated land shall be usable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area. Land dedicated only for greenways need not follow the requirements of this division (J)(3)(b).

(c) The shape of the portion of the dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of

land is dedicated to accommodate the facilities. Land dedicated only for greenways need not follow the requirements of this division (J)(3)(c).

(d) The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.

(e) Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 30 feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks and other improvements required along that street segment.

(f) Dedicated parks, recreation and open space areas shall have a sufficient natural or human-made buffer or screen to minimize any negative impacts on adjacent residents.

(4) The payment of fees, in lieu of the dedication of land, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Board of Commissioners prior to preliminary plat approval after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the town's overall recreational needs.

(a) The fees in lieu of dedication shall be paid prior to final plat approval.

(b) The amount of the payment shall be the product of:

1. The number of acres to be dedicated, as required by this division (J); and
2. The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.

(c) Procedures for determining the amount of the payment are as follows.

1. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer from an approved list maintained by the Board of Commissioners. Professional land appraiser refers to a land appraiser who, in the opinion of the Board of Commissioners, has the expertise and/or certification to perform an adequate appraisal.

2. The appraisal shall not be done prior to submission of the preliminary plat. The cost of the appraisal shall be borne by the developer.

(5) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated pursuant to this section. If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Board of Commissioners reserves the right to approve or disapprove dedication of parcels for public park, recreation or open space, or payment in lieu of.

(6) Where a dedication of land is required, the dedication shall be shown on the final plat when submitted, and the plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the town. Where a payment in lieu of dedication is approved by the Board of Commissioners, the payment will be made before the final plat is signed and recorded.

(7) The Board of Commissioners shall have the authority to sell land dedicated pursuant to this section. The proceeds of the sale shall be used for the acquisition and/or development of other recreation, park or open space sites, or for sidewalk development serving the subdivision or more than one subdivision in the immediate area.

(8) The town encourages neighborhood or property owner associations or management to construct, operate and maintain private parks and recreation. The construction, operation or maintenance of the private facilities shall not, however, diminish or eliminate the responsibility and obligations of the subdivider under this section.

(9) Greenways may be credited against the requirements of this section, provided that the greenways are part of the town's greenway plan and dedicated to public use.

(10) This Ordinance may not require a power line to be buried if the line existed above ground when the development's plat or development plan was initially approved (even if the power line was subsequently relocated) and the power line is located outside the parcel of land containing the subdivision or development plan.

(L) *Street construction.* To provide for the orderly growth and development of the town, and to coordinate the streets and highways within proposed subdivisions with existing or planned streets and highways, a subdivider or developer may be required in lieu of required street construction and as a condition to plat approval, to provide funds which the town may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the town pursuant to this division shall be used only for development of roads, including design, land acquisition, and construction. The town may undertake these activities in conjunction with the North Carolina Department of Transportation under an agreement between the town and the Department of Transportation. Any formula adopted to determine the amount of funds the subdivider or developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. A combination of partial payment of such funds and partial dedication of constructed streets may be required when the Board of Commissioners determines that such a combination is in the best interests of the public in the area to be served.

(Ord. eff. 9-6-2012, § 5.7; Am. Ord. 15-2, passed 3-5-2015; Am. Ord. 16-1, passed 4-7-2016; Am. Ord. 17-3, passed 12-8-2016)

§§ 91.67—91.69 RESERVED.

ZONING DISTRICTS

§ 91.70 ESTABLISHMENT OF ZONING DISTRICTS.

(A) In accordance with the requirements of G.S. § ~~160A-382~~ 160D-703 that zoning regulation be by districts, the town, as shown on the Zoning Map, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Unified Development Ordinance. In the creation of the respective districts, careful consideration is given to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well considered Comprehensive Plan for the physical development of the area.

(B) The purposes of establishing the zoning districts are:

- (1) To implement adopted plans;
- (2) To promote public health, safety and general welfare;
- (3) To provide for orderly growth and development;
- (4) To provide for the efficient use of resources; and
- (5) To facilitate the adequate provision of services.

(Ord. eff. 9-6-2012, § 6.1)

§ 91.71 INTERPRETATION.

Zoning districts have uses specified as permitted by right, special uses and uses permitted with supplemental regulations. Detailed use tables are provided in § 91.74 showing the uses allowed in each district. The following describes the processes of each of the categories that the uses are subject to:

(A) *Permitted by right.* Administrative review and approval subject to district provisions and other applicable requirements only;

(B) *Permitted with supplemental regulations.* Administrative review and approval subject to district provisions, other applicable requirements and supplemental regulations outlined in §§ 91.80 through 91.104; and

(C) *Special uses.* Planning Board review and recommendation, Board of Commissioners review and approval of special use permit subject to district provisions, other applicable requirements and conditions of approval as specified in § 91.56. Some special uses may also be subject to supplemental regulations outlined in §§ 91.80 through 91.104.

(Ord. eff. 9-6-2012, § 6.2)

§ 91.72 PRIMARY ZONING DISTRICTS.

For the purposes of this Unified Development Ordinance, the town is hereby divided into the following primary zoning districts.

(A) *R-15 Residential District.* The R-15 Residential District is intended as a single-family residential area with a low to medium population density. Certain structures and uses of governmental, educational, religious and noncommercial recreational natures are either permitted outright or are subject to special conditions intended to preserve and protect the residential character of this district.

(B) *R-12 Residential District.* The R-12 Residential District is intended as a single-family residential area with a low to medium population density. Certain structures and, uses of governmental, educational, religious and noncommercial recreational natures are either permitted outright or are subject to special conditions intended to preserve and protect the residential character of this district.

(C) *R-8 Residential District.* The R-8 Residential District is established as a district in which the principal use of land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring residence and multi-family structures in medium density neighborhoods. The regulations are intended to discourage any use which because of its character would interfere with the residential nature of this district.

(D) *R-6 Residential District.* The R-6 Residential District is established as a district in which the principal use of land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods. The regulations are intended to discourage any use which because of its character would interfere with the residential nature of this district. The R-6 District was in effect prior to the date of adoption of this Unified Development Ordinance and shall continue in effect for those areas following the date of adoption of this Unified Development Ordinance. It is the intention of the town that there will be no additional R-6 zoning.

(E) *MFH I Manufactured Home District I.* The MFH I Manufactured Home District I is established as a district in which the principal use of land is for double-wide manufactured homes Class "A."

(F) *MFH II Manufactured Home District II.* The MFH II Manufactured Home District II is established as a district in which the principal use of land is for Class "B" manufactured homes.

(G) *O/I Office and Institutional District.* This district is established primarily for office and institutional uses which cause no offensive noises, odors, smoke, fumes, excessive traffic or other objectionable conditions. This district may serve as a buffer between residential and commercial/industrial districts.

(H) *NB Neighborhood Business District.* The regulations for this district are designed to permit a concentrated development of permitted facilities which are normally adjacent to non-Federal highways and routinely adjacent to residential areas.

(I) *HC Highway Commercial District.* The HC Highway Commercial District is established primarily for those businesses that serve the traveling public, require large areas for displays of goods, and are not oriented to the pedestrian shopper.

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

(K) *CRD Conservation Recreation District.* This district is established as a district intended to preserve Carolina Shores' essential open space areas, by protecting/preserving natural resources such as: floodplain areas, existing and proposed residential areas, recreational resources; and limiting impervious surfaces, thereby reducing stormwater runoff. Conservation zoning may be incorporated into surrounding developments. Large lot zoning for single-family residential development is conditionally allowed as an effective way to preserve natural and community open space resources.

(L) *PRD Planned Residential District.* A Planned Residential District (PRD) is planned and developed as an integral unit in a single development phase or several phases in accord with an initially approved development plan.

(M) *AD Agricultural District.* The purpose of this district is to provide for areas where the principal use of land is for low density residential and agricultural purposes. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render them undesirable for farms and future residential development.

(Ord. eff. 9-6-2012, § 6.3)

§ 91.73 CONDITIONAL ZONING DISTRICT.

The large site conditional zoning district (CZD) allows a site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses. The CZD allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in § 91.74 Table of Permitted/Special Uses. All of the site-specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the CZD. Approval of the site plan will establish all zoning requirements for the subject property. A large site CZD district shall

not be less than three (3) acres in area. Within the MLK-O overlay district, lots smaller than three (3) acres in size may apply for CZD zoning.

This negotiated approach to a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. But it also has great potential for abuse - both in terms of impacts on individual landowners seeking approval and their neighbors and on the public interests zoning is supposed to promote. Thus, special restrictions have been placed on conditional zoning. Conditional Zoning Districts may only occur at the owner's request and cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by use of the site. The town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional zoning provides important opportunities to carefully tailor regulations to address the interest of the landowner, the neighbors, and the public. The town may use conditional zoning when it concludes that a particular project should be approved but that the standards in the comparable conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Conditional zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Carolina Shores. The petitioner must consent in writing to all conditions imposed by the conditional zoning.

§ 91.74 TABLE OF PERMITTED/SPECIAL USES.

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD	
ACCESSORY USES/BUILDINGS														
Accessory structures	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	§ 91.81
Accessory uses	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	§ 91.81
Childcare center (as an accessory use for a principal business/ industry)								P	P	P				
Dwelling as an accessory use	PS	PS	PS	PS	PS	PS	PS	PS						§ 91.81(D)
Fences and walls	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	§ 91.81(F)
Home occupation	SS	SS	SS	SS	SS	SS							SS	§ 91.81(B)
Portable storage container	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	§ 91.82
Satellite dish antenna	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	§ 91.81(G)

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD	
Swimming pool	PS	PS	PS	PS	PS	PS		PS	PS		PS	PS	PS	§ 91.81(C)
COMMERCIAL														
Adult entertainment business										SS				§ 91.83
Animal hospital									P					
Appliance store									P					
Auction conducted entirely within a building									SS	P	P			§ 91.99
Auction conducted within a building and/or with outside sales and display										P				
Auction, estate	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	§ 91.100
Auto parts and accessories									P					
Auto repair and service									P	P				
Auto sales and service									P					
Auto washing establishment									P	P				
Barber shop, beauty shop									P	P				
Battery charging station	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS			PS	§ 91.84
Battery exchange station									PS	PS				§ 91.84
Beverage store									P	P				
Book store, including the retail of stationery, books, magazines, newspapers									P	P				
Bottling and canning plant										P				
Bowling alley									P					
Building supplies (wholesale, retail)										P				
Building supplies and sales									P					
Cinema complex									P					
Clothing store									P	P				
Computer sales and repair									P	P				
Contract construction services										P				
Convenience store, including accessory gasoline sales									S	P				
Cosmetics store									P	P				

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts														Supplemental Regulations	
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD			
Drug store									P	P						
Dry cleaning (less than 1,500 square feet)									P	P						
Dry cleaning (more than 1,500 square feet)										P						
Electrical repair or contractor (no open storage)										P	P					
Electrical repair or contractor (open storage)											P					
Electronic equipment manufacturing											P					
Exterminating and pest control services										P	P					
Fabric store									P	P						
Farm equipment sales and service										P	P					
Farm supplies, feed, seed, fertilizer, and chemicals										P	P					
Farmers market										P		P				
Financial institution, bank									P	P	P					
Florist										P	P					
Gift shop										P	P					
Greenhouse, nursery and/or landscape business										P	P	P				
Groceries/food store										S	P					
Hardware store											P					
Heating and air condition installation and repair (no open storage of materials)										P	P					
Heating and air condition installation and repair (open storage allowed)											P					
Hotel, motel (minimum size two acres)											P					
Ice cream stand or store										P	P					
Jewelry store										P	P					
Kennel											PS		PS			§ 91.86

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD	
Laundry, customer self service								P	P					
Metal working										P				
Mixed use							SS	SS	SS				SS	§ 91.87
Music instrument and service								P	P					
Music studio								P	P					
Office supplies								P	P					
Paint store								P	P					
Physical fitness/exercise center								P	P					
Picture framing								P	P					
Plant nurseries									P					
Plumbing repair contractor (no open storage)									P	P				
Plumbing repair contractor (open storage allowed)										P				
Printing establishment									P					
Private postal shipping and receiving								P	P					
Produce stand, general retail									P	P				
Radio communications									P					
Restaurant, excluding drive-in/drive-through facilities								P	P					
Restaurant, including drive-in/drive-through facilities									P					
Retail apparel and accessories								P	P					
Retail furniture, home furnishings								P	P					
Retail trade, commercial services, and sales (not otherwise listed)									P					
Service station								PS	P					§ 91.88
Shoe repair								P	P					
Shopping center								SS	P					§ 91.89
Sporting goods store								P	P					
Storage, indoor/outdoor									P	P				
Tailor/dressmaker/seamstress								P	P					
Tattoo/body piercing parlor									SS					§ 91.90

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations	
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD		
Telecommunication facilities									SS	SS					§ 91.91
Theater									P						
Toy store									P	P					
Upholstery B furniture repair									P	P					
INDUSTRIAL															
Agricultural processing										P	P				
Heliport										S					
Retail sales incidental to the light industrial use										P					
Textile manufacturing										P					
Tire sales and services, recapping										P					
Trades and commercial services									P						
Trucking terminal										P					
Warehousing and storage services										P					
Wholesale business (not to public)										P					
Wholesale trade except petroleum bulk stations and scrap and waste materials										P					
OFFICE/INSTITUTIONAL															
Adult care home	S								P	P					
Adult day care program	S								P	P					
Advertising agency									P	P	P				
Ambulance services									P	P					
Arboretum and botanical garden									S	P			S		
Art gallery									P	P	P				
Assisted living residence									P	P					
Cemetery	S								PS	PS		PS	SS		§ 91.92
Charitable organization									P	P	P				
Childcare center									PS	PS				PS	§ 91.93
Church	S	S	S	S	S	S			P	P	P			P	
Civic, social, and fraternal organization									P	P	P				
Club, public or private									P	P	P				

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD	
Crematorium									PS	PS	PS			§ 91.94
Funeral home							P		P					
Government agency							P	P	P	P				
Hospice							P	P	P					
Library							P	P	P					
Multi-unit assisted housing with services							P							
Museum							P	P	P					
Nursing home							P		P					
Place of assembly							SS		P					§ 91.95
Professional services office							P	P	P					
Public safety facilities (fire, police, etc.)							P	P	P					
Residential child-care facility							P		P					
School, public and parochial	S	S	S	S	S	S	P							
Travel agency							P	P	P					
RECREATION/ CONSERVATION														
Bona fide farm	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	§ 91.96
Community recreation center							P	P	P					
Golf and driving range, par 3							SS		SS			SS		§ 91.97
Golf course	S	S	S	S	S	S			P			P	S	§ 91.98
Park, private	P	P	P	P	P	P	P					P	P	
Publicly owned and/or operated park, open space, recreational facility or use and the equipment necessary to operate such areas	P	P	P	P	P	P	P	P	P			P	P	
Public/private conservation area	P	P	P	P	P	P	P	P	P	P		P	P	
RESIDENTIAL														
Dwelling, conventional on-site stick-built construction and modular	P	P	P	P	P	P	P				P		P	
Dwelling, manufactured home (on individual lot)					P	P					P		P	
Dwelling, multiple-family			P	P	P	P	S						S	

P - Permitted Use
S - Special Use

PS - Permitted Use with Supplemental Regulations
SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts													Supplemental Regulations
	R15	R12	R8	R6	MFH I	MFH II	O/I	NB	HC	ID	AD	CRD	PRD	
Dwelling, single-family (excluding manufactured homes)	P	P	P	P	P	P	P						P	
Dwelling, single-family (excluding manufactured homes) 1 acre lots or larger	P	P	P	P	P	P	P					S	P	
Dwelling, two-family			P	P	P	P	P						P	
Family care home	P	P	P	P	P	P	P						P	
Family childcare home	S	S	S	S	S	S	P						S	
Family foster home	S	S	S	S	S	S	P						S	
Granny pods (<i>Amended 4/7/2016</i>)	PS	PS	PS	PS	PS	PS	PS						PS	§ 91.101
Home stay lodging	P	P	P	P	P	P	P						P	§ 91.102
Model home sales office, temporary	P	P	P	P	P	P	P							
Rooming and boarding house					P	P	P							
Therapeutic foster home	P	P	P	P	P	P	P						P	
Tourist home					P	P	P		P					
Tiny houses	P	P	P	P	P	P	P							§ 91.103
Whole-house lodging							P	P						§ 91.104

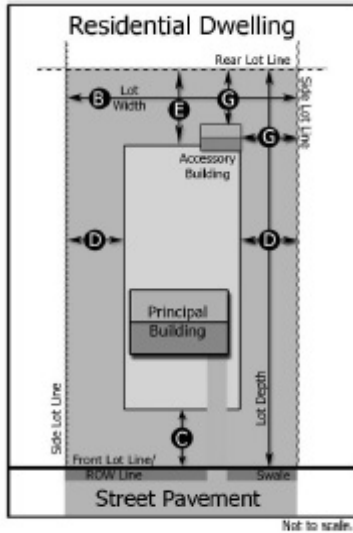
(Ord. eff. 9-6-2012, § 6.4; Am. Ord. 16-1, passed 4-7-2016; Am. Ord. 19-11, passed 5-9-2019)

§ 91.75 ZONING DISTRICT DEVELOPMENT STANDARDS.

(A) *R-15 Residential District.*

(1) Dimensional requirements.

- (A) Minimum lot area 15,000 sq. ft.
- (B) Minimum lot width 75 ft.
- (C) Minimum front yard 30 ft.
- (D) Minimum side yards 10 ft.
- (E) Minimum rear yard 25 ft.
- (F) Maximum building height 35 ft.
- (G) Accessory building setback for any lot line 10 ft.



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

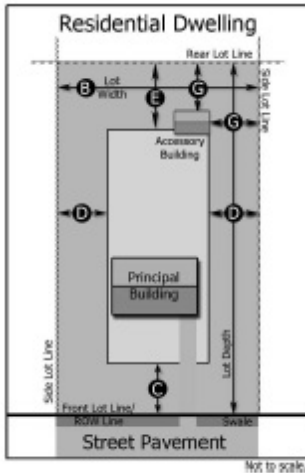
(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(B) *R-12 Residential District.*

(1) Dimensional requirements.

- (A) Minimum lot area 12,000 sq. ft.
- (B) Minimum lot width 75 ft.
- (C) Minimum front yard 30 ft.
- (D) Minimum side yards 10 ft.
- (E) Minimum rear yard 25 ft.
- (F) Maximum building height 35 ft.
- (G) Accessory building setback for any lot line 10 ft.



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

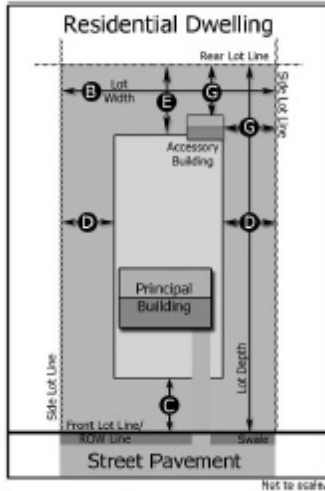
(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(C) *R-8 Residential District.*

(1) Dimensional requirements.

- | | |
|---|----------------|
| (A) Minimum lot area | |
| First dwelling unit | 8,000 sq. ft. |
| Each additional dwelling unit | 4,000 sq. ft. |
| Nonresidential | 10,000 sq. ft. |
| (B) Minimum lot width | 75 ft. |
| (C) Minimum front yard | 25 ft. |
| (D) Minimum side yards | 10 ft. |
| (E) Minimum rear yard | 20 ft. |
| (F) Maximum building height | 35 ft. |
| (G) Accessory building setback for any lot line | 10 ft. |



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

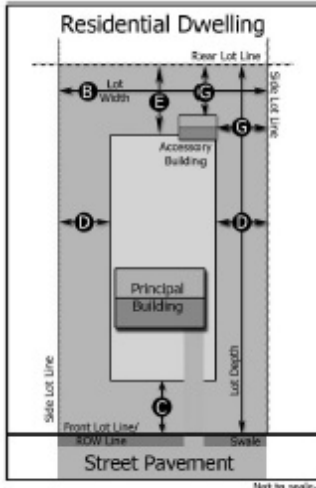
(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(D) *R-6 Residential District.*

(1) Dimensional requirements.

- | | |
|---|----------------|
| (A) Minimum lot area | |
| First dwelling unit | 6,000 sq. ft. |
| Each additional dwelling unit | 3,000 sq. ft. |
| Nonresidential | 10,000 sq. ft. |
| (B) Minimum lot width | 60 ft. |
| (C) Minimum front yard | 25 ft. |
| (D) Minimum side yards | 10 ft. |
| (E) Minimum rear yard | 20 ft. |
| (F) Maximum building height | 35 ft. |
| (G) Accessory building setback for any lot line | 10 ft. |



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(6) Exceptions.

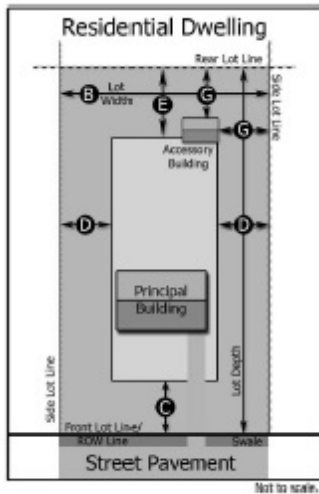
Subdivision	Front Yard	Rear Yard	Side Yard
Carolina Shores Subdivision	20 ft.	10 ft.	3 ft. and 7 ft. (10 ft., both side combined)
Cedar Tree Subdivision	25 ft.	9 ft.	5 ft.
Lighthouse Cove Subdivision	25 ft.	25 ft.	10 ft.
Ocean Side Place Subdivision	25 ft.	9 ft.	5 ft.

(E) *MFH I Manufactured Home District I.*

(1) Dimensional requirements.

(A) Minimum lot area	6,000 sq. ft.
(B) Minimum lot width	60 ft.
(C) Minimum front yard	25 ft.
(D) Minimum side yards	5 ft.
(E) Minimum rear yard	20 ft.
(F) Maximum building height	35 ft.

(G) Accessory building setback for any lot line 10 ft.



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

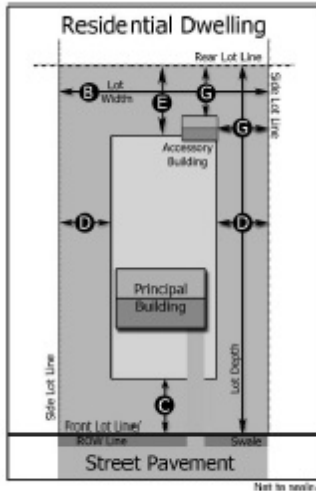
(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(F) *MFH II Manufactured Home District II.*

(1) Dimensional requirements.

(A) Minimum lot area (includes both manufactured homes located in MH parks and on individual lots)	6,000 sq. ft.
Minimum lot area for each additional dwelling unit	3,000 sq. ft. *
(B) Minimum lot width	60 ft.
(C) Minimum front yard	25 ft.
(D) Minimum side yards	5 ft.
(E) Minimum rear yard	20 ft.
(F) Maximum building height	35 ft.
(G) Accessory building setback for any lot line	10 ft.

*Provided that the area requirements for all other applicable standards, such as individual water and sewer system, are met.



(2) Location of accessory building. Accessory buildings may occupy 10% of the gross lot area and, except for attached garages, must be built to the rear of the principal building.

(3) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

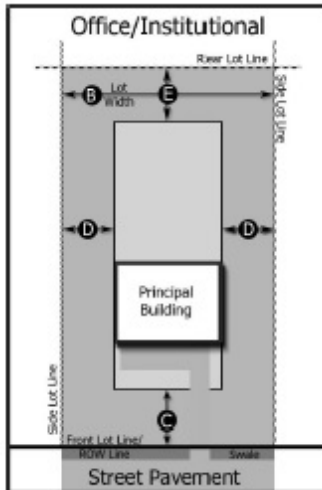
(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(G) *O/I Office and Institutional District.*

(1) Dimensional requirements.

- (A) Minimum lot area 10,000 sq. ft.
- (B) Minimum lot width 75 ft.
- (C) Minimum front yard 30 ft.
- (D) Minimum side yards 10 ft.
- (E) Minimum rear yard 15 ft.
- (F) Maximum building height 35 ft.



(2) Corner lots. On corner lots, the setback for all structures located on that side of the lot abutting the street adjacent to a side yard lot line shall not be less than one-half the front yard requirement.

(3) Buildings. All buildings in the Office/Institutional District shall be permanent fully enclosed construction. Portable, open air shed type structures shall be prohibited.

(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking and loading. Off-street parking and loading shall be provided, as required by §§ 91.120 through 91.129.

(6) Buffers. Refer to §§ 91.140 through 91.150.

(7) Landscaping. For landscaping requirements, refer to §§ 91.140 through 91.150.

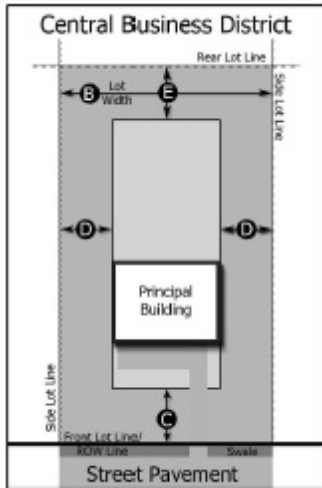
(8) Sales prohibited. No merchandise, wares, goods, foods and the like are permitted to be sold or offered for sale on any publicly-owned sidewalks or sidewalks right-of-way or public thoroughfare or public highway or public property within the town, or its extraterritorial area.

(H) *NB Neighborhood Business District.*

(1) Dimensional requirements.

(A) Minimum lot area	10,000 sq. ft.
(B) Minimum lot width	75 ft.
(C) Minimum front yard	30 ft.
(D) Minimum side yards	10 ft.*
(E) Minimum rear yard	10 ft.*
(F) Maximum building height	35 ft.

*25 feet abutting lot zoned residential.



(2) Corner lots. On corner lots, the side yard on that side of the lot abutting the street adjacent to a side yard lot line shall be 25 feet.

(3) Buildings. All buildings in the Neighborhood Business District shall be permanent fully enclosed construction. Portable, open air shed type structures shall be prohibited.

(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking and loading. Off-street parking and loading shall be provided, as required by §§ 91.120 through 91.129.

(6) Buffers. Refer to §§ 91.140 through 91.150.

(7) Landscaping. For landscaping requirements, refer to §§ 91.140 through 91.150.

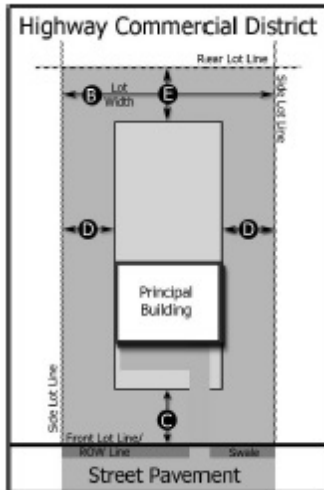
(8) Sales prohibited. No merchandise, wares, goods, foods and the like are permitted to be sold or offered for sale on any publicly-owned sidewalks or sidewalks right-of-way or public thoroughfare or public highway or public property within the town, or its extraterritorial area.

(I) *HC Highway Commercial District.*

(1) Dimensional requirements.

- (A) Minimum lot area 10,000 sq. ft.
- (B) Minimum lot width 75 ft.
- (C) Minimum front yard 50 ft.
- (D) Minimum side yards 10 ft.*
- (E) Minimum rear yard 10 ft.*
- (F) Maximum building height 35 ft.

*25 feet abutting lot zoned residential



(2) Corner lots. On corner lots, the side yard on that side of the lot abutting the street adjacent to a side yard lot line shall be 25 feet.

(3) Buildings. All buildings in the Highway Commercial District shall be permanent fully enclosed construction. Portable, open air shed type structures shall be prohibited.

(4) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(5) Parking and loading. Off-street parking and loading shall be provided, as required by §§ 91.120 through 91.129.

(6) Buffers. Refer to §§ 91.140 through 91.150.

(7) Landscaping. For landscaping requirements, refer to §§ 91.140 through 91.150.

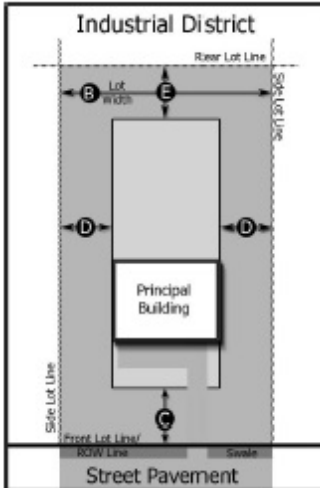
(8) Sales prohibited. No merchandise, wares, goods, foods and the like are permitted to be sold or offered for sale on any publicly-owned sidewalks or sidewalks right-of-way or public thoroughfare or public highway or public property within the town, or its extraterritorial area.

(J) *ID Industrial District.*

(1) Dimensional requirements.

(A) Minimum lot area	1 acre
(B) Minimum lot width	100 ft.
(C) Minimum front yard	35 ft.
(D) Minimum side yards	15 ft.*
(E) Minimum rear yard	15 ft.*
(F) Maximum building height	35 ft.

*25 feet abutting lot zoned residential



(2) Parking and loading. Off-street parking and loading shall be provided, as required by §§ 91.120 through 91.129. Off-street parking shall not be permitted in the required front yard setback.

(3) Buffers. Refer to §§ 91.140 through 91.150.

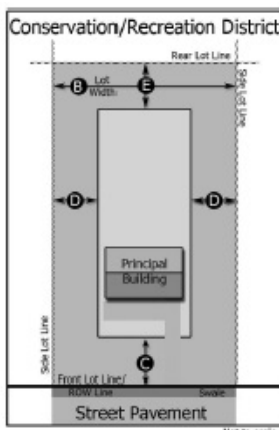
(4) Landscaping. For landscaping requirements, refer to §§ 91.140 through 91.150.

(5) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(K) *CRD Conservation/Recreation District.*

(1) Dimensional requirements.

- (A) Minimum lot area 1 acre
- (B) Minimum lot width 100 ft.
- (C) Minimum front yard 40 ft.
- (D) Minimum side yards 20 ft.
- (E) Minimum rear yard 30 ft.
- (F) Maximum building height 35 ft.



(2) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

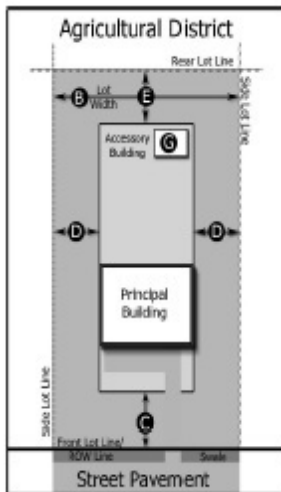
(3) Parking. Off-street parking shall be provided as required in §§ 91.120 through 91.129.

(L) *AD Agricultural District.*

(1) Dimensional requirements.

- | | |
|-----------------------------|----------------|
| (A) Minimum lot area | 20,000 sq. ft. |
| (B) Minimum lot width | 75 ft. |
| (C) Minimum front yard | 25 ft. |
| (D) Minimum side yards | 10 ft.* |
| (E) Minimum rear yard | 20 ft.* |
| (F) Maximum building height | 35 ft. |
| (G) Accessory structure | 10 ft.* |

*25 feet abutting lot zoned residential



(2) Corner lots. On corner lots, the side yard on that side of the lot abutting the street adjacent to a side yard lot line shall be not less than 15 feet.

(3) Signs. Signs shall be permitted as provided in §§ 91.190 through 91.201.

(4) Parking and loading. Off-street parking and loading shall be provided, as required by §§ 91.120 through 91.129.

(5) Buffers. Refer to §§ 91.140 through 91.150.

(6) Landscaping. For landscaping requirements, refer to §§ 91.140 through 91.150.

(7) Sales prohibited. No merchandise, wares, goods, foods and the like are permitted to be sold or offered for sale on any publicly-owned sidewalks or sidewalks right-of-way or

public thoroughfare or public highway or public property within the town, or its extraterritorial area.

(8) Bona fide farms. Bona fide farms are exempt from the regulation of this Unified Development Ordinance within the town's extraterritorial jurisdiction.

(Ord. eff. 9-6-2012, § 6.5)

§§ 91.76—91.79 RESERVED.

SUPPLEMENTAL REGULATIONS

§ 91.80 INTRODUCTION.

(A) The following supplemental regulations shall pertain to the uses listed in the Table of Uses located in § 91.74 which are identified with an “S” for supplemental regulations.

(B) For any use which requires the issuance of a special use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Board of Commissioners. The conditions may impose greater restrictions on a particular use than those which are listed herein.

(Ord. eff. 9-6-2012, § 7.1)

§ 91.81 ACCESSORY USES.

(A) *Location of accessory buildings.* Accessory buildings may occupy 10% of the gross lot area, must be built a minimum of ten feet from any lot line, and except for attached garages, must be built to the rear of the principal building.

(B) *Home occupation.* Home occupations, such as, but not limited to, dressmaking, catering, baking, hairdressing, laundering, cooking, designing, accounting and the practice of law, medicine and dentistry shall be permitted conditionally as accessory uses in a residence or accessory building thereof, subject to the following limitations.

(1) No display of products shall be visible from the street.

(2) No mechanical equipment shall be installed or used except such that is normally used for domestic, professional or hobby purposes and which does not cause noise or other interference in radio and television reception.

(3) Not over 25% of the total actual floor area or 500 square feet, whichever is less, shall be used for a home occupation.

(4) No more than two persons not residing in the dwelling may be engaged in the home occupation.

(5) Traffic generation shall not exceed the traffic volumes generated by nearby residents. Parking shall be required as provided in §§ 91.120 through 91.129.

(C) *Swimming pool.* All public, commercial or private outdoor swimming pools of three feet or more in depth, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements in addition to setbacks and other requirements specified elsewhere.

(1) The setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one foot for each foot over five of pool height. The setback for an in-ground swimming pool shall be at least two feet.

(2) A fence be erected to a minimum height of four feet to completely enclose all sides of the pool not bounded by a building. A gate of equal height shall be installed and securely fastened when the pool is not in use.

(3) Contractor must have construction fence/silt fence surrounding pool area (construction site) while under construction.

(4) All mechanical equipment be located a minimum of five feet from any property line and must be screened from view.

(D) *Dwellings as accessory uses.*

(1) Dwellings may be accessory uses in residential, office/institutional and neighborhood business districts if located inside the principal structure or as a detached structure that is secondary to the primary structure in size or location such as a garage apartment. Dwellings as accessory uses in residential districts are permitted only if used as a residence by relatives or household employees and no rent is charged. Mobile homes shall not be used as accessory residences in any residential district except the MFH II District.

(2) One single-family dwelling per individual business may be an accessory use in the NB Neighborhood Business District if located inside the principal building.

(3) Travel trailers and recreation vehicles may not be used as an accessory dwelling.

(E) *Retail sales and services as accessory uses.* Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. With the exception of restaurants in conjunction with a motel, such uses shall be conducted wholly within the principal building, without access thereto other than from within the building, and without exterior advertising or display. In hospitals and clinics these accessory uses may include drug stores, florists, gift and book shops and cafeterias. In institutional settings, office buildings, hotels, country club houses and airports, such activities may include gift and book shops, restaurants, cafeterias and coffee shops, lounges, pro shops and beauty and barbershops.

(F) *Fences and walls.*

(1) Ornamental fences and walls not over four feet high may project into or may enclose any front or side yard, and fences or walls enclosing rear yards may be six feet high. Any open fences or walls through which clear vision is possible from one side to the other on a horizontal plane and such openings occupy 50% or more of the area of the fences or walls, may be erected in the rear yard to a maximum height of ten feet in nonresidential districts. The finished side on the fences shall be on the outside facing the street and/or neighboring properties.

(2) Survey map is required for installation of fence, to illustrate intent of location. A minimum setback of one inch is required from the property line.

(G) *Satellite dish antenna; general requirements.*

- (1) All satellite dishes shall be installed in compliance with FCC regulations.
- (2) Residential satellite dishes shall not exceed 24 inches in diameter and nonresidential satellite dishes shall not exceed 36 inches in diameter unless approved by the UDO Administrator.
- (3) If possible, satellite dishes shall not be located in a front yard and shall be hidden from view of the public right-of-way. All locations shall be approved by the UDO Administrator.

(H) *Beehives as accessory uses.*

- (1) Up to five hives shall be permitted on a single parcel.
- (2) Hives shall be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the anchor or stand may be permanently attached to a roof surface.
- (3) Hives must comply with all setback requirements for accessory structures.
- (4) Removal of hives may be required if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(Ord. eff. 9-6-2012, § 7.2; Am. Ord. 16-1, passed 4-7-2016)

§ 91.82 PORTABLE STORAGE CONTAINER.

(A) PORTABLE STORAGE CONTAINERS are defined as:

- (1) Containers no larger in dimension than eight feet by eight feet six inches by 16 feet and transported to a designated location for temporary storage purposes, including moving (typically known as PODS);
- (2) Containers designed or used on property zoned or used for residential property for the collection and hauling of waste or debris, including, but not limited to, roll-off containers or boxes and bin containers (construction dumpsters); and
- (3) Non self-propelled, fully enclosed trailers that are designed or used to transport goods, materials and equipment and are placed on property zoned or used for residential purposes (semi-trailers).

(B) Portable storage containers may be allowed pursuant to the use table contained in § 91.74, upon compliance with all of the following.

- (1) No more than two temporary storage containers shall be located on a single lot or parcel of land.

(2) No other type of container or shipping container is located on the same lot or parcel of land.

(3) Portable storage containers shall not be used to store or transport hazardous materials and substances, including, but not limited to, the following: solid waste, hazardous materials, explosives and unlawful substances and materials.

(4) Permits issued for portable storage containers will be issued incident to an active building permit. Subsequent to issuance of a certificate of occupancy all portable storage containers must be removed within 30 days. The owner(s) of a lot or parcel on which a dumpster will be placed shall be jointly responsible for providing notice to the UDO Administrator within 24 hours of the placement. The placement of the storage container will require the issuance of a permit through the town. The UDO Administrator may approve an extension by issuing an extension permit for up to 90 days if a building permit had been issued for the renovation, repair or reconstruction, if required, and remains valid beyond the initial 30 days approval, provided that the portable storage container will not be used to store nonresidential materials and equipment such as contractor's materials and equipment during the extension. Portable storage containers shall comply with the following setbacks.

(a) If a portable storage container is placed in the required front yard, then the portable storage container shall be located only in the area primarily used for vehicular ingress and egress and must have five feet setback from the edge of the paved right-of-way, unless otherwise approved by the UDO Administrator.

(b) If a portable storage container is placed in the required rear or side yard, no setback shall be required except that no portable storage container shall encroach upon adjacent property.

(5) Portable storage containers (PODS) for the purposes of moving must be removed within 30 days.

(6) Portable storage containers shall be constructed of noncombustible materials.

(Ord. eff. 9-6-2012, § 7.3)

§ 91.83 ADULT ENTERTAINMENT BUSINESS.

(A) *Prohibition.* It shall be unlawful for any person or group of persons, partnership, limited partnership or corporation or any other entity to operate or cause to be operated an adult entertainment business except as permitted herein.

(B) *Intent.* It is the intent of this section to regulate adult entertainment businesses, whether as a principal or as an accessory use, as a "special use." The conditions noted hereinafter are the minimum required.

(C) *Location.*

(1) No more than one adult entertainment business shall be located on any one lot or parcel.

(2) Measurements of distance separation shall be in a straight line from the closest points of the buildings at which the adult uses are located.

(3) Adult entertainment businesses shall not be located closer than:

(a) Fifteen hundred feet from any residence or residential zoning district;

(b) Fifteen hundred feet from any church, child care center, public or private elementary or secondary educational school, college or institution of higher learning, public park, public library, cemetery or motion picture establishment which shows G- or PG-rated movies to the general public on a regular basis; and

(c) Fifteen hundred feet from any other adult entertainment business.

(D) *Ownership disclosure.* If a person who wishes to operate an adult entertainment business is an individual, he or she must sign the application as applicant. If the owner of a proposed adult entertainment business is other than an individual, each individual who has a 10% or greater interest in the business must sign an application for a permit and/or license as applicant. If a corporation is listed as an owner of the adult business or is an entity which wishes to operate such a business, each individual having a 10% or greater interest in the corporation, must sign the application for a permit and/or license as applicant. All corporate officers shall also sign the application. The fact that a person possesses other types of State or county permits and/or licenses does not exempt him or her from the requirement of obtaining a sexually oriented business permit and/or license.

(E) *Age requirements.* An adult entertainment business shall neither employ nor permit the admittance/patronage of any person who is under 21 years of age.

(F) *Inspections.* The management of adult entertainment businesses shall permit representatives of the Police Department, Sheriff's Department, Health Department, Building Inspection Department, Zoning Code Enforcement Department, Fire Department, Planning and Zoning Department or other municipal, county or State departments to inspect the premises at any time it is open for business.

(G) *Revocation of zoning compliance.* The UDO Administrator shall remove a certificate of zoning compliance thereby suspending the operation of any adult entertainment business for the following:

(1) For giving false or misleading information by the permittee at any time in the application process;

(2) Illegal sale of any controlled substance on the premises;

(3) Failure to permit inspection by authorized municipal, county and State agencies or its authorized personnel;

(4) Violation of age restrictions as specified in this section; and

(5) For the arrest and conviction of any owner or employee for violation of any of the ABC laws or controlled substance laws of the state.

(H) *Regulations for adult motels.*

(1) Evidence that a sleeping room in a hotel, motel or similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttal presumption that the enterprise is an adult motel as that term is defined in this Unified Development Ordinance.

(2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or subrents the same sleeping room again.

(3) For the purpose of this subchapter, the terms RENT and SUBRENT mean the act of permitting a room to be occupied for any form of consideration.

(I) *Regulations for nude model studios.*

(1) A nude model studio shall not employ any person under the age of 21 years.

(2) A person under the age of 21 years is in violation of this section if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (I)(2) if the person under 21 years was in a restroom not open to the public view or visible by any other person.

(3) It is a violation of this section if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(J) *Regulations pertaining to exhibition of sexually explicit films, videos and live performances.*

(1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

(a) Upon application for a certificate of zoning compliance for a sexually oriented business license, the application shall be accompanied by a diagram of the premises

showing a plan thereof specifying the location of one or more managers' stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designed street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The UDO Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the UDO Administrator.

(d) It is the duty of the owner(s) and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this division (J)(1)(e) must be by direct line of sight from the manager's station.

(f) It shall be the duty of the owner(s) and operator, and it shall also be the duty of the agent(s) and employee(s) present in the premises, to ensure that the view area specified in division (J)(1)(e) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (J)(1)(a) above.

(g) No viewing room may be occupied by more than one person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level.

(i) It shall be the duty of the owner(s) and operator, and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(2) A person having a duty under divisions (J)(1)(a) through (J)(1)(n) of this section is in violation of this section if he or she knowingly fails to fulfill that duty.

(K) *Exterior portions of regulated establishments.*

(1) It shall be unlawful for an owner or operator of a regulated establishment to allow the merchandise or activities of the regulated establishment to be visible from any point outside such regulated establishment.

(2) It shall be unlawful for the owner or operator of a regulated establishment to allow the exterior portions of the regulated establishment to have flashing lights, or any words, lettering, photographs, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this section.

(3) It shall be unlawful for the owner or operator of a regulated establishment to allow exterior portions of the regulated establishment to be painted any color other than a single achromatic color (i.e., zero saturation and without hue). This provision shall not apply to any regulated establishment if the following conditions are met.

(a) The regulated establishment is a part of a commercial multi-unit center.

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the regulated establishment are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a regulated establishment.

(5) Nothing in this section shall supersede or replace any sign regulation already in effect within the town, but shall be in addition thereto.

(L) *Signage.* Signs shall be permitted as provided in §§ 91.190 through 91.201.

(M) *Parking.* Off-street parking shall be provided, as required by §§ 91.120 through 91.129.

(O) *Hours of operation.* No adult establishment shall operate before 4:00 p.m. or after 12:00 midnight, except that tattooing establishments, body piercing businesses and fortune tellers, as defined herein, shall only conduct business to the public between 8:00 a.m. and 9:00 p.m. daily.

(P) *Revocation of license.* In addition to any other remedies, the town may apply to General Court of Justice for suitable equitable relief to abate or otherwise enjoin any violation of this section. Any violation would result in revocation of permit or license.

(Q) *Business license.* Any person or other entity, prior to operating an adult entertainment business, shall apply for a business license for the appropriate category of business of the adult entertainment establishment. The applicant shall pay the fee therefor as set forth in G.S. Chapter 105.

(Ord. eff. 9-6-2012, § 7.4)

§ 91.84 BATTERY CHARGING/EXCHANGE STATION.

Battery charging stations and battery exchange stations shall be permitted in accordance with § 91.74, subject to the following requirements:

(A) Electric vehicle charging stations should be reserved for parking and charging of electric vehicles only.

(B) Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

(C) Battery charging station: for land use compatibility purposes, the charging activity should be proportionate to the associated permitted use. Electric vehicle charging station(s) shall be permitted in a single-family garage designed to service the occupants of the home. Accessory single-family charging stations shall not exceed residential Building Code electrical limitations. Whereas, charging station(s) installed in a parking lot for non single-family residential use are expected to have intensive use and will be permitted to have multiple “rapid charging stations” to serve expected demand.

(D) Battery exchange station: exchange stations are permitted in any commercial or industrial zoning district, provided, however, all other requirements for the building or space the use occupies can be satisfied, such as design review, Fire Code and Building Code requirements. This use is specifically prohibited in exclusively residential or conservation/recreation zoning districts.

(E) Design criteria for commercial and multi-family development, the following criteria shall be applied to electric charging facilities.

(1) Number required. This is an optional improvement. No minimum number of stalls applies. However, if electric vehicle stalls are reserved for electric vehicles, care should be taken to ensure enough spots are available for all of a site's parking needs.

(2) Generally. Location and provision of electric vehicle parking will vary based on the design and use of the primary parking lot, keeping in mind flexibility will be needed in various parking lot layout options.

(3) Signage to identify. Each charging station space should be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations should be included if time limits or tow away provisions are to be enforced by the owner.

(4) Maintenance. Charging station equipment should be maintained in all respects, including the functioning of the charging equipment.

(5) Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, charging equipment should be located so as to not interfere with accessibility.

(6) Lighting. Where charging station equipment is installed, adequate site lighting should also be provided unless charging is for daytime purposes only.

(7) Notification of station specifics. Information on the charging station identifying voltage and amperage levels and any time of use, fees or safety information.

(8) Avoid the most convenient parking spaces. Stalls should not be located in the most convenient spots because this would encourage use by non electric vehicles.

(9) Avoid conflict with handicap spots. Stalls should generally not be located adjacent to handicap spots unless designed for handicapped use.

(10) Design for compatibility. Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric cars but blended into the surrounding landscape/ architecture for compatibility with the character and use of the site.

(Ord. eff. 9-6-2012, § 7.5)

§ 91.85 RESERVED.

§ 91.86 KENNEL.

The standards in this section apply to facilities, such as animal kennels and animal shelters, where the primary purpose is the boarding of household pets. It shall not apply to boarding facilities incidental to the operation of an animal hospital or clinic or to pet stores.

(A) No kennel shall be operated without all necessary licensure, certification or other form of permission from the State and any other governmental agency with jurisdiction

over its operation. Loss of such permission shall be grounds for revocation of any special use permit authorizing a kennel.

(B) No kennel shall be located within 500 feet of the nearest lot line of a residential use or a residential zoning district.

(C) Kennels shall be adequately buffered to prevent sounds from constituting a nuisance to neighboring properties.

(D) Housing facilities for animals shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.

(Ord. eff. 9-6-2012, § 7.7)

§ 91.87 MIXED USE.

(A) *Mixed use defined.* The MIXED USE OPTION is provided to allow flexibility in development requirements such as setbacks, density, permitted uses and the like, to accommodate the unique physical, economic, design or other characteristics of a development without compromising the essential standards needed for the protection of the public interest. Mixed use developments require a special use permit, as specified in § 91.56, in which the primary use of land is a mix of residential and small-scale commercial uses such as retail, office, service and entertainment establishments. A mix of permitted uses is allowed within the same building or on the same lot or as separate uses on individual parcels. This development pattern is characterized by overlapping patterns of use and activities, and clearly defined, human scale external spaces, where citizens can live, conduct business and meet freely with others. Development within the mixed-use special use shall be in accordance with the standards set forth herein.

(B) *Performance standards.* The UDO Administrator, Planning Board and Board of Commissioners will work cooperatively with the applicant in determining the appropriate performance standards for mixed use developments. The standards of the zoning district, or districts, in which the mixed use is located, provide general guidance in determining the standards, with consideration given to the specific characteristics and needs of the individual project. Ultimately, all performance standards such as density, permitted uses, parcel dimensional requirements, lighting, landscaping, parking, signage and the like, shall be established by the Board of Commissioners upon recommendation of the Planning Board through issuance of the special use permit. The conditions specified by the special use permit shall be compatible with the surrounding area and the objectives of this UDO. Creative design concepts are encouraged to minimize impacts on infrastructure and to support environmental protection. The mixed use shall comply with §§ 91.240 through 91.261, 91.270 and 91.280, Environmental Regulations and §§ 91.210 through 91.229, Subdivisions.

(C) *Permitted uses.* The following uses may be established as permitted uses in a mixed use development. Any use that is not listed in this section is expressly prohibited from being located within a mixed use development.

- (1) Accessory uses;
- (2) Art gallery;
- (3) Bank/financial services;
- (4) Barber and beauty shops;
- (5) Bookstore, including the retail of stationery, books, magazines, newspapers;
- (6) Clothing store;
- (7) Computer sales and repair;
- (8) Cosmetics store;
- (9) Drug store;
- (10) Dwelling, duplex;
- (11) Dwelling, multi-family;
- (12) Dwelling, single-family;
- (13) Fabric store;
- (14) Flower shop;
- (15) Gift shop;
- (16) Government offices, including post offices;
- (17) Home occupation;
- (18) Ice cream stand or store;
- (19) Jewelry store;
- (20) Laundry and dry cleaning services;
- (21) Museum, library;
- (22) Music instrument and service;
- (23) Music studio;
- (24) Nail/tanning salon;
- (25) Office supplies;
- (26) Park;
- (27) Physical fitness/exercise center;

- (28) Picture framing;
- (29) Private postal shipping and receiving;
- (30) Professional services office;
- (31) Residential dwellings as part of a mixed use structure, including single-family, multi-family and accessory to a business;
- (32) Restaurant, excluding drive-in or drive-through service;
- (33) Retail apparel and accessories;
- (34) Retail furniture, home furnishings;
- (35) Sporting goods store;
- (36) Tailor/dressmaking/seamstress;
- (37) Toy store; and
- (38) Travel agency.

(D) *Mixed use special use design standards.* The mixed use special use shall be developed in a way that it is functionally and structurally compatible with the Carolina Shores community and is a pedestrian friendly area. All building design shall encourage that consideration be given to the following.

(1) Special attention shall be given to entrances; they may be set back from the primary facade as long as they are clearly visible from the street. Building entrances and exits shall be well lit to provide visibility and promote safety. Buildings that occur at the intersection of roadways shall angle the entrance toward the corner of the street whenever possible.

(2) All roof- and wall-mounted mechanical, electrical, communications and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, dense evergreen foliage or by other suitable means.

(3) Architectural ornaments along the roof line, such as molding cornices, ornamental bands or sculptures, are required.

(4) Street furniture, outdoor eating areas and sitting areas shall be incorporated at the ground floor.

(E) *School site reservation.* If the Board of Commissioners and the Brunswick County Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with the Town Comprehensive Plan, staff shall immediately notify the Board of Education in writing whenever a development approval is sought or submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such

reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

(F) *Dedication of land for park, recreation and open space.* Every developer who proposes a mixed use project of land with a residential component shall dedicate for public or private use a portion of land or pay a fee in lieu thereof, in accordance with this section, for public park, greenway, recreation and open space sites to serve the recreational needs of the residents of the subdivision or development. The town prefers that ownership and maintenance of parks, recreation or open space lands be by a private entity, such as a property owners' association. Dedication of land, or fee in lieu of, must be approved by the Board of Commissioners prior to approval of the preliminary plat by the Planning Board.

(1) At least one-thirty-fifth of an acre shall be dedicated for each dwelling unit planned or proposed in the development.

(2) The minimum amount of land which shall be dedicated for a public park, recreation or open space site shall be no less than two acres in size. When the area to be provided is less than two acres, the developer may be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park or open space sites which would serve the needs of the residents of the development.

(3) Except as otherwise required by the Board of Commissioners, all dedications of land shall meet the following criteria.

(a) The dedicated land shall form a single parcel of land, except where the Board of Commissioners determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In these cases, the Board of Commissioners may require that the parcels be connected by a dedicated strip of land at least 30 feet in width.

(b) Two-thirds of the dedicated land shall be usable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area. Land dedicated only for greenways need not follow the requirements of this division (F)(3)(b).

(c) The shape of the portion of the dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate the facilities. Land dedicated only for greenways need not follow the requirements of this division (F)(3)(c).

(d) The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the development.

(e) Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 30 feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer shall remain responsible for the installation of utilities, sidewalks and other improvements required along that street segment.

(f) Dedicated parks, recreation and open space areas shall have a sufficient natural or human-made buffer or screen to minimize any negative impacts on adjacent residents.

(4) The payment of fees, in lieu of the dedication of land, may occur at the request of the developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Board of Commissioners prior to development approval after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the town's overall recreational needs.

(a) The fees in lieu of dedication shall be paid prior to the approval of the development.

(b) The amount of the payment shall be the product of:

1. The number of acres to be dedicated, as required by this division (F); and
2. The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.

(c) Procedures for determining the amount of the payment are as follows.

1. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer from an approved list maintained by the Board of Commissioners. Professional land appraiser refers to a land appraiser who, in the opinion of the Board of Commissioners, has the expertise and/or certification to perform an adequate appraisal.

2. The cost of the appraisal shall be borne by the developer.

(5) At the time of filing an application for approval, the developer shall designate thereon the area or areas to be dedicated pursuant to this section. If the developer desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the application. The Board of Commissioners reserves the right to approve or disapprove dedication of parcels for public park, recreation or open space, or payment in lieu of.

(6) Where a dedication of land is required, the dedication shall be shown on a final plat, and the plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the town. Where a payment in lieu of dedication is approved by the Board of Commissioners, the payment will be made before the development approval is granted.

(7) The Board of Commissioners shall have the authority to sell land dedicated pursuant to this section. The proceeds of the sale shall be used for the acquisition and/or development of other recreation, park or open space sites, or for sidewalk development serving the development or more than one development in the immediate area.

(8) The town encourages neighborhood or property owner associations or management to construct, operate and maintain private parks and recreation. The construction, operation or maintenance of the private facilities shall not, however, diminish or eliminate the responsibility and obligations of the developer under this section.

(9) Greenways may be credited against the requirements of this section, provided that the greenways are part of the town's greenway plan and dedicated to public use.

(G) *Street construction.* To provide for the orderly growth and development of the town, and to coordinate the streets and highways within proposed developments with existing or planned streets and highways, a developer may be required in lieu of required street construction and as a condition of approval, to provide funds which the town may use for the construction of roads to serve the occupants, residents, or invitees of the development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the town pursuant to this division shall be used only for development of roads, including design, land acquisition, and construction. The town may undertake these activities in conjunction with the North Carolina Department of Transportation under an agreement between the town and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. A combination of partial payment of such funds and partial dedication of constructed streets may be required when the Board of Commissioners determines that such a combination is in the best interests of the public in the area to be served.

(H) *Uniform standardization of infrastructure.* To provide for the orderly growth and development of the town, and to coordinate infrastructure, developments made pursuant to § 91.87 shall also comply with §§ 91.217 through 91.224 of the Code of Ordinances as amended. In order that proper reference be made to §§ 91.217 through 91.224, for the purposes of this division the term subdivider or subdivision shall mean developer or development as appropriate.

(Ord. eff. 9-6-2012, § 7.8; Am. Ord. 19-11, passed 5-9-2019)

§ 91.88 SERVICE STATION.

Gasoline service stations shall be a permitted use in the NB District provided the following conditions are met.

(A) The service station is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories directly related to motor vehicles; to washing, polishing and servicing motor vehicles, only to the extent of installation of the

above-mentioned items; and to selling at retail the items customarily sold by service stations.

(B) The service station shall not overhaul motors, provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping or auto dismantling.

(C) The service station shall provide a screen planting and/or fence along the property lines that abut residential properties.

(D) Service stations shall extinguish all floodlights at the close of daily operation or 11:00 p.m., whichever is earlier.

(Ord. eff. 9-6-2012, § 7.9)

§ 91.89 SHOPPING CENTER.

In the NB Zoning District, shopping centers shall be limited to those developments complying with the minor site plan requirements contained in §§ 91.60 through 91.66.

(Ord. eff. 9-6-2012, § 7.10)

§ 91.90 TATTOO AND BODY PIERCING PARLOR.

Tattoo and body piercing parlors shall be subject to the following requirements.

(A) No person shall engage in tattooing or body piercing without first obtaining a tattooing or body piercing permit from the Department of Health and Human Services.

(B) Licensed physicians, as well as physician assistants and nurse practitioners working under the supervision of a licensed physician, performing tattoo or body piercing within the normal course of their professional practice are exempt from this requirement.

(Ord. eff. 9-6-2012, § 7.11)

§ 91.91 TELECOMMUNICATION FACILITIES.

(A) *Purpose.* The purpose of this section is to set forth the requirements for planning and construction of telecommunications facilities including cellular antennas, wireless communication towers and principal communication towers for other uses.

(B) *Compliance with Federal law.*

(1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with § 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. **Therefore**, it is the policy of the State and the town to facilitate the placement of wireless communications support structures in all areas of the town.

(2) The placement, construction or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, § 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(C) *Facilities permitted.* Telecommunications facilities, including cellular antennas and wireless communications towers and facilities, are permitted subject to the following conditions.

(1) Location. The proposed tower, antenna and accessory structure and equipment shall be placed in a location and in a manner that will minimize the visual impact on the surrounding area. Any tower, antenna or accessory structure shall be approved by the Board of Commissioners for compliance with these requirements.

(2) Collocation. Approval for a proposed tower within a radius of 10,500 feet from an existing tower or other similar structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate and in a timely manner.

(3) Height. The height of the tower shall not exceed 160 feet as measured from existing grade at its base to the highest point of the tower or antennas. An additional 120 feet of height may be approved if the tower is designed to accommodate twice the applicant's antennas requirements. Telecommunications antennas or equipment mounted on a building shall meet height requirements of §§ 91.75.

(4) Setback. Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone.

(5) Design.

(a) Towers shall be designed to accommodate additional antennas equal in number to the applicant's present and future requirements for the life of the tower. The color of the tower and its antennas shall be one that will blend to the greatest extent possible with the natural surroundings and shall be approved by the Board of Commissioners.

(b) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured and otherwise not readily apparent to a casual observer.

(c) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements.

1. The utility easement or right-of-way shall be a minimum of 100 feet in width.
2. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are 80 feet or greater in height.

3. The height of the monopole or replacement pole may not exceed by more than 30 feet the height of existing utility support structures.

4. Monopoles and the accessory equipment shall be set back a minimum of 15 feet from all boundaries of the easement or right-of-way.

5. Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by division (C)(5)(c)3. above.

6. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to 20 feet above the height of the utility tower.

(6) Lighting and marking. Wireless facilities or wireless support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

(7) Signage. Signs located at the wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Unified Development Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (i.e., approved signage at locations on which concealed facilities are located).

(8) Accessory equipment. Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(9) Fencing. Ground-mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six feet in height as deemed appropriate by the UDO Administrator. This requirement may be waived by the UDO Administrator if it is deemed that a fence is not appropriate or needed at the proposed location.

(10) Maintenance or service structures. One unmanned maintenance or service structure of not more than 20 feet in height and 400 square feet of floor space may accompany each tower. The tower and maintenance or service structure shall not be required to comply with development standards relating to lot size, setbacks, street frontage and subdivision regulations, so long as the principal use complies with this subchapter.

(11) Existing towers. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than 20 feet and the new or modified tower meets all of the requirements of this section except setback provisions.

(12) Replacement of towers. Those towers that are located prior to September 6, 2012, in the districts as defined by §§ 91.70 through 91.73 can be replaced to their current height

if completely destroyed by natural causes and only if the applicant presents engineering data to the Board of Commissioners that the replacement poses no structural threat to the surrounding property owners.

(13) Nonconforming towers. All nonconforming transmission towers existing as of the effective date of this Unified Development Ordinance may be replaced if damaged by no more than 50%. Those towers that are located prior to September 6, 2012, in the districts as defined by §§ 91.70 through 91.73 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Board of Commissioners that the replacement poses no structural threat to the surrounding property owners.

(14) Miscellaneous provisions.

(a) Abandonment and removal. If a wireless support structure is abandoned, and it remains abandoned for a period in excess of 12 consecutive months, the town may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within 60 days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the 60-day period, the owner of the wireless support structure shall be required to remove the same within six months thereafter. The town shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

(b) Multiple uses on a single parcel or lot. Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

(15) Leases of property by the town for communication towers.

(a) Any property owned by the town may be leased or rented for such terms and upon such conditions as the Board of Commissioners may determine, but not for longer than ten years (except as otherwise provided in division (15)(d) of this section) and only if the Board of Commissioners determines that the property will not be needed by the town for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(b) Property may be rented or leased only pursuant to a resolution of the Board of Commissioners authorizing the execution of the lease or rental agreement adopted at a regular Board of Commissioners meeting upon 30 days public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.

(c) No public notice as required by division (15)(b) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the Board of

Commissioners may delegate to the Town Administrator or some other town administrative officer authority to lease or rent town property for terms of one year or less.

(d) Leases for terms of more than ten years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(e) Notwithstanding division (15)(d) of this section, the Board of Commissioners may approve a lease without treating that lease as a sale of property for any of the following reasons:

1. For the siting and operation of a renewable energy facility, as that term is defined in G.S. § 62-133.8(a)(7), for a term up to 25 years.

2. For the siting and operation of a tower, as that term is defined in G.S. § 146-29.2(a)(7), for communication purposes for a term up to 25 years.

(D) *Telecommunication facility plans.*

(1) Approvals required for wireless facilities and wireless support structures.

(a) Administrative review and approval. The following types of applications are subject to the review process as provided in §§ 91.60 through 91.66. No other type of zoning or site plan review is necessary:

1. Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district;

2. COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of 120 days;

3. Substantial modifications; and

4. Collocations.

(b) Special use permit. Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Unified Development Ordinance shall be permitted in any district upon the granting of a special use permit in accordance with the standards for granting special use permits set forth in § 91.56.

(c) Exempt from all approval processes. The following are exempt from all town UDO approval processes and requirements:

1. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this Unified Development Ordinance;

2. Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Unified Development Ordinance. Nothing in this section requires an application and approval for routine maintenance or limits the performance of

routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities;

3. Wireless facilities placed on utility poles;

4. COWs placed for a period of not more than 120 days at any location within the town or after a declaration of an emergency or a disaster by the Governor.

(2) Administrative review and approval process.

(a) Content of application package. All administrative review application packages must contain the following in addition to those requirements outlined in §§ 91.60 through 91.66:

1. A fee determined by the town's fee schedule;

2. A written narrative of the development plan.

3. Documentation that collocation on existing towers or structures within a radius of 10,500 feet was attempted by the applicant, but found unfeasible with reasons noted;

4. A notarized affidavit that states the applicant's willingness to allow location on the proposed tower, at a fair market price and in a timely manner, of any other service provided licensed by the Federal Communications Commission (FCC) for the Cape Fear market area;

5. For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas; and

6. For substantial modifications, drawings depicting the improvements along with their dimensions.

(b) Approval schedule. Within 45 days of the receipt of a complete application for a collocation, a monopole or replacement pole, a non-exempt COW, or a substantial modification, the UDO Administrator will:

1. Review the application for conformity with this Unified Development Ordinance (see division (C)(4) below). An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with Federal, State and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or

eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated; and

2. Issue a written decision approval on an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the UDO Administrator shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(3) Special use permit process. Any wireless facility or wireless support structures not meeting the requirements of divisions (C)(1)(a) and (C)(1)(c) above, may be permitted in all zoning districts upon the granting of a special use permit, subject to the requirements of § 91.56.

(a) Content of special use permit application package. All special use permit application packages must contain the following in addition to those requirements contained in § 91.56:

1. A fee determined by the town's fee schedule;
2. A written narrative of the development plan;
3. The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact and impact on other properties);
4. Documentation that collocation on existing towers or structures within a radius of 10,500 feet was attempted by the applicant, but found unfeasible with reasons noted;
5. A site plan and landscaping plan at a scale of one inch equals 40 feet by a state registered surveyor, showing location of all existing property lines and improvements within a 500-foot radius and any proposed tower, antenna, accessory structure or equipment, and how the applicant proposes to screen any service structure, accessory structure or equipment from view. Indigenous vegetation shall be used in all plantings. A permanent maintenance plan shall be provided for the plantings. In addition, the site plan must include a list of adjacent property owners and their addresses, zoning district and the names of developer(s) and owner(s);
6. Copies of all county, State and Federal permits with the application building permit where prior local approval is not required;
7. Elevation drawings of all towers, antennas and accessory structures and equipment, indicating height, design and colors;
8. Certification that all antenna and equipment comply with FCC regulations for radio frequency radiation and all towers, antennas and equipment meet Federal Aviation Administration (FAA) aviation and navigation requirements;

9. A copy of approved National Environmental Policy Act of 1969 (NEPA) compliance report for all towers, antennas, accessory structures or equipment proposed for the proposed site;

10. Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower meets the structural requirements of the Standard Building Code and the collocation requirements of this subchapter;

11. Proof of liability insurance or financial ability to respond to claims up to \$1,000,000 (escalated each year by the Consumer Price Index) in the aggregate which may arise from operation of the facility during its life, at no cost to the town, in a form approved by the Town Attorney; and

12. Appropriate approvals, certifications or recommendations required to allow review of approval criteria such as sight line analysis, aerial photographs or other such tests as determined by the Administrator.

(b) Approval schedule. Within 150 calendar days of the receipt of an application under this section, the Town Board upon recommendation of the Planning Board will:

1. Complete the process for reviewing the application for conformity with this Unified Development Ordinance (see division (C)(4) below). An application under this section is deemed to be complete unless the UDO Administrator notifies the applicant in writing, within 30 calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take 30 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 30 calendar days, the application shall be reviewed and processed within 150 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 30 calendar days to cure the specific deficiencies, the 150 calendar days deadline for review shall be extended by the same period of time;

2. Make a final decision to approve or disapprove the application;

3. Advise the applicant in writing of its final decision. If the Town Board denies an application, it must provide written justification of the denial; and

4. Failure to issue a written decision within 150 calendar days shall constitute an approval of the application.

(4) Application review.

(a) The review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development or zoning issues. In reviewing an application, the town may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The town may not require information that concerns the specific

need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The town may not require proprietary, confidential or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the town may review the following:

1. Applicable public safety, land use or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks and fall zones;

2. Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service; and

3. The town may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The town may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(b) The town may engage a third-party consultant for technical consultation and review of applications. The fee imposed by the town for the review of an application may not be used for either of the following:

1. Travel expenses incurred in a third-party's review of an application; and
2. Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

(E) *Small Wireless Facilities.*

(1) *Applicability.*

(a) The Town of Carolina Shores shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic

facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Article shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Article or otherwise specifically authorized by the General Statutes, the Town of Carolina Shores may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.

(d) Except as provided in this Article or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

(2) Permitting Process.

(a) Small wireless facilities that meet the height requirements of § 91.91(C)(3) shall only be subject to administrative review and approval under subsection (2)(b) of this section if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.

(b) The Town of Carolina Shores shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:

1. The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.

2. The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

3. A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be

deemed complete on resubmission if the additional materials cure the deficiencies identified.

4. The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.

5. The Town may deny an application only on the basis that it does not meet any of the following: (i) the Town's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

6. An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

7. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.

8. The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(c) The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar

activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(d) The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside consultant for technical consultation and the review of an application. The fee imposed by the Town for the review of the application shall not be used for either of the following:

1. Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

2. Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(e) The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

(f) The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).

(g) Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.

(3) Use of Town of Carolina Shores Public Right-of-Way.

(a) The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of § 91.91(E)(2), a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall be subject only to review or approval under subsection (E)(2)(b) if the wireless provider meets all the following requirements:

1. Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.

(c) In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.

(d) The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed \$50.00 per year.

(e) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(f) The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.

(g) A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of subsection (E)(2)(b), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

(4) Access to Town Utility Poles to Install Small Wireless Facilities.

(a) The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per Town utility pole per year.

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(d) In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(e) The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with

applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(f) The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(g) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under NCGS 62-350.

(h) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

(Ord. eff. 9-6-2012, § 7.12; Am. Ord. 16-1, passed 4-7-2016)

§ 91.92 CEMETERIES.

As a condition for the approval and continuance of a special use permit for a cemetery the following shall apply.

(A) Public- or privately-owned perpetual care cemeteries which the Board of Commissioners finds in conformance with the following minimum requirements.

- (1) A cemetery shall contain not less than two acres of land in contiguous ownership.
- (2) There shall be only one entrance from the cemetery onto a public road. Such entrance shall be located at least 500 feet from the nearest intersection of another public road.
- (3) A perimeter buffer strip shall be maintained around the entire cemetery to a depth of 20 feet from the cemetery property line. There shall be no burial sites provided in this buffer strip. The required buffer strip shall be suitably planted so as to effectively screen

such cemetery and burial activities therein from view from outside the cemetery so far as practicable.

(4) A chapel, mortuary, undertaking establishment or crematorium may be developed within the cemetery as an accessory use to said cemetery provided that the land upon which it is built shall be and shall remain in the same ownership as the cemetery, although the establishment itself may be conducted by persons other than the owners of the cemetery. Such establishments, if developed, may be within the required perimeter buffer strip of the cemetery, but shall be no closer than 150 feet to any residential dwelling on land adjoining the cemetery.

(5) Access to such establishment shall be from within the cemetery, by means of the single entrance to the cemetery. Such an establishment shall be contained within a single building of not more than one story nor more than 20 feet in height. Only one such building shall be permitted in any cemetery. The design and plans for such building shall be subject to approval of the Board of Adjustment as a condition of the special use permit and shall be submitted as a part of the application.

(6) The proposed cemetery shall not be in conflict with any element of the Comprehensive Plan or any other plan of the town as approved by the Town Board of Commissioners.

(B) Application for approval of this special use shall include a plan of the proposed cemetery drawn at a scale of not less than one inch equal to 100 feet. Such plan shall show the boundaries of the cemetery, all roads within 500 feet of the cemetery boundaries, all structures within 100 feet of the cemetery boundaries, all property lines connecting to the cemetery boundary, the names of the owners of the proposed cemetery, the names of all property owners of land adjacent to the cemetery with identification as to their respective property location, a north arrow and the scale of the drawing. The plan shall also show within the cemetery boundaries the entrance, the required perimeter buffer strip, the number and location of all lots and burial sites, all proposed roads, parking areas, easements and drainage structures, and any other proposed roads, parking areas, easements and drainage structures, and any other proposed development which shall be a change from the original topography, including grading and landscaping. Refer to § 91.227 for cemetery subdivision lot size exemptions.

(C) The granting of a special use permit for this purpose shall be special upon subsequent compliance by the cemetery owners with all State statutes governing the establishment and operation of a perpetual care cemetery.

(D) Any cemeteries existing on September 6, 2012, may be continued without a permit.

(Ord. eff. 9-6-2012, § 7.13)

§ 91.93 CHILD CARE CENTER.

The following specific provisions shall be met as minimum standards prior to the approval of any childcare center as a special use in a residentially zoned area:

- (A) Minimum lot size: 20,000 square feet;
- (B) Rear yard setback minimum: 35 feet;
- (C) Side yard setback minimum: 20 feet;
- (D) Corner lot setback minimum from interior lot lines: 20 feet;
- (E) Minimum distance to another child care center as defined herein, whether conforming or nonconforming, shall be 2,500 feet;
- (F) Minimum paved off-street parking spaces: two plus one for each employee;
- (G) Minimum paved off-street loading and unloading area: in addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers;
- (H) Two hundred square feet of play area shall be provided for each child and said aggregate play space shall be enclosed with at least a four-foot high fence; and
- (I) Specified plan for ingress and egress.

(Ord. eff. 9-6-2012, § 7.14)

§ 91.94 CREMATORIUM.

Crematoriums are permitted subject to the following conditions.

- (A) All facilities must comply with State licensing requirements.
- (B) There shall be no emission of particulate matter or noticeable odors.
- (C) No new crematorium operation may be located within 1,500 feet from an existing crematory facility.
- (D) The loading/unloading zone for the facility must be enclosed or screened from view with fencing.
- (E) All windows with an open view of the crematory processing equipment must be screened from view.

(Ord. eff. 9-6-2012, § 7.15)

§ 91.95 PLACE OF ASSEMBLY.

In the O/I Zoning District, places of assembly shall be allowed as a special use provided the aggregate enclosed building area and/or open assembly area has an occupancy of 500 people or less.

(Ord. eff. 9-6-2012, § 7.16)

§ 91.96 BONA FIDE FARM.

Bona fide farms in the town extraterritorial jurisdiction are exempt from the provisions of this Unified Development Ordinance as directed by G.S. § ~~160A-360(K)~~, as amended by S.L. ~~2011-363(H168)~~ **160D-903**.

(Ord. eff. 9-6-2012, § 7.17)

§ 91.97 GOLF AND DRIVING RANGE, PAR 3.

(A) Lighting, if any, shall be designed and installed so that it is directed away from the roadway and adjacent residentially-zoned or used properties and does not interfere with the safe use of public rights-of-way.

(B) Adequate assurance shall be provided, by means of separation, fencing or other means, that the operation of such facility shall not constitute a danger to person or property.

(C) Signs shall be permitted as provided in §§ 91.190 through 91.201.

(D) Hours of operation shall be specified by the special use permit.

(Ord. eff. 9-6-2012, § 7.18)

§ 91.98 GOLF COURSE.

Golf courses may include clubhouses, swimming pool(s) and tennis courts as accessory facilities. Clubhouses may not include a restaurant without a special use permit for the restaurant. The restaurant must be intended to primarily serve patrons of the golf course.

(Ord. eff. 9-6-2012, § 7.19)

§ 91.99 AUCTION CONDUCTED ENTIRELY WITHIN A BUILDING.

Auctions conducted entirely within a building shall be permitted in accordance with § 91.74, subject to the following requirements.

(A) Operating hours are 9:00 a.m. to 9:00 p.m. Monday through Saturday and 2:00 p.m. to 6:00 p.m. on Sunday.

(B) All applicable requirements of §§ 91.120 through 91.129, 91.140 through 91.150, 91.160 through 91.164, 91.170 through 91.177, 91.180, 91.181, 91.190 through 91.201 and 91.210 through 91.229, Performance Standards must be complied with.

(Ord. eff. 9-6-2012, § 7.20)

§ 91.100 AUCTION, ESTATE.

Estate auctions shall be permitted in accordance with § 91.74, subject to the following requirements.

(A) Estate sales must be conducted between 9:00 a.m. and 5:00 p.m., excluding Sundays and all town recognized holidays.

(B) Estate sales may not exceed two consecutive calendar days.

(C) All sale items must have been located 30 calendar days prior to the auction on the property on which the auction is conducted.

(Ord. eff. 9-6-2012, § 7.21)

§ 91.101 GRANNY PODS.

Granny pods shall be permitted as an accessory use in accordance with the Table of Permitted Uses, subject to the following standards:

(A) Structures must be transportable residential units assembled off-site and built to the standards of the State Building Code. It must be no more than 300 gross square feet and must not be placed on a permanent foundation.

(B) The accessory structure must comply with all setbacks and any maximum floor area ratio limits that apply to the primary residential structure. The structure shall be connected to any public water, sewer, and electric utilities serving the property or water and/or sewer systems approved by Brunswick County. Only one accessory temporary family care structure is allowed per lot. No signage regarding the presence of the structure is allowed. The structure must be removed within 60 days after care-giving on the site ceases.

(C) A zoning permit is required to be obtained prior to installation. Evidence of compliance may be required as part of the permitting and annual permit renewal, including an annual renewal of the doctor's certification of impairment. The town may make periodic inspections at times convenient to the caregiver to assure on-going compliance.

(D) The caregiver must be at least 18 years old and must be a first or second degree relative of the impaired person (a spouse, parent, grandparent, child, grandchild, aunt, uncle, nephew, or niece). A legal guardian of the impaired person also qualifies.

(E) In the O/I District, granny pods shall only be permitted for single-family residentially used property.

(Ord. 16-1, passed 4-7-2016)

§ 91.102 HOMESTAY LODGING IN RESIDENTIAL DISTRICTS.

Homestay lodging uses shall only be allowed in lawfully permitted dwelling units serving as the principal residence of a host. Only a property owner may register a homestay lodging; however, the principal resident may act as a host. Homestay lodging uses do not include bed and breakfast lodging uses.

(A) Registration.

(1) A property owner shall register each establishment annually with the Town of Carolina Shores.

(2) Registration is restricted to a property owner, who shall provide proof of possession of the registered premises, and to natural persons only. A host may be the property owner or another principal resident.

(3) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.

(4) Active registrations shall not expire, provided that a property owner shall renew registration on an annual basis. If a property owner fails to renew a registration, the registration shall be considered terminated by the property owner.

(5) Registration does not vest the premises or property owner with any rights. Registration terminates upon transfer of the property to another owner.

(6) Any bedroom rentals for periods of twenty-nine (29) days or less not properly registered as a bed and breakfast shall register as a homestay.

(B) The maximum number of guest rooms allowed shall be one less than the total number of bedrooms in the dwelling unit, not to exceed three (3) guest rooms.

(C) In the R-15, R-12, R-8, R-6, MFH I, and MFH II Districts:

(1) the host shall issue a parking placard to each guest parking on site.

(2) Guest parking shall be restricted to behind the plane of the front façade of the home, except on an existing improved parking surface existing at the time of the adoption of this Ordinance.

(3) No more than three (3) motor vehicles owned or operated by patrons shall be parked onsite at any time.

(D) The use provisions of this section are not subject to variance by the Board of Adjustment.

(E) Any use for which there are three (3) final determinations of violations of the Town Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling 365-day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three (3) years.

(F) Any property owner registering a homestay lodging, as well as any host, shall: (1) be responsible for ensuring compliance with all Federal, state, and local laws, including but not limited to tax code, building code, fire code, and environmental health regulations for

the level of occupancy of the homestay; and (2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.

(G) Property owners registering a homestay are responsible for keeping in full force and effect during all times the unit is used as a homestay lodging commercial general liability insurance with a total limit of not less than \$500,000 each occurrence for bodily injury and property damage.

(H) Homestay lodging registrants and hosts shall maintain records demonstrating that the home is a host's primary residence, the dates of rental for the previous 365 days, and the number of renters. Such records shall be made available, upon request, to the Town.

(I) The definition of "family" and the restriction of a minimum thirty (30) day rental period in the MFH districts shall not apply to properly registered homestay lodging.

(J) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:

(1) The name and telephone number of the host.

(2) The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.

(3) The non-emergency phone number of the Brunswick County Sheriff's Department.

(4) The annual registration documentation.

(5) That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.

(K) All homestay lodging shall comply with the requirements of this UDO.

(L) Inspection of homestay lodging shall occur only when there is reasonable cause, for fire prevention code, or if the rental is located in a blighted area.

§ 91.103 TINY HOUSES.

Tiny houses not exceeding 699 square feet in size, including container homes, shall be allowed in accordance with § 91.74, subject to the following:

(A) A tiny house must comply with the North Carolina State Building Code.

(B) A tiny house must be situated on a permanent foundation with secure wind-resistant tie-downs and connected to public water, sewer, and electric utilities.

(C) If the tiny house is constructed on a travel chassis with wheels, the wheels must be removed for permanent location on a foundation.

(D) A tiny house must comply with all UDO requirements for the zoning district in which it is located.

§ 91.104 WHOLE-HOUSE LODGING/HOMESTAY LODGING IN THE O/I & NB DISTRICTS.

(A) Registration.

(1) Property owners shall obtain a zoning certificate and register each establishment annually with the Town of Carolina Shores.

(2) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.

(B) Any use for which there are three (3) final determinations of violations of the Town Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling 365-day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three (3) years.

(C) A property owner, as well as any host/operator, shall: (1) be responsible for ensuring compliance with all Federal, state, and local laws, including but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the short-term lodging; and (2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.

(D) Property owners shall be responsible for keeping in full force and effect during all times the unit is used as a short-term lodging or homestay commercial general liability insurance with a total limit of not less than \$500,000 each occurrence for bodily injury and property damage.

(E) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:

(1) The name and telephone number of the host/operator.

(2) The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.

(3) The non-emergency phone number of the Brunswick County Sheriff's Department.

(4) The annual registration documentation.

(5) That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.

(F) The host/operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts removed from the street or alley on the scheduled collection day.

(G) Preparation and service of food by host/operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.

(H) Short-term lodging uses shall be prohibited on the ground floor of street-facing facades, excluding alleys, except within any properly permitted single-family, duplex, triplex, quadraplex, and multi-family structures existing at the time of the adoption of this Ordinance.

§§ 91.105—91.109 RESERVED.

NONCONFORMING SITUATIONS

§ 91.110 INTENT.

Upon the effective date of this Unified Development Ordinance, and any amendment thereto, preexisting structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this Unified Development Ordinance for the district in which they are located or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this subchapter to permit these nonconforming uses to continue until they are removed, discontinued or destroyed, but not to encourage such continued use, and to prohibit the expansion of any nonconformance.

(Ord. eff. 9-6-2012, § 8.1)

§ 91.111 NONCONFORMING USES.

A nonconforming use is a use of land, buildings or structures that was lawfully established prior to the effective date of this Unified Development Ordinance, or any amendment thereto, but which does not conform to the regulations for the zoning classification in which it is located. Nonconforming uses may be continued subject to the limitations noted herein. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 90 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(A) Expansions: no nonconforming use shall be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming; provided, however, a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.

(B) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved or structurally altered unless such building or structure is thereafter devoted to a conforming use; provided, however, such building or structure may be enlarged or extended upon prior authorization from the Board of Adjustment, which authorization shall not be granted unless the Board of Adjustment makes each of the following findings of fact.

(1) The proposed enlargement or extension shall be minor or insignificant in relation to the existing building or structure.

(2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use.

(3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances.

(4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

(C) (1) A nonconforming use of a structure may not be changed to another nonconforming use unless such change is authorized by the Board of Adjustment. In order to authorize a change in nonconforming use, the Board of Adjustment shall consider the relative impacts of the existing nonconforming use and the proposed nonconforming use with regard to traffic, noise, pollution, visual appearance and compatibility with the neighborhood, and shall make each of the following findings.

(a) The proposed use is expected to result in impacts which are less than those associated with the existing use.

(b) The proposed use will be more compatible with the surrounding neighborhood than is the existing use.

(c) Approval of the change in nonconforming use serves the public health, safety and general welfare.

(d) Failure to approve the change in nonconforming use would result in a hardship to the owner of the property on which the nonconforming use is situated.

(2) An existing nonconforming use shall be discontinued within 60 days of the date of approval of a change in nonconforming use. Subsequent to that time, such existing use shall become unlawful.

(D) Where a nonconforming use ceases for 90 consecutive days, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of this Unified Development Ordinance. Vacancy and non-use of the building or structure, regardless of the intent of the owner, shall constitute discontinuance under this provision.

(E) When a structure or operation made nonconforming by this Unified Development Ordinance is vacant or discontinued on September 6, 2012, the 90-day period for purposes of this section begins to run on September 6, 2012.

(F) Where a building or structure devoted to a nonconforming use is damaged to the extent of 50% or more of its current value, such building or structure, if restored, shall thereafter be devoted to conforming uses.

(Ord. eff. 9-6-2012, § 8.2)

§ 91.112 NONCONFORMING STRUCTURES.

A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this Unified Development Ordinance, or an amendment thereto, and which no longer could be built under the terms of this Unified Development Ordinance, as amended, by reason of restrictions on area, footprint, open space, building height, setbacks, lot width or other requirements concerning the structure.

(A) A nonconforming structure devoted to a use permitted in the zoning classification in which it is located may continue to be used only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

(C) Except as provided in divisions (D) and (E) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

(D) A nonconforming structure may undergo a change or use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:

(1) The change in use or renovation does not increase the floor area of the structure;

(2) The change in use is to a permitted use within the district; and

(3) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.

(E) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this Unified Development Ordinance.

(F) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning classification in which it is located.

(G) Where a nonconforming structure is damaged by fire, flood, wind or other act of God, and such damage does not exceed 50% of the current assessed taxable value of the structure, it may be restored to its original dimensions and conditions as long as a building permit for the restoration is issued within 12 months of the date of the damage.

(Ord. eff. 9-6-2012, § 8.3)

§ 91.113 NONCONFORMING LOTS OF RECORD.

Any lot of record of structure existing at the time of the adoption of this Unified Development Ordinance, which has dimensions which do not meet the requirements of this Unified Development Ordinance, shall be subject to the following exceptions and modifications.

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

(B) *Lot not meeting minimum lot size requirements.* Except as set forth in the above, in any district in which single-family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations that has dimensions that are less than required by these regulations may be used as a building site for a single-family dwelling providing the lot area and width are not less than 80% of the requirements in the district. If the lot is smaller or narrower, a variance may be requested of the Board of Adjustment.

(C) *Yard requirements modified.* Except as set forth in division (A) above, where a lot has width or depth less than that required in the district in which it is located, the UDO Administrator shall be authorized to reduce the yard requirements for such lot by not more than 20%. Additional or other forms of yard modification may be permitted with a variance granted by the Board of Adjustment.

(D) *Enlargement of nonconforming structures.* Any building which is nonconforming solely because of its encroachment in a required yard area may be extended in any lawful manner that does not further encroach in that yard.

(Ord. eff. 9-6-2012, § 8.4)

§ 91.114 REPAIRS AND MAINTENANCE.

Minor repairs to and routine maintenance of land, buildings, structures or other development of land devoted to a nonconforming use or having nonconforming structures are permitted, provided the cost of such repairs and maintenance within any 12- month period does not exceed 10% of the current assessed taxable value of the land, buildings, structure or other development of land. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the UDO Administrator because of lack of repairs and maintenance shall not be restored, repaired, reconstructed or used except in conformity with the provisions of this subchapter. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the UDO Administrator, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of this subchapter.

(Ord. eff. 9-6-2012, § 8.5)

§ 91.115 PLANNED RESIDENTIAL DEVELOPMENT AND PLANNED UNIT DEVELOPMENT.

Any PRDs and PUDs approved prior to the adoption of this Unified Development Ordinance will be considered conforming as long as they remain fully compliant with all terms and conditions under which they were approved. The Zoning Map includes the Planned Unit Development (PUD) Zoning District. This designation is limited to the PUD

zoning approved under the Town Zoning Ordinance which existed prior to the adoption of this Unified Development Ordinance. No additional PUD zoning will be considered or approved.

(Ord. eff. 9-6-2012, § 8.6)

§ 91.116 NONCONFORMING SIGNS.

Signs which are made nonconforming by this Unified Development Ordinance shall be removed within five years of the date of adoption of this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 8.7)

§§§ 91.117—91.119 RESERVED.

PERFORMANCE STANDARDS

PART I: OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

§ 91.120 OFF-STREET PARKING REQUIREMENTS.

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, permanent off-street parking space in the amount specified by this section. Such parking space may be provided in a parking garage or properly graded open space that complies with the standards for parking established in this section.

(A) *Certification of minimum parking requirements.* Each application for a certificate of zoning compliance submitted to the UDO Administrator as provided for in § 91.63(G) of this Unified Development Ordinance shall include information as to the location and dimensions of off-street parking and the means of entrance and exit to the space. This information shall be in sufficient detail to enable the UDO Administrator to determine whether or not the requirements of this section are met.

(B) *Combination of required parking space.* 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. However, one-half of the parking space required for houses of worship, theaters or recreational uses whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sunday mornings until 12:00 noon.

(Ord. eff. 9-6-2012, § 9.1)

§ 91.121 GENERAL PROVISIONS.

(A) *Mixed use.* In the case of mixed use developments, the total required off-street parking or loading space shall be the sum of the requirements for the various uses computed separately except for as provided below.

(1) Up to one-half of the parking spaces required for one use in a mixed use development may be used to satisfy the parking requirements for a second use within the proposed development, subject to certification by the UDO Administrator that such joint usage parking complies with the following provisions:

(a) The peak usage of the parking facility by one use will be at night or on Sundays and the peak usage of the parking facility by the second use will be at other times as provided in § 91.120(B); and

(b) The other uses are ancillary to the primary use, such as restaurants and meeting rooms included in hotels and motels.

(2) Minimum parking requirements for a mixed use development may be reduced by the UDO Administrator if a traffic/parking study is submitted to demonstrate and the UDO Administrator finds that:

(a) Sidewalks, bicycle facilities, transit service and transit amenities are in place such that together with the number of parking spaces that are proposed, transportation is adequately served. Parking spaces required by this section may be placed within any public or private street right-of-way in accordance with the approved special use permit, if there is sufficient on-street public parking available within a 400-foot radius of the mixed-use development to meet the requirement for the mixed-use development.

(b) Reduction of the minimum parking requirements will not be injurious to the general health, safety and welfare.

(B) *Phased developments.* Each individual phase of a multi-phase development shall meet all applicable parking standards established in this section including shared parking facilities prior to initiation of the next phase.

(C) *Spaces provided off-site.*

(1) For any residential use, a parking facility may be located within 400 feet of the structure for which the spaces are required. The title to the parking facility must run with and/or be appurtenant to title to the principal residential structure. Parking space arrangement shall ensure that there will be no encroachment upon or over rights-of-way, sidewalks or property lines. Public streets, alleys, walkways or public easements will not be used for or included in the requirements for parking, nor will they be obstructed or blocked or altered in any way from their normal use or intended use.

(2) Property disposal which results in a reduction of parking spaces below those required in this section shall be a violation subject to the provisions of § 91.14.

(D) *Maneuvering room.* Maneuvering space for off-street parking shall be located on the lot upon which parking is provided and not on public right-of-way.

(E) *Parking space requirements.*

(1) The parking surface on all on-site and off-site parking lot(s), with the exception of detached single-family or duplex housing units, shall be dust free, all weather material (i.e., concrete, asphalt, paving stones) or permeable all-weather surfacing. The paving surface shall be marked with the necessary striping delineating the parking stalls and locations of handicapped parking spaces.

(2) Residential parking areas or driveways shall be properly delineated and surfaced with concrete, asphalt, coquina or permeable material.

(F) *Access.* Access to public thoroughfares shall be from a driveway and not directly from a parking space. Ingress and egress shall be by a forward motion of the vehicle.

(Ord. eff. 9-6-2012, § 9.2)

§ 91.122 REQUIREMENTS FOR PARKING LOTS.

Where parking lots for more than five cars are permitted or required or where any principal building enlargement is 20% or greater of its existing size as specified by § 91.60(B), the following provisions shall be complied with.

(A) The parking spaces may be used only for parking, but shall not preclude occasional use as convention and festival exhibits or parking of rental vehicles. Parking spaces may not be used for loading, sales, dead storage, repair work, dismantling or servicing.

(B) All entrances, exits, barricades at sidewalks and drainage plans shall be approved and constructed before occupancy.

(C) Only one entrance and one exit sign no larger than two square feet prescribing parking regulations may be erected at each entrance or exit.

(D) Required off-street parking areas including drives and accessways shall be surfaced with an all-weather surface material.

(E) Where parking or loading areas are provided adjacent to a public street, ingress and egress thereto shall be made only through driveways not exceeding 25 feet in width at the curb line of said street, except where the UDO Administrator finds that a greater width is necessary to accommodate the vehicles customarily using the driveway.

(F) Where two or more driveways are located on the same lot, the minimum distance between such drives shall be 30 feet or one-third of the lot frontage, whichever is greater.

(G) No driveway shall be located closer than 25 feet to any street intersection.

(H) Refer to §§ 91.140 through 91.150 for landscaping requirements.

(I) Refer to §§ 91.170 through 91.177 for lighting requirements.

(Ord. eff. 9-6-2012, § 9.3)

§ 91.123 MANUFACTURED HOME AND TRAILER PARKING AND STORING.

It shall be unlawful to park or otherwise store for any purpose whatsoever any manufactured home or trailer within any zoning district except as follows.

(A) A storing permit for any manufactured home to be parked or stored for longer than seven days shall be obtained from the UDO Administrator.

(B) A manufactured home shall not be parked and used other than in the MFH I or MFH II Districts, or unless obtaining a temporary certificate of zoning compliance.

(Ord. eff. 9-6-2012, § 9.4)

§ 91.124 VEHICLE STORAGE.

(A) *Residential districts.* Vehicles intended for personal use may be parked or stored on property zoned for residential use. Commercial trucks, vans or trailers driven home must be parked in a garage or carport or in the driveway and never on the street. Inoperative vehicles, including trucks, vans or trailers, may not be stored in a residential district.

(B) *Business and industrial districts.* Customer and employee parking is permitted along with the parking and storing of governmental or commercial vehicles, in any business or industrial district. Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station or if stored in an approved junk or wrecking yard. Overnight parking or storage of tractor trailers in commercial districts is strictly limited to vehicles associated with the commercial establishment operating on the premises.

(Ord. eff. 9-6-2012, § 9.5)

§ 91.125 VEHICLE STACKING AREAS.

(A) *Vehicle stacking areas.* The vehicle stacking standards of this section shall apply unless otherwise expressly approved by the UDO Administrator. Additional stacking spaces may be required by the UDO Administrator where trip generation rates suggest that additional spaces will be needed.

(B) *Minimum number of spaces.* Off-street stacking spaces shall be provided as follows:

Activity Type	Minimum Stacking Spaces	Measured From
Automated teller machine (ATM)	3	Teller
Bank teller lane	4	Teller or Window
Car wash bay, full-service	6	Bay
Car wash bay, self-service	3	Bay
Dry cleaning/laundry drive-through	3	Cleaner/laundry window
Gasoline pump island	3	Pump island
Gate, unstaffed	2	Gate
Gatehouse, staffed	4	Gatehouse
Pharmacy pickup	3	Pharmacy window
Restaurant, drive-through	6	Order box
Restaurant, drive-through	4	Between order box and pick-up window
Valet parking	3	Valet stand
Other	Determined by the UDO Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering.	

(C) *Design and layout of stacking spaces.* Required stacking spaces shall be subject to the following design and layout standards:

(1) *Size.* Stacking spaces shall be a minimum of eight feet in width by 25 feet in length.

(2) Location. Stacking spaces shall not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

(3) Design. Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the UDO Administrator for traffic movement and safety.

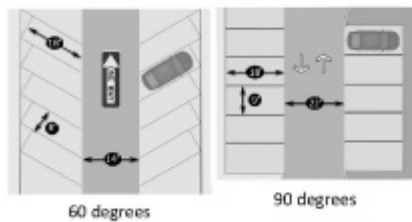
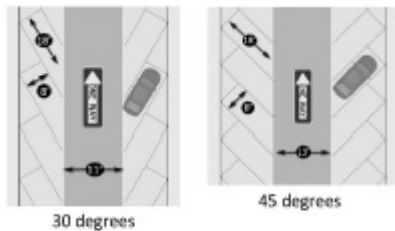
(Ord. eff. 9-6-2012, § 9.6)

§ 91.126 PARKING SPACE DIMENSIONS.

(A) *Angled parking.* Parking stalls intended for the use of standard size automobiles shall have a minimum size of eight feet by 18 feet for angled parking. All angled parking stalls shall be provided with the minimum aisle width specified below depending on their angle of entry. This width is designed to accommodate traffic flow within the parking area and allow reasonable room for maneuvering in and out of parking stalls.

(1) One-way traffic.

Degree of Angle	Aisle Width
30 degrees	11 ft.
45 degrees	13 ft.
60 degrees	14 ft.
90 degrees	22 ft.



(2) Two-way traffic. Aisle width: 22 feet.

(B) *Parallel parking.* Parallel parking stalls for standard size automobiles shall have a minimum size of eight feet by 23 feet. All parallel parking stalls shall have a minimum of

ten feet for maneuvering space in one-way traffic and 20 feet maneuvering space in two-way traffic.

(Ord. eff. 9-6-2012, § 9.7)

§ 91.127 HANDICAPPED REQUIREMENTS.

Handicapped parking spaces shall be in accordance with regulations set forth by the Americans with Disabilities Act (ADA), the State Department of Transportation, the State Division of Motor Vehicles ADA requirements, the State Building Code and I.C.C. A 117.1.

(Ord. eff. 9-6-2012, § 9.8)

§ 91.128 LOADING AREAS.

(A) *Location.*

(1) No loading spaces shall be located within 30 feet of street intersections or in any required front, side or rear yard.

(2) A minimum setback of 50 feet shall be required where loading docks face a residential district or a structure with first-floor residential uses, unless the loading area is completely screened from view with an eight-foot high masonry wall in accordance with the requirements of § 91.81(F), Fences and Walls.

(3) Loading areas shall be located to provide the most convenient access to the use being served. Generally, loading areas should be adjacent to the building.

(B) *Surfacing.* Generally, all open off-street loading areas shall be paved with an all-weather material such as concrete or asphalt, designed to carry the heaviest vehicle loads that can commonly be expected. Consideration should be given to the weight of fire and sanitation equipment as well as delivery vehicles.

(C) *Design.*

(1) Loading berths for office uses shall be a minimum of 12 feet wide by 35 feet long with a height clearance of 14 feet.

(2) All other loading berths shall be a minimum of 12 feet wide and 55 feet long with a height clearance of 14 feet.

(D) *Utilization.* Space allocated to any off-street loading space, accessory drives or aisles, shall not be used to satisfy the space requirements for any off-street parking or trash handling facilities.

(E) *Ingress and egress.* Each required off-street loading space shall be provided with a means of unobstructed ingress and egress to an alley or onto a public street wide enough to accommodate expected vehicles. Where such ingress and egress is made into a public street, it shall be through driveways or openings which meet required standards. Permanent wheel stops or curbing shall be provided to prevent any vehicle using the

loading area from encroachment on the required front yards, side yards or adjoining property.

(F) *Number of spaces required.*

(1) Loading spaces shall be required for uses which normally handle large quantities of goods, including, but not limited to, industrial plants, wholesale establishments, warehouses, freight terminals, hospitals and retail establishments.

(2) The numbers in the table below shall serve as a guideline for determining the number of loading spaces required.

Gross Floor Area of Building	Number of Spaces
0—5,000	0
5,001—39,999	1
40,000—99,999	2
100,000—159,999	3
160,000—239,999	4
240,000 and over	5

(3) The UDO Administrator may require one or more additional loading areas if the magnitude of the use would anticipate the need for more loading or standing space.

(Ord. eff. 9-6-2012, § 9.9)

§ 91.129 PARKING RATIOS.

The following defines parking ratios for general use classifications as delineated in the Table of Permitted/Special Uses (§ 91.74). All uses are not defined; however, the broad categories listed should correlate with each use listed within the use table included in § 91.74. If there are questions regarding how a given project should be classified, the methodology for defining a required parking requirement shall be determined by the entity designated by this Unified Development Ordinance to approve a particular development. Parking requirements for all government sponsored/owned facilities, such as schools, shall be determined on a case-by-case basis through the development plan approval process.

Classification	Off-Street Parking Requirement
RESIDENTIAL	
Dwelling, Single-Family	2 spaces
Dwelling, Manufactured Home	2 spaces
Dwelling, Multi-Family	
B One bedroom	1.5 spaces per unit
B Two bedrooms	1.75 spaces per unit
B Three bedrooms or more	2 spaces per unit

Classification	Off-Street Parking Requirement
ACCESSORY USES/BUILDINGS	
Accessory Business or Residential Unit (Including Home Occupations)	2 spaces per business or residence
Accessory Buildings	Same ratio as the principal use
COMMERCIAL & OFFICE/INSTITUTIONAL	
Retail	4 spaces per 1,000 square feet
Restaurant	1 space per 150 square feet enclosed floor area
Office	3 spaces per 1,000 square feet
Lodging	1 space per room plus 1 space per employee
Institutional/Civic	1 space per 4 seats or 4 spaces per 1,000 square feet, whichever is greater
INDUSTRIAL USES	
Adult entertainment establishments	1 space per 100 square feet of gross floor area or 1 space per every 3 persons of maximum seating capacity, whichever is greater; plus 1 space per employee
All other industrial uses	1 space per employee
RECREATION/CONSERVATION USES	
The most applicable of the following standards shall apply for all recreational uses:	1 space per 4 fixed seats; 1 space for each 40 square feet of floor area available in establishment as a meeting room; 1 space for each 150 square feet of gross floor area.
TEMPORARY USES/STRUCTURES	
To be determined by the UDO Administrator based on the site specific conditions and principal use.	
AGRICULTURAL USES	
To be determined by the UDO Administrator based on the site specific conditions.	

(Ord. eff. 9-6-2012, § 9.10)

§§ 91.130—91.139 RESERVED.

PART II: LANDSCAPE, BUFFERING AND SCREENING

§ 91.140 PURPOSE.

The purpose of this subchapter is to establish minimum requirements to provide adequate visual buffering and screening of permitted uses, structures, parking areas and preservation of protected trees. The intention of these requirements is to satisfy the following objectives:

(A) To provide attractive visual buffering between different land uses and enhance town beautification;

(B) To safeguard and enhance property values and to protect public and private investment by providing standards for the protection of existing vegetation and root zones and the installation of new vegetation;

(C) To mitigate stormwater runoff and erosion, enhance air quality, conserve energy and aid in abating noise, glare and heat;

(D) To establish and maintain the maximum sustainable amount of tree cover on public and private lands;

(E) To maintain trees in a healthy and non-hazardous condition through good arboricultural practices; and

(F) To establish, maintain and protect appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(Ord. eff. 9-6-2012, § 9.11)

§ 91.141 APPLICABILITY.

(A) Sections 91.140 through 91.150 shall be applicable when the following situations apply:

(1) Multi-family residential development. When ten or more parking spaces are required for all phases of development excluding all residential developments which contain solely detached single-family dwelling units;

(2) Nonresidential development.

(a) New construction. When a permitted use, a use or combination of uses contained within a special use permit require ten or more parking spaces;

(b) Existing development. When there is a change from an existing use to a new use which requires additional parking and the new use requires ten or more parking spaces;

(c) Expansion of structure. When there is an expansion of an existing structure by greater than 25% of the gross floor area and that use requires ten or more parking spaces;

(d) Reconstruction of structure. When there is damage or destruction to an existing structure beyond 50% of its assessed value, the reconstruction must conform to the new construction standards of this section; and

(e) Expansion of parking facility. When there is an expansion of the parking facility by a minimum of 10% of the parking with a minimum of ten total spaces.

(3) Tree resource management. Tree resource management regulations shall apply to all protected trees for both new and existing development.

(B) This section shall become effective on all applicable conditions that are met during a five-year cumulative period.

(Ord. eff. 9-6-2012, § 9.12)

§ 91.142 TREE RESOURCE MANAGEMENT.

Purpose. The town finds that the natural and beneficial functions of trees as natural and economic resources are important markers of ecological, environmental, and economic

stability. Pursuant to these findings, the town has adopted certain regulations for the prudent and thoughtful management of trees as a resource and has adopted these regulations to promote the public welfare.

(Ord. eff. 9-6-2012, § 9.13; Am. Ord. 18-4, passed 9-14-2017)

§ 91.143 LANDSCAPE REQUIREMENTS.

(A) *Street yard requirements.* Street yards are required for all commercial, industrial and multi-family residential development with eight or more parking spaces.

(1) Minimum standards: the minimum depth of all street yards shall be seven and one-half feet. For every 50 linear feet of frontage, or fraction thereof, the street yard shall contain a minimum of three shade trees and six intermediate shrubs. Newly installed plant material shall be evenly distributed, where possible. (See Figure 1 below.)

(2) If there are existing trees in the proposed street yard area, the UDO Administrator may grant credit toward meeting the requirement for preservation of those trees as specified by the tree credits table.

(3) No planting material will be allowed which, at planting or at maturity, will impede vision between a height of three feet and ten feet in the sight visibility triangle specified by § 91.26. (See Figure 3 below.)

(B) *Parking facility requirements.*

(1) Minimum standards: for parking facilities having 15 or more parking spaces, at least 8% of the gross paved area of the parking facility shall be landscaped and located in the interior of the facility. (See Figure 4 below.)

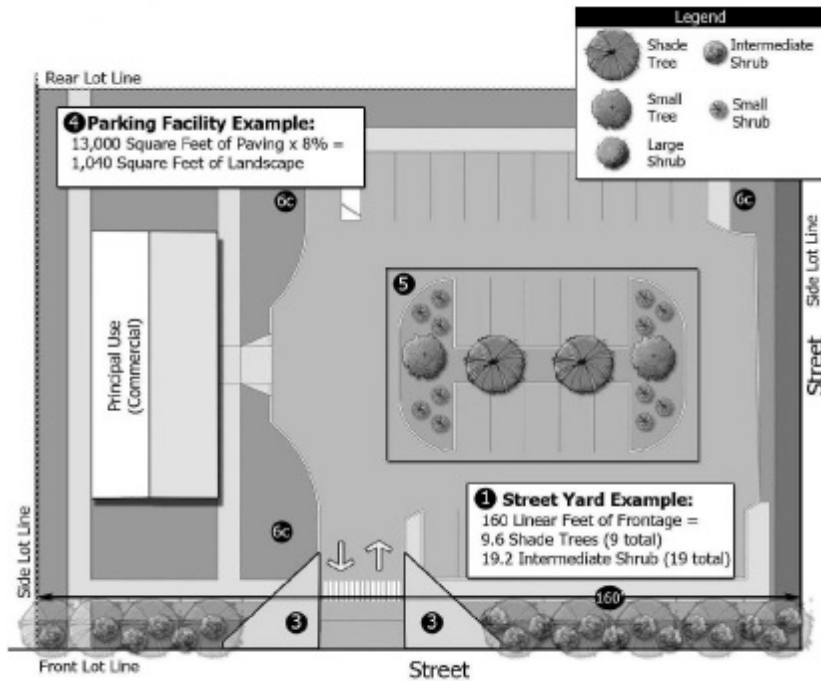
(2) Planting islands shall include at least one shade tree or one small tree and six small shrubs. At least 50% of the trees planted shall be shade trees. (See Figure 5 below.)

(3) In support of the above, the following standards shall apply to interior plantings.

(a) All plantings shall be evenly distributed throughout the parking facility.

(b) All interior plantings shall be curbed or otherwise physically protected.

(c) Consecutive parking spaces shall incorporate landscaped islands no more than 15 spaces apart and at the ends of all parking rows. Landscaped islands shall contain at least 100 square feet in area and be at least eight feet in width, measured from back of curb to back or curb. (See Figure 6c below.)



(Ord. eff. 9-6-2012, § 9.14)

§ 91.144 BUFFERYARDS.

(A) *Type A bufferyard screening.* This is a medium density screen intended to block visual contact between uses and to create special separation. Type A bufferyard screening shall be required between adjacent nonresidential properties and multi-family residential property containing ten or more parking spaces and between commercial and industrial zoning districts or uses.

(1) Type A1: minimum of seven and one-half feet wide. For every linear 100 feet, or fraction thereof, the screen shall consist of a combination of a minimum of two shade trees planted evenly at 40 feet on center, and ten evergreen intermediate shrubs planted eight feet on center (see Figure 7a below); or

(2) Type A2: minimum of five feet wide. For every 100 feet, or fraction thereof, the screen shall consist of a combination of at least three shade trees planted evenly at 40 feet on center, and 15 evergreen intermediate shrubs six feet on center (see Figure 7b below).

(B) *Type B bufferyard screening.* This is a high density screen intended to exclude virtually all visual contact between uses and to create a special separation. Type B bufferyard screening shall be required when a nonresidential property is adjacent to a single-family residential zoning district or use, including PRD.

(1) Type B1: minimum width of 15 feet, except for the C-2 and C-3 Districts which shall have a minimum of seven and one-half feet. For every linear 100 feet, or fraction thereof, the screen shall consist of a combination of a minimum of three shade trees planted evenly

at 30 feet on center, and 15 evergreen large shrubs planted six feet on center (see Figure 8a below); or

(2) Type B2: minimum width of ten feet, except for the C-2 and C-3 Districts which shall have a minimum of five feet. For every linear 100 feet, or fraction thereof, the screen shall consist of a minimum of four shade trees planted 30 feet on center, and 20 evergreen large shrubs planted five feet on center (see Figure 8b below).

(C) *Type C bufferyard screening.*

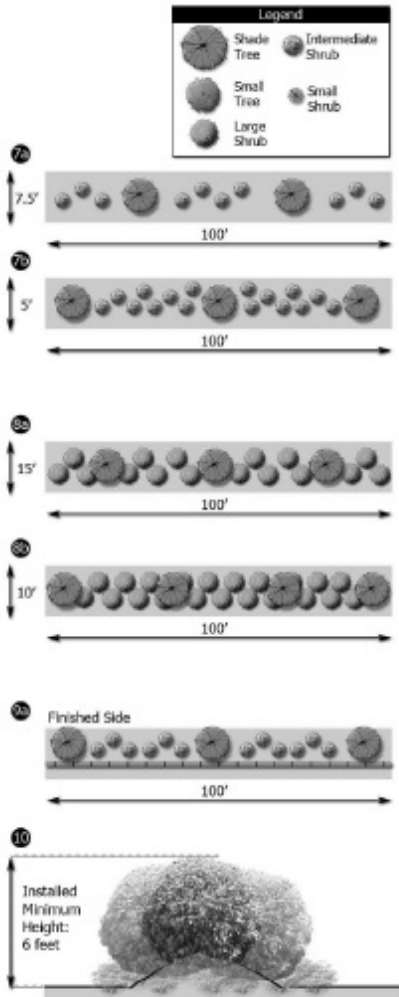
(1) An opaque fence or opaque wall may be used in place of 50% of required bufferyard screening plants.

(2) The design, color and materials of any fence or screen used to meet bufferyard requirements shall be approved by the UDO Administrator. The side of the fence facing the affected property owner shall be the finished side of the fence. All planted screening required to be used in conjunction with a fence shall be approved by the UDO Administrator and planted on the finished side of the fence facing the affected use, and the remaining plantings shall be equally distributed in the bufferyard (see Figure 9a below).

(D) *Type D bufferyard screening.* A combination earthen berm with vegetation may be used as follows (see Figure 10 below):

(1) An earthen berm may be used in conjunction with planted vegetation made up of small, intermediate and large shrubs, as approved by the UDO Administrator, provided that the combined height of the berm and planted vegetation shall be an installed minimum height of six feet.

(2) The slope of the berm shall be stabilized with vegetation and no steeper than 3:1. The height of the berm shall be a maximum of six feet, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.



NOTE: It is recommended and encouraged that native species and related cultivars be planted.

(E) *Summary.* The following provides a summary of the bufferyard requirements:

Zoning District and/or Use	Industrial	Commercial (Including O/I)	Single-Family Residential	Multi-Family Residential (8 or more parking)
Industrial	N/A	Type A	Type B	Type A
Commercial (including O/I)	Type A	N/A	Type B	Type A
Single-family residential	Type B	Type B	N/A	Type A
Multi-family residential (8 or more parking)	Type A	Type A	Type A	N/A

(Ord. eff. 9-6-2012, § 9.15)

§ 91.145 ADDITIONAL REQUIREMENTS FOR BUFFERS AND FOR YARDS IN WHICH BUFFERS ARE REQUIRED.

(A) *Existing trees and shrubs.* Any existing trees within required bufferyards shall be encouraged to be utilized and supplemented as necessary to meet bufferyard screening requirements. Existing trees intended to meet bufferyard screening requirements shall be protected from detrimental actions such as vehicle or equipment movement, excavating and grading, and installation of storage or structured elements. Credit for existing trees will be based on the following:

Existing Tree Caliper (inches)	Number of Tree Credits Given
2—6	1
7—12	2
13—18	3
19—24	4
25 or greater	5

(B) *Uses in the bufferyard.* No activities shall occur in the bufferyard except for maintenance of the bufferyard, required ingress and egress and the installation and maintenance of water, sewer, electrical and other utility systems where the installation causes minimal disturbance of existing vegetation.

(C) *Uses in the rear yard and side yards abutting a residential use.* The following uses shall be shielded from view from the property line of adjacent residentially used or zoned property by means of an opaque fence, opaque wall or solid vegetative buffer:

- (1) Dumpsters or other trash holding areas;
- (2) Outside storage areas; and
- (3) Loading/unloading areas

(D) *Encroachment into setbacks.*

(1) If an existing structure is located within a setback where the implementation of the streetyard and/or bufferyard requirements are physically impossible and the encroachment into the yard (streetyard or bufferyard) allows for a minimum of three feet of planting area, only the required shrubs shall be planted.

(2) If the encroachment into the yard (streetyard or bufferyard) allows for less than three feet of planting area, no planting shall be required in that yard:

(a) For every yard (streetyard or bufferyard) in which the situation exists, one additional small tree shall be planted in each streetyard or bufferyard not encroached upon;

(b) For every yard (streetyard or bufferyard) in which the situation exists, five feet of additional yard width shall be added to a yard (streetyard or bufferyard); or

(3) If all four yards (streetyard and three bufferyards) allow less than three feet of planting area, no planting shall be required.

(Ord. eff. 9-6-2012, § 9.16)

§ 91.146 INSTALLATION.

(A) Plants shall meet the standards for plant quality and size as defined in the most recent version of the American Standard of Nursery Stock manual.

(B) Plants shall be installed per the installation details included in Appendix B of this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 9.17)

§ 91.147 MAINTENANCE.

(A) All existing vegetation that is used to meet landscaping requirements, all required plants and all required berms shall be maintained by the owner of the property on a continuing basis for the life of the development.

(B) Opaque fences or opaque walls shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. Such fencing shall be kept free of litter and advertising. Opaque fences or walls may be subject to periodic inspection by the UDO Administrator.

(C) A new certificate of occupancy/building permit or a complaint will result in an inspection for compliance.

(Ord. eff. 9-6-2012, § 9.18)

§ 91.148 LANDSCAPE PLAN.

Landscape plans shall be submitted with minor or major site plans, special use permit application and/or request for a zoning certificate of compliance, if § 91.141 applies. These plans shall contain the following information:

- (A) Date of plan preparation;
- (B) Project name and description of land use;
- (C) Project owner and mailing address; and
- (D) A tree removal permit as specified in ~~§ 91.142(C)~~.

(Ord. eff. 9-6-2012, § 9.19)

§ 91.149 TREE PROTECTION DURING CONSTRUCTION.

Tree preservation is a pre-planning activity and will be thoroughly considered prior to development of engineering and/or architectural plans and prior to initiation of construction projects. Protected trees shall be guarded during development against the following:

- (A) Unnecessary cutting, breaking or skinning of roots;
- (B) Skinning and bruising of bark;
- (C) Excessive vehicular and foot traffic within drip lines;
- (D) Parking vehicles within drip lines;

(E) During the land clearing and construction stage of development, the developer shall erect and maintain protective barriers (to the Building Inspector's specifications consistent with good management practices) around all trees or groups of trees to be protected. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the protective barrier;

(F) During the construction stage of development, the developer shall not allow the cleaning of equipment or material within the drip line of any tree or groups of trees to be protected. Neither shall the developer allow the disposal of waste materials such as paint, oil solvents, asphalt, concrete, mortar and so on within the drip line of any tree or groups of trees;

(G) No attachments or wires other than those of a protective nature shall be attached to any tree;

(H) Soil disturbances within the drip line of a protected tree shall be limited to two inches in depth removed or two inches in depth added. Any soil added under the drip line of the tree shall be a loamy soil mix to ensure minimal compaction;

(I) During land clearing and construction stage of development, the UDO Administrator shall periodically inspect the site to ensure compliance with the provisions of this section; and

(J) Tree location and replacement activity permitted or required under this section shall be done in accordance with standard forestry practices and procedures, and all such plantings shall be reasonably maintained and attended to promote successful establishment thereof.

(Ord. eff. 9-6-2012, § 9.20)

§ 91.150 RECOMMENDED PLANT LIST.

The Building Inspector shall maintain a recommended plant list and shall make such list available for use in the preparation of landscape plans to meet vegetation requirements. Note: native vegetation is preferred. Plants not listed may be accepted by the UDO Administrator if they meet the standards defined by this section. It is highly recommended that landscape plans be prepared by or in consultation with a registered landscape architect or qualified landscape design professional.

(Ord. eff. 9-6-2012, § 9.21)

§§ 91.151—91.159 RESERVED.

PART III: BUILDING FACADE DESIGN

§ 91.160 INTENT.

In order to present an attractive face for the town, buildings along roadways should enhance the image of the town. The emphasis should be on architectural detail and human-scale design.

(Ord. eff. 9-6-2012, § 9.22)

§ 91.161 APPLICABILITY.

The requirements of this section shall apply in the following circumstances:

(A) Construction of any new use classified as commercial, office/institutional or multi-family;

(B) Construction of any new use classified as industrial when the building facade is located within 100 feet of a public roadway;

(C) Expansion or modification of an existing commercial or office/institutional use that increase the total enclosed floor area by at least 50% or 5,000 square feet, whichever is greater; and

(D) Where compliance with these standards is explicitly required in other portions of this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 9.23)

§ 91.162 EXEMPT.

Communication towers shall be exempt from these requirements.

(Ord. eff. 9-6-2012, § 9.24)

§ 91.163 STANDARDS.

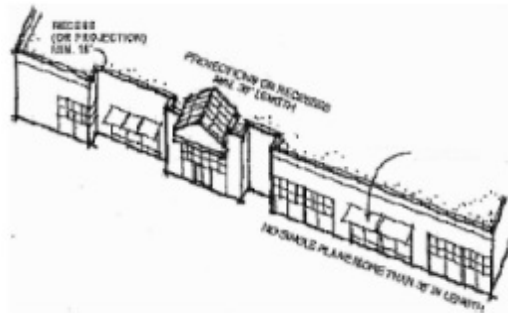
(A) All facades that are visible from a public roadway or an abutting a residential district or use shall be constructed of one or a combination of the following materials: concrete aggregate, stucco, brick, stone, glass or wood, faced concrete block. Artificial materials which closely resemble these materials shall also be allowed.

(B) Long continuous building walls are discouraged and no single facade extending unbroken more than 35 feet in a horizontal plane may be visible from a public roadway. Compliance may be obtained through one of the following:

(1) The use of projections or recesses (articulation). When used, each projection or recess shall have a projection (or depth) dimension of no less than 18 inches and a width of no less than 36 inches; or

(2) The use of columns or other architectural detail to provide visual interest. Where used, columns should be harmonious with the general design of the structure.

(C) At least 25% of the first floor of the street facade must be transparent.



(D) The use of pitched roofs and roof overhangs shall be required within 1,500 feet of a residentially zoned or used development (as measured from either side of the subject property). Recommended roofing materials include slate shingles, asphalt and fiberglass shingles, metal standing seam or tiles. Partial (occupying less than three sides) mansard roofs are discouraged.

(Ord. eff. 9-6-2012, § 9.25)

§ 91.164 ALTERNATIVE COMPLIANCE.

Alternative compliance may be obtained provided the design satisfies the intent of this section. In such cases, the UDO Administrator shall have the authority to approve the following:

(A) Reduced transparency requirements; or

(B) Materials of construction not listed, provided the materials used are implemented in a manner that enhances the surrounding area.

(Ord. eff. 9-6-2012, § 9.26)

§§ 91.165—91.169 RESERVED.

PART IV: OUTDOOR LIGHTING

§ 91.170 PURPOSE AND INTENT.

Nonresidential and multi-family buildings and projects, including outparcels, shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed so as to enhance the visual impact of the project on the community and/or should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes on-site lighting needs without intrusion on adjoining properties or shining directly into the public right-of-way.

(Ord. eff. 9-6-2012, § 9.27)

§ 91.171 APPLICABILITY.

The requirements of this subchapter shall apply to:

- (A) All nonresidential and multi-family development; and
- (B) All residential subdivision development approved following the date of adoption of this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 9.28)

91.172 EXEMPT.

(A) The following activities are exempt from the requirements of this section: temporary outdoor lights used exclusively for temporary events, recreational activities, concerts, plays or other outdoor events that are open to the public, provided that the event or function meets all other applicable Unified Development Ordinance requirements. Such lighting shall be located at least 50 feet from any adjoining residential district or use and designed to the maximum extent possible to avoid intrusion on adjoining property.

(B) Outdoor lighting exempt from this section shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event.

(Ord. eff. 9-6-2012, § 9.29)

§ 91.173 LIGHTING PLAN.

A site lighting plan shall be submitted with all major site plans. Minor and major subdivisions require a lighting plan approved by the Brunswick Electric Membership Corporation (BEMC).

(Ord. eff. 9-6-2012, § 9.30)

§ 91.174 SITE LIGHTING DESIGN REQUIREMENTS.

Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements.

(A) *Fixture (luminaire).*

(1) The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from or shine at eye level into any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.

(2) Under canopy lighting fixtures should be completely recessed within the canopy.

(B) *Fixture height.* Lighting fixtures shall be a maximum of 40 feet in height within the parking lot and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

(C) *Light source (lamp).*

(1) Incandescent, florescent, metal halide or color corrected high-pressure sodium are preferred. The UDO Administrator shall have the authority to approve other lamp types (including light emitting diodes (LEDs) and fiber optics) provided the color emitted is similar to the preferred types. Non-color corrected high pressure sodium lamps are prohibited.

(2) The same light source type should be used for the same or similar types of lighting on any one site throughout any development.

(D) *Mounting.* Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

(E) *Limit lighting to periods of activity.* The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the UDO Administrator to conserve energy, provide safety and promote compatibility between different land uses.

(Ord. eff. 9-6-2012, § 9.31)

§ 91.175 ILLUMINATION LEVELS.

(A) All site lighting shall be designed so that the level of illumination as measured in footcandles (fc) at any one point meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area and average level (the

overall generalized ambient light level), measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

Type of Lighting	LIGHT LEVEL (footcandles)		
	Minimum	Average	Maximum
Architectural lighting	0.0	1.0	5.0
Canopy area lighting	2.0	10.0	15.0
Multi-family parking lot	0.2	1.0	8.0
Nonresidential and multi-family entrances	1.0	5.0	15.0
Nonresidential parking lot	0.2	1.5	10.0
Storage area (security lighting)	0.2	1.0	10.0
Vehicle sales and display	0.2	3.0	15.0
Walkways, landscape or decorative lighting	0.2	0.8	5.0

(B) The maximum level of illumination at the outer perimeter of the site or project is intended to be 0.2 footcandles or less, but in no instance greater than 0.5 footcandles, when abutting a residential zoning district; and, 0.5 footcandles or less, but in no instance greater than 1.0 footcandles, when abutting all other districts or streets.

(Ord. eff. 9-6-2012, § 9.32)

§ 91.176 EXCESSIVE ILLUMINATION.

(A) Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

(B) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

(C) Fixtures used to accent architectural features, landscaping or art shall be located, aimed or shielded to minimize light spill into the night sky.

(D) Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature (i.e., beacons on towers) or shall be permitted as part of a sign in accordance with §§ 91.190 through 91.201, Signs.

(Ord. eff. 9-6-2012, § 9.33)

§ 91.177 NONCONFORMING LIGHTING.

Lighting fixtures existing as of September 6, 2012, may remain, and shall be considered nonconforming structures. Modifications, replacement or expansion shall conform to the standards of this Unified Development Ordinance.

(Ord. eff. 9-6-2012, § 9.34)

§ 91.178—91.179 RESERVED.

PART V: EMERGENCY MANAGEMENT STANDARDS

§ 91.180 GENERAL PROVISIONS.

The following provisions shall apply to all development where noted.

(A) Structures exceeding 30 feet or three stories in height shall provide at least three means of fire apparatus access.

(B) Structures or portions of structures exceeding 30 feet in height above the lowest level of Fire Department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating Fire Department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

(C) Structures having a gross enclosed floor area of over 62,000 square feet shall be provided with two separate and approved fire apparatus access roads. However, when equipped throughout with an approved automatic sprinkler system, projects may be allowed to have a gross floor area of up to 124,000 square feet and provide access through one approved access road.

(D) Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height.

(E) At least one of the required access routes shall be located at least 15 feet, but no more than 30 feet from the structure and shall be parallel to one entire side of the building.

(Ord. eff. 9-6-2012, § 9.35)

§ 91.181 STATE CODES.

The following codes relating to emergency management services shall be adopted and made applicable to all development activities:

(A) North Carolina State Fire Code (current edition), Table B105.1 Minimum Required Fire Flow and Flow Duration for Buildings, as amended;

(B) North Carolina State Fire Code (current edition), Table C105.1 Number and Distribution of Fire Hydrants, as amended; and

(C) North Carolina State Fire Code (current edition), Appendix D, Fire Apparatus Access Roads, as amended.

(Ord. eff. 9-6-2012, § 9.36)

§§ 91.182—91.189 RESERVED.

PART VI: SIGN REGULATIONS

§ 91.190 PURPOSE.

The purpose of this subchapter is to provide fair and comprehensive regulations that will:

- (A) Provide a pleasing overall environmental setting and good community appearance which is deemed vital to tourism and to the continued economic attractiveness of the town;
- (B) Allow signs appropriate to the planned character of each zoning district;
- (C) Promote highway safety, the welfare and comfort of travelers, the convenience of the public and the enjoyment of public travel;
- (D) Restrict private signs which overload the public's capacity to receive information and increase the probability of accidents by distracting attention or obstructing vision;
- (E) Protect property values within the town and its extraterritorial area; and
- (F) Reduce conflict among private signs and between private and public information systems.

(Ord. eff. 9-6-2012, § 9.37)

91.191 ZONING CERTIFICATE PROCEDURES.

(A) *Zoning certificate required.*

(1) It shall be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a zoning certificate from the UDO Administrator as required herein unless the sign is temporary and exempt per the requirements of this Unified Development Ordinance.

(2) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a zoning certificate, provided the copy change does not change the nature of the sign such as to render the sign in violation of this Unified Development Ordinance.

(B) *Application and issuance of zoning certificate.* Applications for zoning certificates for all signs shall contain or have attached to it the following information which shall be submitted to the UDO Administrator, along with the payment of a fee as set forth in the town's budget or as established by resolution of the Board of Commissioners filed in the office of the Town Clerk (see § 91.34):

(1) The street and number of the structure where the sign is to be erected, and the tax parcel number for the zoning lot on which the sign is to be located;

(2) Names, addresses and telephone numbers of the applicant/owner of the property on which the sign is to be erected or affixed, the owner of the sign, and/or the licensed contractor erecting or affixing the sign;

(3) Any other information as the UDO Administrator may reasonably require to determine full compliance with this and other applicable codes;

(4) Two copies of scaled drawings of the plans and specifications of the sign to be erected or affixed. All plans and specifications must meet the State Building Code and any other applicable laws and regulations;

(5) Each application for a zoning certificate to erect a sign must be accompanied by a drawing to scale showing:

(a) A site plan of the property involved, showing accurate placement of the proposed sign including, but not limited to, setbacks and all structures including existing signs;

(b) The design of the sign, including dimensions;

(c) Method of attachment or support;

(d) Source of illumination;

(e) The relationship to any building or structure to which it is or is proposed to be installed or affixed;

(f) A plot plan to scale indicating the location of the sign relative to property lines, easements, streets, sidewalks and other signs;

(g) For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and the size of existing wall signs shall also be included on an elevation drawing; and

(6) All signs over six feet in height shall be designed by a State licensed engineer.

(C) *Issuance of zoning certificates.* Upon the filing of an application for a zoning certificate, the UDO Administrator shall examine the plans and specifications if required, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this Unified Development Ordinance and other applicable codes, a zoning certificate shall be issued. Any zoning certificate issued in accordance with this Unified Development Ordinance shall automatically become void unless the work for which it was issued has visibly been started within six months of the date of issue or if the work authorized by it is suspended or abandoned for one year.

(D) *Zoning certificate exemptions for temporary signs.* A zoning certificate is not required in the following cases.

(1) Incidental informational signs. A sign, generally informational, that has a purpose to the use of the subject property on which it is located, such as “no parking,” “entrance,” “loading only,” and other similar directives.

(2) Residential construction signs. All construction signs shall require issuance of a building permit for the primary structure prior to installation. One sign is allowed per residential premises and may not exceed ten square feet in sign area. The sign shall not be illuminated and may only appear at the construction site. Removal of the sign is required prior to issuance of a certificate of compliance or a certificate of occupancy.

(3) Non-commercial temporary signs. Temporary signs not exceeding four square feet in area, and three feet in height if freestanding are allowed in all residential districts. The number of these signs is limited to one per 100 feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three such signs allowed per lot. The temporary sign may be displayed up to 15 days prior to and/or following the specific event with which the sign is associated.

(4) Developer’s construction signs. A developer may have a 40 square foot sign per development entrance for a subdivision and/or approved site plan.

(5) Commercial/industrial temporary signs. Temporary signs not exceeding eight square feet in area, and six feet in height if freestanding are allowed in all commercial/industrial districts. The number of these signs is limited to one per 100 feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three such signs allowed per lot. The temporary sign may be displayed up to 15 days prior to and/or following the specific event with which the sign is associated.

(6) Fence wraps. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this division may display any advertising other than advertising sponsored by a person directly involved in the construction project and/or which monetary compensation for the advertisement is not paid or required.

(7) Flags or pennants. Flags or pennants that do not display a logo, symbol, statement or expression relating to a commercial message as defined herein.

(a) All flags shall be displayed on flagpoles.

(b) In nonresidential zoning districts, flagpoles shall not exceed the maximum height allowed in the zoning district where the flagpole is located.

(c) In residential districts, flagpoles shall not exceed the maximum height allowed in the zoning district where the flagpole is located or 25 feet in height, whichever is less.

(d) Non-vertical flag poles are prohibited in nonresidential zoning districts.

(e) Each premises or multi-tenant development shall be allowed a maximum of two flagpoles and a maximum of three flags shall be allowed per flagpole.

(f) All flags and flagpoles shall be maintained in good repair. A flagpole with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.

(g) Flags mounted directly on a building wall or roof in nonresidential zoning districts are prohibited. In a residential zoning district, flags on poles may be mounted on a wall, roof, tree or lawn, provided they are located within the property boundaries of the premises. Such flags may include the name of the development and/or developer.

(h) Flags or flagpoles shall not be placed in any public right-of-way or in any manner that obstructs the view of any roadway, thereby creating a safety hazard.

(i) Governmental flags, as defined by G.S. Chapter 144, shall be displayed in a manner that is consistent with all applicable State and Federal regulations including, but not limited to, the patriotic customs set forth in 4 U.S.C. §§ 5 through 10, as amended.

(j) Pennants may be allowed in all commercial districts 30 days before and 30 days after the initial opening date of a business.

(k) Pennants and other temporary signage are allowed for up to 30 consecutive days per calendar year (January through December) for each nonresidential establishment or premises with multiple nonresidential establishments in all nonresidential districts. All such temporary signage must be located within the property boundaries of the subject premises. Prior to installation, a permit from the town must be obtained for such temporary signage.

(l) Pennants and other temporary signage are allowed for up to 30 consecutive days per calendar year (January through December) in all residential districts in conjunction with sales or promotional events associated with the subject property. All such temporary signage must be located within the property boundaries of the subject premises. Prior to installation, a permit from the town must be obtained for such temporary signage. This section is not applicable to real estate signs pertaining to the sale of individual residential property as outlined in division (D)(3) above.

(Ord. eff. 9-6-2012, § 9.38; Am. Ord. 16-1, passed 4-7-2016)

§ 91.192 GENERAL REQUIREMENTS.

(A) If any application for a zoning certificate is not approved, the UDO Administrator shall state in writing on the application the cause for such disapproval, and the owner of record or the owner's agent or representative shall be notified of the same within 30 days of the decision, by certified mail, return receipt requested.

(B) The UDO Administrator shall have the authority to order the removal or modification of any sign which does not meet the requirements of this Unified Development Ordinance.

However, such removal or modification is not required to abate a hazardous or unsafe condition that poses eminent peril. In such an instance, the UDO Administrator shall be authorized to act expeditiously to cause the removal of such a hazard prior to the notification of the owner of record.

(C) No sign shall be erected, placed or maintained in such a manner that any portion of its surface or its supports will interfere in any way with the free use of or access to any sidewalk, fire escape, entrance, exit or standpipe, or so as to obstruct any window so that light or ventilation is reduced below minimum standards required by any applicable law or building code.

(D) Except where specifically exempted by this Unified Development Ordinance, all signs, including the supports, frames and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed or painted on any utility pole, light standard, telephone pole, any tree, rock or other natural object. Any sign that is in violation of this Unified Development Ordinance is subject to being confiscated by the UDO Administrator.

(E) Refer to §§ 91.110 through 91.116 for nonconforming sign requirements.

(Ord. eff. 9-6-2012, § 9.39)

§ 91.193 PROHIBITED SIGNS.

(A) Any sign that revolves, changes copy or is otherwise animated, or that utilizes movement or apparent movement to attract the attention of the public is prohibited. This prohibition shall include, but not be limited to, propellers, discs, banners, pennants, streamers and animated display boards and flags.

(B) All portable signs are prohibited. This prohibition shall not apply to signs erected by or pursuant to the authorization of the town for events of a community nature including, but not limited to, emergencies or for other governmental purposes. This prohibition shall not apply to signs placed upon vehicles that are operational and which are not parked at one location for over 24 hours.

(C) Vehicle sign: any sign that is attached to, painted on or pulled by any vehicle that is parked on any street or in any parking space for the primary purpose of advertising.

(D) No signs shall overhang or be erected in any public right-of-way. Traffic regulation, information or warning signs erected by the State Department of Transportation or signs erected by the town are exempt.

(E) Signs which obstruct the view of motor vehicle operators entering a public roadway from a driveway, street or alley are prohibited.

(F) Signs which may be confused with an official traffic sign, signal or other device or any other official sign or which uses the words "Stop," "Warning," "Danger," "Caution" or similar words implying the existence of danger or need for stopping or maneuvering are prohibited.

(G) All message board signs are prohibited. This prohibition does not include menu and sandwich board signs.

(H) All off-premises signs are prohibited.

(I) All inflatable signs, balloons and similar decorations are prohibited.

(J) All roof signs are prohibited.

(K) Any illuminated tubing or strings of lights outlining property lines, festoon lighting, open sales areas, rooflines, doors, windows, edges of walls, trees or other landscaping are prohibited. This prohibition shall not apply to temporary holiday lighting; such temporary lighting shall be removed by the owner or tenant within a reasonable time following the end of the holiday.

(L) Any sign that exhibits statements, words or pictures of an indecent, obscene or pornographic nature is prohibited.

(M) Any sign that obstructs or interferes with any window, door, sidewalk or fire escape is prohibited.

(N) All projecting signs are prohibited.

(O) All beacons and spotlights are prohibited. Illumination system(s) shall not contain or utilize any beacon, spot, search or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property, nor shall such lights be operated outside, under any circumstances, except by authorized agencies for emergency services purposes.

(P) Flood lights shall not be utilized as a part of a sign illumination system which are not hooded or shielded so that the light source is not visible from any public right-of-way or adjacent property nor shall any sign otherwise reflect or emit a glaring light so as to impair driver vision.

(Q) Any sign or sign structure that is structurally unsafe as determined by the UDO Administrator or Building Inspector is prohibited.

(R) Any sign that incorporates a computer screen, electronic images or electronic characters or flashing lights is prohibited. This prohibition shall not apply to digital menu receipt boards and signage used to indicate time, temperature or fuel prices.

(S) Stacking signs on top of one another is prohibited. This prohibition against double decking shall not apply to multi-tenant developments as allowed by § 91.198(E).

(T) All snipe signs are prohibited. Snipe signs are off-premises signs that are tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects.

(U) Signs painted on or attached to trees, fences or fence posts and telephone or utility poles or signs on or attached to rocks or other natural features are prohibited. Any

commercial identification or advertising signs on benches or refuse containers are also prohibited.

(V) Pavement markings are prohibited except those of a customary traffic-control nature.

(W) Any sign located or designated so as to intentionally or effectively deny an adjoining property owner reasonable visual access to an existing sign is prohibited.

(Ord. eff. 9-6-2012, § 9.40)

§ 91.194 SIGN AREA AND LOCATION.

The following standards shall apply to all signs:

(A) *Location, height and area.*

(1) On-premises column signs and ground mounted signs shall be located at least four feet behind any right-of-way.

(2) Computation of height shall be determined by the vertical distance measured from the highest point of the sign, including any molding, trim, border or frame above the roadway surface from which the sign is to be viewed. Signs shall not be placed upon a swale or mound built for the purpose of altering the height of the sign in a manner inconsistent with the provisions of this Unified Development Ordinance.

(3) Computation of area shall be determined by the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy are not included in the sign area.

(B) *V-type signs.* V-type signs shall be considered two signs when the angle between the two surfaces is greater than 30 degrees.

(Ord. eff. 9-6-2012, § 9.41)

§ 91.195 ILLUMINATION.

(A) All signs authorized by this Unified Development Ordinance may be illuminated internally or externally.

(1) The intensity of external lighting shall not exceed 20 footcandles. External lighting directed toward a sign shall be designed and shielded so that it illuminates only the face of the sign and does not shine into any alley, road right-of-way or adjacent properties. The sign base and landscaping shall be designed to shield the light source so that it is not visible from any right-of-way or adjacent properties.

(2) The intensity of the internal lighting of any sign shall not exceed 500 watts per side.

- (B) All illumination shall provide a continuous, steady white light source.
- (C) Colored lighting is prohibited.
- (D) No illumination shall involve movement or cause the illusion of movement.

(Ord. eff. 9-6-2012, § 9.42)

§ 91.196 GENERAL MAINTENANCE REQUIREMENTS.

To ensure that signs are erected and maintained in a safe and attractive condition, the following maintenance requirements shall apply to all signs.

(A) Every sign and its supports, braces, guys, anchors and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept free from defective or missing parts or peeling paint and shall be sufficiently stabilized to withstand wind damage.

(B) A sign shall have no more than 10% of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period more than 14 successive days.

(C) A sign shall not have weeds, vines or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of-way from which it is to be viewed, for a period of more than 15 successive days.

(D) An illuminated sign shall not have only partial illumination for a period of more than 15 successive days.

(E) Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the UDO Administrator, the owner thereof, or the person or firm maintaining the sign, shall, upon written notice from the UDO Administrator, forthwith in the case of immediate danger and in any case within ten days, secure the sign in a manner to be approved by the UDO Administrator, in conformity with the provisions of this section or remove the sign. If the order is not complied with within ten days, the UDO Administrator shall remove the sign at the expense of the owner or lessee thereof.

(Ord. eff. 9-6-2012, § 9.43)

§ 91.197 RECONSTRUCTION OF DAMAGED SIGNS OR SIGN STRUCTURES.

(A) Any conforming or permitted nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within 30 days and completed within 60 days of such damage. However, if the sign should be declared unsafe by the UDO Administrator, the owner of the sign or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the UDO Administrator.

(B) For the purposes of this section, a nonconforming sign or its structure shall be considered destroyed, and therefore not repairable, if it receives damage to the extent of more than 50% of its value as listed for tax purposes by the Brunswick County Tax Office.

(Ord. eff. 9-6-2012, § 9.44)

§ 91.198 COMMERCIAL, BUSINESS AND INDUSTRIAL DISTRICTS: ADDITIONAL REQUIREMENTS.

(A) *Generally.* No merchandise sold at a business may be used as off-site signage.

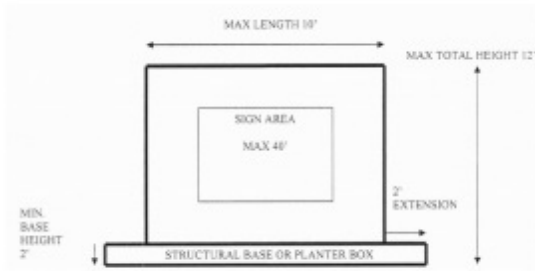
(B) *Materials and design.* Materials, colors and shapes of proposed signs and sign structures shall be compatible with the related buildings. All signs shall be of sandblasted, routed or carved wood, individual wood letters or of high-density sign foam that have the appearance of sandblasted or carved wood and individual letters; stained or colored glass; gold leaf; bronze; or masonry; unless otherwise provided by this UDO. Sign structures and supports may be made of stucco, natural and painted wood, brick, stone or other materials with similar texture and appearance that are considered appropriate to the town's appearance. Colors of paints, stains and other finishes or materials shall be nature-blending, with no more than four colors, excluding black and white, used on any sign. Fluorescent colors are prohibited. Signs shall respect the overall town architectural composition of its buildings and its scale, and not overwhelm the facade. Signs shall not cover up or interrupt major features of a building. The UDO Administrator shall approve all sign materials, colors and shapes for compliance with this Unified Development Ordinance.

(C) *Ground-mounted sign.*

(1) Limited to one sign per parcel, multi-tenant development or site plan. However, where the lot, multi-tenant development or site plan has frontage on more than one street, with building entrances on each street, one such sign will be allowed per street frontage.

(2) The height of the ground-mounted sign shall not exceed 12 feet, including its structure or support. The length of the sign shall not exceed ten feet exclusive of the structural base or planter box. Refer to the figure below.

(3) The sign area shall not exceed 40 square feet. The sign shall be attached to a structural base or planter box that is at least two feet high. A structural base shall be at least two feet longer than the dimensions of the sign; and a plant box shall be at least two feet wider and two feet longer than the dimensions of the sign. There shall be a maximum of two sides per sign. At least 30 square feet of landscaped area shall be located at the base of each ground-mounted sign.

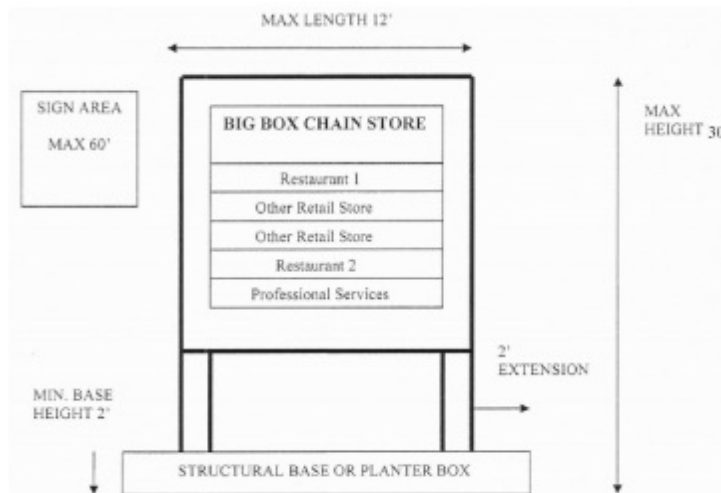


(D) *Column/pole sign.*

(1) Limited to one sign per premises; except in the case of multi-tenant development, then limited to one sign per development; except where the lot or multi-tenant development has frontage on more than one street, with building entrances on each street, one such sign will be allowed per street frontage meeting those requirements.

(2) No portion of the sign shall exceed 30 feet in height including its structure or support. The total length of the sign shall not exceed 12 feet exclusive of the structural base or planter box.

(3) The sign area of the column/pole sign shall not exceed 60 square feet. Kiosk signs shall not exceed 90 square feet of sign area, including all sides. The sign shall be attached to a structural base or planter box that is at least two feet high. The base or planter box shall be at least two feet wider and two feet longer than the dimensions of the sign. At least 30 square feet of landscaped area shall be located at the base of each column sign. Refer to the figure below.



(E) *Multiple tenant buildings.* Where a premises or unified development contains a building with multiple tenants or a shopping center, a maximum of one ground sign or column/pole sign may be permitted at each principal point of access to the development from a collector street. This provision is intended to be limited to one such sign per street frontage. The sign may identify the building, shopping center or project name; the names of

the tenants; or a combination thereof. All multi-tenant signs must be designed to allow for changes in tenant occupancy. Unused tenant identification areas shall be filled with matching decorative panels.

(F) *Wall and awning signs.*

(1) Limited to one sign per business. However, where the business has frontage on more than one street, with building entrances on each street, one such sign will be allowed per street frontage meeting those requirements.

(2) The sign area shall be limited to one square foot of sign area per linear foot of the owner or tenant's contiguous exterior wall that is oriented toward a specific street. If a building does not front on a street, or have a public entrance, the sign area for the building shall be determined by the UDO Administrator as if the building had street frontage.

(3) The sign shall not extend outward more than six inches from the building; except hanging signs attached to an awning.

(4) No wall sign may extend above the lower eave line of a building with a pitched roof, except if the roof is a mansard-type roof, in which case the sign may be attached flat against, but not extend above, the roof.

(5) A wall sign may be attached to an overhanging awning.

(6) A wall sign may be internally or externally illuminated.

(7) No wall sign may extend above parapet walls.

(G) *Window sign.* A window sign, consisting of individual letters applied directly to the inside surface of the window glass, shall be allowed. The sign must be in proportion to window size. Window signs shall not exceed 12 square feet nor fill up more than 20% of the window area, whichever is less. Lettering, logo, trademark or service mark of the business or establishment shall not exceed 12 inches in height.

(H) *Menu and sandwich board signs (non-drive through establishments).* Limited to one sign per business. Signs shall be limited to a maximum height of four feet and a maximum length of three feet. Folding and double-faced signs shall be considered one sign. Menu and sandwich board signs shall not be located on any public right-of-way.

(I) *Signage standards for specific business operations.* Signage standards for specific business operations are in addition to the general standards outlined in this section and recognize the different types of traffic, use and need of signs for the assistance of the traveling public and the prosperity of business owners and employees through the attraction, retention and furtherance of commerce throughout the town.

(1) Signage for retail and restaurant establishments. Retail establishments may avail themselves of the maximum signage allowable under this section and additionally may supplement such maximum via the standards of this section.

(a) Window sign. A window sign, consisting of individual letters or panels applied directly to the inside surface of the window glass, shall be allowed. The sign must be in proportion to window size. Window signs shall not exceed 20 square feet nor fill up more than 50% of the window area, whichever is less.

(b) Sandwich board sign. Limited to one sign per business. Signs shall be limited to a maximum height of four feet and a maximum length of three feet. Folding and double-faced signs shall be considered one sign. Sandwich board signs shall not be located on any public right-of-way, except that where the edge of the right-of-way is the face of the building and where such building abuts a public sidewalk, such signage may be allowed as a right-of-way encroachment.

(c) Banners. Limited to one banner per business. Banners shall be limited to a maximum height of six feet and a maximum length of ten feet. Banners shall contain the imprint or logo of the business in which the banner is intended. No additional logos, joint advertising or insignia shall be permitted.

(d) Temporary advertisement flags. Limited to two flags per business, but no more than six flags at one time per approved major or minor site plan. Temporary advertisement flags no greater than ten feet in height and no greater than four feet in width and on a temporary basis shall be permitted and shall contain the imprint or logo of the business in which the flag is intended. No additional logos, joint advertising, or insignia shall be permitted. In a Planned Unit Development, the location of temporary advertisement flags shall be on the premises of the business or in a common pedestrian ingress area immediately in-front or adjacent to the primary pedestrian entrance of the business. In no case shall the temporary advertisement flag be placed further than ten feet from said primary pedestrian entrance. No temporary advertisement flag shall be placed in the vehicular zone including parking areas, driveways, or vehicular ways. Placement of flags shall not impede ingress/egress to the building.

(e) Sale/event/holiday signs. For no more than 30 days annually, special signage for sales/events/holidays may be placed by a business on premises with the issuance of a permit. Such signs shall be of one of the categories above with the following supplemental standard: for each item in this division (I)(1), the quantity of signs shall double.

(f) Daily specials. Daily, restaurants and food service establishments may be permitted one additional sandwich sign subject to the standards of division (I)(1)(b). The heading of such sign shall read in addition to any such text as deemed prudent by the business: "Open for Business," "Daily Specials."

(2) Adult entertainment business signs. Adult entertainment business signage shall be approved through the issuance of the special use permit as specified in § 91.56.

(a) It shall be unlawful for the owner or operator of any regulated establishment or any other person to erect, construct or maintain any sign for the regulated establishment other than one primary sign and one secondary sign, as provided herein.

(b) Primary signs shall have no more than two display surfaces. Each such display surface shall:

1. Be a flat plane, rectangular in shape;
2. Not exceed 60 square feet in area; and
3. Not exceed ten feet in height or ten feet in length.

(c) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

1. The name of the regulated establishment;
2. One or more of the following phrases: adult bookstore, adult movie theater, adult cabaret, adult entertainment or adult model studio; and
3. Primary signs for adult movie theaters may contain the additional phrase, Movie Titles Posted on Premises.

(j) *Home occupation signs.* Home occupation signs shall not exceed two square feet in area. They shall be either unlighted flush mounted wall signs or unlighted freestanding signs not exceeding three feet in height.

(Ord. eff. 9-6-2012, § 9.45; Am. Ord. 16-1, passed 4-7-2016)

§ 91.199 SUBDIVISION IDENTIFICATION SIGNS.

(A) A ground sign with the name of the subdivision may be located on one or both sides of each major entrance into the development. Any such sign shall not be located in any street right-of-way.

(B) The height of the ground sign shall not exceed 12 feet, including its structure or support. The length of the sign shall not exceed ten feet exclusive of the structural base or planter box. The sign area shall not exceed 60 square feet. The sign shall be attached to a structural base or planter box that is at least two feet high. A structural base shall be at least two feet longer than the dimensions of the sign; and a planter box shall be at least two feet wider and two feet longer than the dimensions of the sign.

(C) The sign(s) shall be part of a decorative brick, stone or masonry wall of similar design compatible with the character of the subdivision or development.

(D) Each sign shall have a minimum of 50 square feet of landscaped area at the base of the sign including vegetative species planted/maintained as specified in §§ 91.140 through 91.150.

(E) The subdivision covenants shall provide that any subdivision sign and landscaping shall be perpetually maintained by the property owners within the subdivision.

(Ord. eff. 9-6-2012, § 9.46)

§ 91.200 UNLAWFUL CUTTING OF TREES.

All tree removal shall require a permit ~~as specified in § 91.142(C)~~. The issuance of a permit shall not prohibit tree removal along a Federal highway as permitted by North Carolina Senate Bill 183.

(Ord. eff. 9-6-2012, § 9.47)

§ 91.201 EXCLUDED SIGNS.

(A) Official signs of a noncommercial nature erected by public utilities to identify a line or facility location or to advise or warn the public;

(B) Signs that are posted upon property to guide or direct traffic, to identify restricted or public parking areas, or to warn the public against trespassing or danger from animals and do not contain any commercial advertising;

(C) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights;

(D) Building markers, historical markers or memorial tablets;

(E) Signs associated with the operation of equipment or other functional elements such as menu boards, automatic teller machines, gas pumps, vending machines, scoreboards, license plats and similar incidental signs;

(F) Address and name signs. Signs or plates on residential structures giving the name and/or address of the occupant;

(G) Displays, including lighting, erected in connection with the observance of holidays. Such displays shall not be considered as illuminated signs and they shall be removed within ten days following the holiday;

(H) On-premises directional and instructional signs not exceeding four square feet in area apiece. These signs shall not contain advertising matter; and

(I) Identification signs not exceeding three square feet in area (only one per premises).

(Ord. eff. 9-6-2012, § 9.48; Am. Ord. 16-1, passed 4-7-2016)

§§ 91.202—91.209 RESERVED.

PART VII: SUBDIVISIONS

§ 91.210 STANDARDS FOR REVIEW.

Refer to § 91.67 for the subdivision review process. Decision on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in this subchapter. Whenever the Unified Development Ordinance criteria for decisions requires application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval.

(Ord. eff. 9-6-2012, § 9.49)

§ 91.211 SKETCH PLANS.

A sketch plan is required and shall include the information specified in § 91.62; however, provided that a second alternative sketch plan shall be provided should any lot on the first sketch plan be located within a Special Flood Hazard Area. The alternative sketch plan shall depict the same tract of land with no developable lots in the Special Flood Hazard Area and shall be considered an alternate sketch plan for approval.

(Ord. eff. 9-6-2012, § 9.50; Am. Ord. 19-2, passed 7-12-2018)

§ 91.212 PRELIMINARY PLATS FOR MINOR AND MAJOR SUBDIVISIONS.

The preliminary plat shall depict or contain the information provided in § 91.214. Preliminary plats shall be clearly and legibly drawn at a scale of not less than 200 feet to one inch.

(Ord. eff. 9-6-2012, § 9.51)

§ 91.213 FINAL PLATS FOR ALL SUBDIVISIONS.

(A) *Final plat contents.* The final plats shall depict or contain the information provided in § 91.214. Final plats shall be clearly and legibly drawn by a registered land surveyor currently licensed in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The plat shall also be drawn at a scale of not less than 200 feet to one inch and shall be drawn on a sheet size of mylar acceptable to the Register of Deeds of Brunswick County.

(B) *Certifications.* The final plat shall contain the certifications outlined in § 91.229.

(Ord. eff. 9-6-2012, § 9.52)

§ 91.214 INFORMATION TO BE PROVIDED ON PRELIMINARY AND FINAL PLATS.

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required.

Information	Preliminary Plat	Final Plat
Vicinity map (6 in. wide by 4 in. high) showing location of subdivision in relation to neighboring tracts, subdivision, roads and waterways (to include streets and lots of adjacent developed or platted properties). Also include corporate limits, town boundaries, county lines if on or near subdivision tract.	X	X
Boundaries of tract and portion to be subdivided, including total acreage to be subdivided, distinctly and accurately represented with all bearings and distances shown.	X	X
Zoning classification of tract and of adjacent properties within 100 feet.	X	X
Proposed street layout and right-of-way width, lot layout and size of each lot. Number lots consecutively throughout the subdivision.	X	X
Name of proposed subdivision.	X	X
Statement from the County Health Department that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision, and/or statement from the County Public Utilities that application has been made for public water and/or sewer permits.	X	X
Graphic scale.	X	X
North arrow and orientation.	X	X
Concurrent with submission of the preliminary plat to the town, the subdivider shall submit copies of the preliminary plat and any accompanying material to any other applicable agencies concerned with new development, including, but not limited to: District Highway Engineer, County Board of Education, U.S. Army Corps of Engineers, State Department of Natural Resources and Community Development, for review and recommendation.	X	X
List the proposed construction sequence.	X	X
Stormwater plan - see § 91.270 (approval by Town Engineer required before preliminary plat approval).	X	X
Proposed and existing topographic contours with intervals no greater than 2-ft. intervals.	X	X
Survey plat, date(s) survey was conducted and plat prepared, the name, address, phone number, registration number and seal of the registered land surveyor.	X	X
Names, addresses and telephone numbers of all owners, mortgagees, land planners, architects, landscape architects and professional engineers responsible for the subdivision (include registration numbers and seals, where applicable).	X	X
Date of the drawing(s) and latest revision date(s).	X	X
The owner's name(s) of adjoining properties and zoning district of each parcel within 100 ft. of the proposed site.	X	X
Tabulate bulk requirements and compare to the proposed lot layout, such as building setbacks, lot area, width and the like for the applicable zoning district (see §§ 91.70 through 91.74).	X	X
State on plans any variance request(s).	X	X
Show existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining. Show wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds and any other natural features affecting the site. A survey is required of all trees with a diameter of 8 in. and greater. See § 91.142 (Tree Resource Management).	X	X

Information	Preliminary Plat	Final Plat
The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or FIRM maps (FEMA). State the base flood elevation data for subdivision.	X	X
Show the minimum building setback lines for each lot.	X	X
Show square footage of each proposed building.	X	X
Proposed building height of each structure.	X	X
Finished floor elevation of each structure.	X	X
Provide grading and landscape plans.	X	X
Show dimensions and details of all proposed entrance or subdivision signage.	X	X
Show pump station detail including any tower, if applicable.	X	X
Show area which will not be disturbed of natural vegetation (percentage of total site).	X	X
Label all buffer areas (percentage of total site).	X	X
Provide details for all structures and appurtenances.	X	X
Soil erosion plan.	X	X
Show temporary construction access pad.	X	
The following data concerning proposed streets:		
Existing and proposed streets on adjoining properties and in the new subdivision.	X	X
Rights-of-way, locations and dimensions.	X	X
All existing and proposed grades.	X	X
Curbing pavement widths.	X	X
Typical street cross-sections.	X	X
Street names.	X	X
Traffic signage location and detail.	X	X
Design engineering data for all corners and curves.	X	X
For office review; a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas.	X	X
Street maintenance agreement in accordance with § 91.223.	X	X
Type of street dedication; all streets must be designated either public or private. (Where public streets are involved which will be dedicated to the town, the subdivider must submit all street plans to the Building Inspector for approval prior to preliminary plat approval.) Where public streets are involved which will not be dedicated to a municipality, the subdivider shall submit the following documents to the State Department of Transportation District Highway Engineer.	X	X
Where streets are dedicated to the public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with § 91.223.	X	X

Information	Preliminary Plat	Final Plat
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the State Department of Transportation, Division of Highways' Manual on Driveway Regulations.	X	X
Evidence that the subdivider has applied for such approval.	X	X
Evidence that the subdivider has obtained such approval.	X	X
The location and dimensions of all:		
Utility and other easements.	X	X
Pedestrian and bicycle paths.	X	X
Areas to be dedicated to or reserved for public use.	X	X
Areas to be used for purposes other than residential with the purpose of each stated.	X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association or for tenants remaining in subdivider ownership) of recreation and open space lands.	X	X
The site/civil plans for utility layouts including:		
Sanitary sewers, invert elevations at manhole (include profiles).	X	X
Storm sewers, invert elevations at manhole (include profiles).	X	X
Other drainage facilities, if any.	X	X
Water distribution lines.	X	X
Gas lines.	X	X
Telephone lines.	X	X
Electric lines.	X	X
These plans must illustrate connections from the proposed houses to the existing systems, showing line sizes, the location of fire hydrants, blow offs, manholes, force mains and gate valves.	X	X
Plans for individual water supply and sewage disposal systems, if any.	X	X
Provide site calculations including:		
Acreage in buffering/recreation/open space requirements.	X	X
Linear feet in streets calculated to acreage.	X	X
Net buildable area calculated in acreage.	X	X
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places.	X	X
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distance for the centerline of curved property lines that is not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.	X	X
The accurate locations and descriptions of all monuments, markers and control points.	X	X
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established. Must include statement of compliance with state, local and Federal regulations.	X	X

Information	Preliminary Plat	Final Plat
A copy of the erosion control plan submitted to the Wilmington Regional Office of NC-DNRCD, when land disturbing activity amounts to one acre or more.	X	X
Boundaries of applicable areas of environmental concern in accordance with the State Guidelines for AECs (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974.	X	X
All certifications required in § 91.229.	X	X
Any other information considered by either the subdivider, Planning Board or Board of Commissioners to be pertinent to the review of the plat.	X	X
Improvements guarantees (see § 91.67(E)(4)).		X
Quality assurances signature below.	X	X

Quality assurance signature, signifying that all checklist items are enclosed with the submittal package. Return signed checklist with submittal.

 Owner or Owner's Authorized Agent
 (Ord. eff. 9-6-2012, § 9.53)

 Date

§ 91.215 RECOMBINATION OF LAND.

(A) Any plat or any part of any plat may be vacated by the owner or developer at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the same agencies as approved the final plat. The Board of Commissioners may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A) through (C) above, by all owners of the lots in such plat joining in the execution of such writing.

(Ord. eff. 9-6-2012, § 9.54)

§ 91.216 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(Ord. eff. 9-6-2012, § 9.55)

§ 91.217 COMPLIANCE WITH PROVISIONS REQUIRED.

Each subdivision shall contain the improvements specified in this section, which shall be installed in accordance with the requirements of this Unified Development Ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this Unified Development Ordinance. Land shall be dedicated and reserved in each subdivision as specified in this section. Each subdivision shall adhere to the minimum standards of design established by this section.

(Ord. eff. 9-6-2012, § 9.56)

§ 91.218 SUITABILITY OF LAND.

(A) Land which has been determined by the Building Inspector on the basis of engineering or other expert surveys to post an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct the conditions and to eliminate the dangers.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

(C) All subdivision proposals shall be consistent with §§ 91.240 through 91.263, Flood Damage Prevention. In areas of flood hazard, identified on the Flood Insurance Rate Map of Brunswick County, North Carolina, as Zones A and AE, all subdivisions shall be designed to minimize flood damage in accordance with the provisions of §§ 91.240 through 91.263.

(Ord. eff. 9-6-2012, § 9.57)

§ 91.219 NAME DUPLICATION.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Brunswick County.

(Ord. eff. 9-6-2012, § 9.58)

§ 91.220 SUBDIVISION DESIGN.

(A) *Facilities.* Adequate public facilities shall be provided within the confines of any subdivision to meet the public demand created by the subdivision for such facilities as deemed appropriate by the Planning Board and in compliance with State law. Such facilities include but are not limited to schools, libraries, parks, recreational facilities, public access facilities to natural/conservation areas, greenways/multi-modal paths, fire stations, police stations, emergency management facilities, drainage facilities, solid waste handling facilities, and other such facilities that are intended for the use and enjoyment of the public.

(B) *Blocks and lots.*

(1) The lengths, widths and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1,320 feet.

(3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, in non-residential subdivisions, or where abutting a water area.

(4) Where deemed necessary by the Planning Board or UDO Administrator, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(5) Block numbers shall conform to the Brunswick County 911 number system, if applicable.

(6) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of this Unified Development Ordinance. It is not sufficient for the average lot to meet zoning requirements.

(7) If not provided central water and/or sewer service, lots shall meet applicable County Health Department requirements.

(8) Double frontage lots shall be avoided wherever possible.

(9) Flag lots shall be avoided wherever possible.

(10) Side lot lines shall be substantially at right angles to or radial to street lines.

(C) *Cluster development.* Every lot shall meet the minimum size as specified in § 91.75 except lots permitted to utilize the clustering provision. Lots may be reduced using this provision but any lot area reduced shall be placed in common area and shall in no way increase the number of lots normally allowed by using this section. Averaging lot size can be approved on a case by case basis by the Planning Board where no additional lots are created.

(1) Density bonuses shall be allowable when a cluster development avoids developing in a Special Flood Hazard Area such that density may increase 25% above the density normally allowed in the Unified Development Ordinance.

(D) *Traditional neighborhood development.* Traditional neighborhood development is encouraged to the extent practicable. Design standards contained in this Unified Development Ordinance may be replaced when a Traditional Neighborhood Development is proposed and rezoned to a Planned Residential Development zoning district provided that the North Carolina Department of Transportation's Traditional Neighborhood Development standards are used.

(E) *Easements.* Easements shall be provided as follows.

(1) Utility easements.

(a) Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least ten feet wide for water and sanitary sewer lines as required by the companies involved, for telephone, gas and power lines.

(b) The Planning Board will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

(2) Drainage easements. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

(3) Greenway/multi-modal path easements. Where a subdivision, as deemed by the Planning Board, warrants additional off right-of-way paths for walking and recreation, a greenway and/or multi-modal path easement may be required. Such easement, where practical, shall run coterminous with drainage easements.

(Ord. eff. 9-6-2012, § 9.59; Am. Ord. 19-2, passed 7-12-2018)

§ 91.221 STORMWATER DRAINAGE FACILITIES.

The preliminary plat shall be accompanied by evidence satisfactory to the Planning Board as to the proposed method of providing for stormwater drainage in accordance with § 91.270.

(Ord. eff. 9-6-2012, § 9.60)

§ 91.222 EROSION AND SEDIMENTATION CONTROL.

The preliminary plat shall be accompanied by a written statement from NCDENR, or the UDO Administrator, as the case may be, that any required soil erosion and sedimentation control plan has been approved in accordance with § 91.280.

(Ord. eff. 9-6-2012, § 9.61)

§ 91.223 STREETS.

(A) *Type of street required.* All subdivision lots shall abut on a public or private street. All public streets shall be dedicated to the town, the State or the public as determined appropriate by the Board of Commissioners. Streets not dedicated to the town which are not eligible to be put on the State Highway System because there are too few lots or residences shall only be approved as private streets.

(B) *Half-streets.* The dedication of half-streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(C) *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(D) *Street connectivity requirements.*

(1) An interconnected street system is necessary in order to protect the public health, safety and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes. All proposed new streets shall be platted according to the current Town Thoroughfare Plan. In areas where such plans have not been completed, the streets shall be designated and located in relation to existing and proposed streets, the topography, to natural features such as streams and tree cover, to public safety and convenience, and to the proposed use of land to be served by such streets.

(2) All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

(3) (a) The street network for any subdivision shall achieve a connectivity ratio of not less than 1.45 (see example below). The phrase connectivity ratio means the number of streets links divided by the number of nodes or link ends, including cul-de-sac heads. A LINK means and refers to that portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered links. However, alleys shall

not be considered links. A NODE refers to the terminus of a street or the intersection of two or more streets, except that intersections that use a roundabout shall not be counted as a node.

(b) For the purposes of this section, an INTERSECTION shall be defined as:

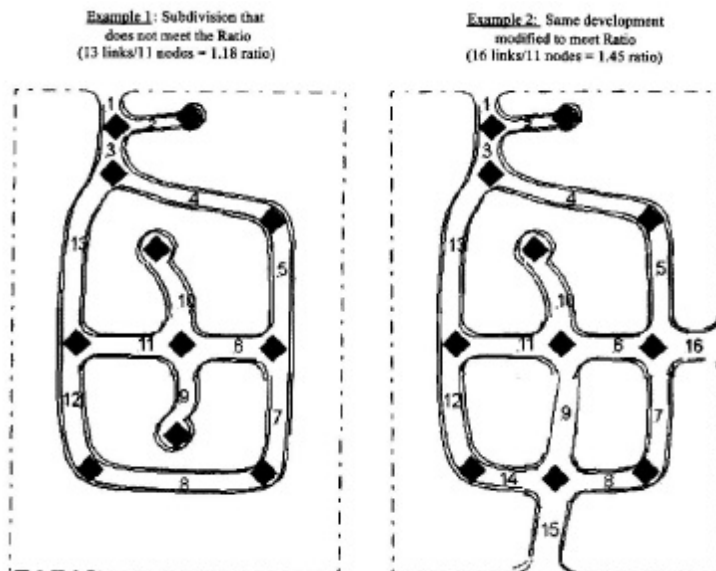
1. Any curve or bend of a street that fails to meet the minimum curve radius as established by the North Carolina Department of Transportation, Division of Highways design and minimum construction standards; or

2. Any location where street names change (as reviewed and approved by the UDO Administrator).

(4) For the purposes of this section, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

(5) Residential streets shall be designed so as to minimize the length of local streets, to provide safe access to residences, and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

(6) Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.



(7) Exemptions: new subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity requirement when the UDO Administrator

determines that the subdivision will provide for connectivity with adjacent future development and there is:

(a) No options for providing stub streets due to topographic conditions, adjacent developed sites or other limiting factors; and

(b) Interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

(E) *Design standards.* The design of all streets and roads within the jurisdiction of this Unified Development Ordinance shall be in accordance with the North Carolina Department of Transportation, Division of Highways design and minimum construction standards.

(F) *Other requirements.*

(1) Through traffic discouraged on residential collector and local streets. Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

(2) Sidewalks. Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(3) Street names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in Brunswick County irrespective of the use of a suffix such as street, road, drive, place or court. Street names shall be subject to the approval of the Planning Board and the Brunswick County Emergency Management Director.

(4) Street signs. The subdivider shall be required to provide and erect all street signs, including street name signs, to State Department of Transportation standards within the subdivision.

(5) Permits for connection to State roads. An approved permit is required for connection to any existing State system road. This permit is required prior to any construction on the street or road. The application is available at the office of district engineer of the State Division of Highways (Wilmington Division, Burgaw District).

(6) Offsets to utility poles. Poles for overhead utilities should be located clear of roadway shoulders, preferably at edge of rights-of-way on major thoroughfares. On streets with curb and gutter, utility should be set back a minimum distance of six feet from the face of the curb.

(7) Wheelchair ramps. In accordance with G.S. Chapter 136, Article 2A, § 136-44.14, all street curbs in this state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(8) Private streets.

(a) Streets designated as private may be allowed in subdivisions when, in the opinion of the Planning Board, they provide adequate ingress and egress onto collector streets, and they provide sufficient assurance through legally established homeowners' or similar owners' associations, deed restrictions and/or covenants, or other maintenance agreements, that said street shall be properly maintained and said agreements perpetually carried with the land. The Planning Board shall reserve the authority, when the public welfare and safety warrant, requiring the public dedication of street rights-of-way within developments. All private streets shall be designed and constructed to meet or exceed the public street standards as specified in this section.

(b) The UDO Administrator shall be assured, prior to preliminary approval, that adequate provisions have been made through legal covenants and restrictions which shall govern a homeowners' association, or through other legal agreements, that the responsibility as to the maintenance of the streets, utilities or other areas designated as private areas or as a common area will be accomplished by a source other than by public maintenance.

(9) Curb and gutter. Curb and gutter improvements are not required due to the adverse impact urban stormwater could have on the valuable estuarine waters in and around the town. However, this does not relieve the subdivision developer from providing adequate grassed swales, culverts and retention ponds for managing stormwater and runoff.

(Ord. eff. 9-6-2012, § 9.62)

§ 91.224 UTILITIES.

(A) *Water supply system and sewage disposal system required.* Every lot within a subdivision shall be served by a water supply system and sewage disposal system that is adequate to accommodate the reasonable needs of the proposed use and comply with all applicable health regulations. The applicant must provide evidence that water supply system and sewage disposal system plans have received final approvals by the appropriate agency prior to final plat approval. For subdivisions in which the water supply system and/or sewage disposal system to be installed is an individual system for each lot, the installation of said systems will not be required prior to final plat approval.

(B) *Stormwater drainage system.* The subdivider shall provide a surface water drainage system constructed to the standards of the State Department of Transportation, as reflected in Handbook for the Design of Highway Surface Drainage Structures, subject to review by the town's consulting engineer.

- (1) No surface water shall be channeled or directed into a sanitary sewer.
 - (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
 - (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
 - (4) Anyone constructing a dam or impoundment within the subdivision must comply with the State Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.
 - (5) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (C) *Street lights.* All subdivisions in which the size of the smallest lot is less than 20,000 square feet shall have street lights installed throughout the subdivision in accordance with the standards of the town and Brunswick Electric Membership Corporation. If underground wiring of street lighting is requested by the developer or the town, the developer may be required to install all fixed items such as conduit, pads, hand-holes and pole foundations; the Brunswick Electric Membership Corporation will own and maintain the fixed items.
- (D) *Underground wiring.* All subdivisions in which the smallest lot is less than 20,000 square feet shall have underground wiring (includes telephone/communication). Such underground wiring shall be installed in accordance with the standards of the electrical utility provider. The subdivider shall be required to pay the charges for installation of the underground service.

(Ord. eff. 9-6-2012, § 9.63)

§ 91.225 EFFECT OF PLAT APPROVAL ON DEDICATIONS.

~~Pursuant to G.S. § 160A-374, The approval of a plat shall not be deemed to constitute or effect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Board of Commissioners may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands located within the subdivision regulation jurisdiction but outside the corporate limits of the municipality shall not place on the town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits. Such acceptance shall be in accordance with the town acceptance procedures as specified in § 91.66(H). Unless the Town shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, the Town shall not, as part of its subdivision~~

regulation applied to facilities or land outside the corporate limits of the Town, require dedication of water systems or facilities as a condition for subdivision approval.

(Ord. eff. 9-6-2012, § 9.64)

§ 91.226 VARIANCES.

The Planning Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Board finds:

(A) There are special circumstances or conditions affecting that property such that the strict application of the provisions of this Unified Development Ordinance would deprive the applicant of the reasonable use of this land;

(B) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(C) The circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Unified Development Ordinance; and

(D) The granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.

(Ord. eff. 9-6-2012, § 9.65)

§ 91.227 CEMETERY SUBDIVISION LOT SIZE EXEMPTION.

Cemeteries and individual cemetery plot(s) may be platted and approved as minor subdivisions and recorded that do not meet the minimum lot size of the zoning district; however, the cemetery shall comply with all other zoning district restrictions. Where there is not reasonable access to individual lots, an 18-foot easement for ingress and egress may be established.

(Ord. eff. 9-6-2012, § 9.66)

§ 91.228 NOTICE OF NEW SUBDIVISION FEES AND FEE INCREASES; PUBLIC COMMENT PERIOD

(A) The Town of Carolina Shores shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this UDO at least seven (7) days prior to the first Board of Commissioners meeting where the imposition of or increase in the fees or charges is on the

agenda for consideration. The Town shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on the Town of Carolina Shores website.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any Town building, library, or courthouse within the planning and development regulation jurisdiction of the Town of Carolina Shores.

(3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the Town of Carolina Shores for the purpose of notification as required by this section.

(B) During the consideration of the imposition of or increase in fees or charges as provided in subsection (A), the Town of Carolina Shores shall permit a period of public comment.

(C) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.

§ 91.229 FINAL PLAT CERTIFICATIONS AND OTHER DOCUMENTATION.

(A) *Certificates for all plats.* The following certificates shall appear on all final subdivision plats, if applicable. Refer to divisions (B) and (C) below for additional certificates required depending upon subdivision type.

(1) Certificate of survey and accuracy.

Certificate of Survey and Accuracy

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____ etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____, that the ratio of precision as calculated is 1:_____, that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____ A.D., 20 ____.

Official Seal

Registered Land Surveyor

Registration Number

(2) Certificate of ownership and dedication.

Certificate of Ownership and Dedication

I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all roads and other sites and easements to public use as noted in the Disclosure of Private Roadways, where applicable.

Owner(s) Date

(3) Certification of private water/septic systems (if applicable). If the Brunswick County Health Department has not approved private water or septic systems, then the following written statement shall be included on the plat:

“The Brunswick County Health Department has expressed no opinion as to the suitability of private septic or water systems on this property. Each lot is subject to individual inspection and approval of septic systems.”

(B) Certificates for minor subdivision final plats; certificate of approval for recording final plat.

Certificate of Approval for Recording Final Plat

I, _____, UDO Administrator, certify that the Town of Carolina Shores fully approved the final plat of the Subdivision entitled _____.

Administrator Date

(C) Certificates for major subdivision final plats.

(1) Certificate of approval of design and installation of streets, utilities and other required improvements (if applicable).

Certificate of Approval of Design and Installation of Streets, Utilities, and Other Required Improvements

I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to NC Department of Transportation and/or town specifications and standards or as otherwise provided for in this Unified Development Ordinance, and adopted by the Town of Carolina Shores Board

ENVIRONMENTAL REGULATIONS

PART I: FLOOD DAMAGE PREVENTION

§ 91.240 STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in ~~G.S. Ch. 143, Art. 21, Part 6; G.S. Ch. 160A, Art. 19, Parts 3, 5, and 8; and G.S. Ch. 160A, Art. 8~~ Part 6, Article 21 of Chapter 143; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

(Ord. eff. 9-6-2012, § 10.1; Am. Ord. 19-2, passed 7-12-2018)

§ 91.241 FINDINGS OF FACT.

(A) The flood prone areas within the jurisdiction of the Town of Carolina Shores are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(Ord. eff. 9-6-2012, § 10.2; Am. Ord. 19-2, passed 7-12-2018)

§ 91.242 STATEMENT OF PURPOSE.

It is the purpose of this subchapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. eff. 9-6-2012, § 10.3; Am. Ord. 19-2, passed 7-12-2018)

§ 91.243 OBJECTIVES.

The objectives of this section are to:

- (A) Protect human life, safety, and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business losses and interruptions;
- (E) Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;
- (F) Minimize damage to private and public property due to flooding;
- (G) Make flood insurance available to the community through the National Flood Insurance Program;
- (H) Maintain the natural and beneficial functions of floodplains;
- (I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (J) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

(Ord. eff. 9-6-2012, § 10.4; Am. Ord. 19-2, passed 7-12-2018)

§ 91.244 LANDS TO WHICH THIS SECTION APPLIES.

This section shall apply to all the lands **Special Flood Hazard Areas** within the jurisdiction, including extraterritorial jurisdictions (ETJs) **if applicable as allowed by law**, of **the Town of Carolina Shores**.

(Ord. eff. 9-6-2012, § 10.5; Am. Ord. 19-2, passed 7-12-2018)

§ 91.245 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

(A) The Special Flood Hazard Areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated August 28, 2018, for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this subchapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Carolina Shores are also adopted by reference and declared a part of this subchapter.

Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.

(B) The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Brunswick County, dated August 18, 1992, ~~and~~ the Town of Calabash, dated February 4, 1988, and Town of Carolina Shores, dated September 17, 1998.

(C) The low lying and flood prone areas as identified in the Comprehensive Plan of the Town of Carolina Shores, not otherwise depicted on a DFIRM, which shall be regulated as a Special Flood Hazard Area Zone A.

(Ord. eff. 9-6-2012, § 10.6; Am. Ord. 19-2, passed 7-12-2018)

§ 91.246 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of §§ 91.240 through 91.263 prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of § 91.245.

(Ord. eff. 9-6-2012, § 10.7; Am. Ord. 19-2, passed 7-12-2018)

§ 91.247 COMPLIANCE.

No structure of land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of §§ 91.240 through 91.263 and other applicable regulations.

(Ord. eff. 9-6-2012, § 10.8; Am. Ord. 19-2, passed 7-12-2018)

§ 91.248 ABROGATION AND GREATER RESTRICTIONS.

Sections 91.240 through 91.263 are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where these sections and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. eff. 9-6-2012, § 10.9; Am. Ord. 19-2, passed 7-12-2018)

§ 91.249 INTERPRETATION.

In the interpretation and application of §§ 91.240 through 91.263, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. eff. 9-6-2012, § 10.10; Am. Ord. 19-2, passed 7-12-2018)

§ 91.250 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by §§ 91.240 through 91.263 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by human-made or natural causes. Sections 91.240 through 91.263 do not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. Sections 91.240 through 91.263 shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this Unified Development Ordinance or any administrative decision lawfully made hereunder.

(Ord. eff. 9-6-2012, § 10.11; Am. Ord. 19-2, passed 7-12-2018)

§ 91.251 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The UDO Administrator, hereinafter referred to as the Floodplain Administrator, **or their designee**, is hereby appointed to administer and implement the provisions of §§ 91.240 through 91.263. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this subchapter, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this subchapter. The Floodplain Administrator shall be a Certified Floodplain Manager and shall review all plans and issue all permits in the special flood hazard areas and shall also conduct all field inspections in such areas. The Floodplain Administrator may delegate these duties as needed to any number of assistants so long as they are Certified Floodplain Managers. Such assistants shall be known as Assistant Floodplain Administrators and when so designated shall undertake the assigned provisions, duties, and responsibilities of the Floodplain Administrator.

(Ord. eff. 9-6-2012, § 10.12; Am. Ord. 19-2, passed 7-12-2018)

§ 91.252 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities and other development;

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in § 91.245, or a statement that the entire lot is within the Special Flood Hazard Area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 91.245;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 91.245;

(e) The base flood elevation (BFE) where provided as set forth in §§ 91.245, 91.253 or 91.258;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone A, AE, AH, AO, and A99 will be floodproofed; and

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a floodproofing certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is not limited to, installation, exercise and maintenance of floodproofing measures;

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of §§ 91.240 through 91.263 are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 91.257(D)(3), when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A99.

(5) Usage details of any enclosed areas below the lowest floor;

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical and water systems to be located and constructed to minimize flood damage;

(7) Certification that all other local, State and Federal permits required prior to floodplain development permit issuance have been received;

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 91.257(F) and (G) of this Unified Development Ordinance are met; and

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.);

(2) The Special Flood Hazard Area determination for the proposed development in accordance with the available data specified in § 91.245;

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities;

(4) The regulatory flood protection elevation required for the protection of all public utilities;

(5) All certification submittal requirements with timelines;

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of § 91.260 have been met;

(7) The flood openings requirements; ~~if in Zones A, AE, AH, AO, or A99; and~~

(8) Limitations of below BFE enclosure uses (i.e., parking, building access and limited storage only); and

(9) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(C) *Certification requirements.*

(1) Elevation certificates.

(a) An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches by three inches. Digital photographs are acceptable.

(2) Floodproofing certificate.

(a) If **non-residential** floodproofing is used to ~~provide retrofit protection, but not regulatory protection,~~ **meet the Regulatory Flood Protection Elevation requirements,** a

floodproofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a certificate of compliance/occupancy.

(3) Manufactured homes. If a manufactured home is placed within Zone A, AE, AH, AO, or A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 91.257(C).

(4) Watercourse. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification exemptions. The following structures, if located within Zone A, AE, AH, AO, or A99, are exempt from the elevation/floodproofing certification requirements specified in divisions (C)(1) and (C)(2) above:

- (a) Recreational vehicles meeting requirements of § 91.257(F);
- (b) Temporary structures meeting requirements of § 91.257(G); and

(c) Accessory structures less than 150 square feet meeting requirements of § 91.257(H).

(D) *Determinations for existing buildings and structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this subchapter is required.

(Ord. eff. 9-6-2012, § 10.13; Am. Ord. 19-2, passed 7-12-2018)

§ 91.253 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of §§ 91.240 through 91.263 have been satisfied;

(B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, State and Federal permits have been received, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

- (E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 91.260 are met;
- (F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with § 91.252(C);
- (G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of § 91.252(C);
- (H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of § 91.252(C);
- (I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of § 91.252(C) and 91.257(B);
- (J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Unified Development Ordinance;
- (K) When base flood elevation (BFE) data has not been provided in accordance with § 91.245, obtain, review and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source, including data developed pursuant to § 91.258(B)(2), in order to administer the provisions of this Unified Development Ordinance;
- (L) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with § 91.245, obtain, review and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this Unified Development Ordinance;
- (M) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file;
- (N) Permanently maintain all records that pertain to the administration of this Unified Development Ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the Unified Development Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this Unified Development Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked;

(R) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her Inspections Department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action;

(S) Follow through with corrective procedures of § 91.254;

(T) Review, provide input and make recommendations for variance requests;

(U) Maintain a current map repository to include, but not limited to, the historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with § 91.245, including any revisions thereto including letters of map change, issued by FEMA. Notify State and FEMA of mapping needs; and

(V) Coordinate revisions to FIS reports and FIRMS, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

(Ord. eff. 9-6-2012, § 10.14; Am. Ord. 19-2, passed 7-12-2018)

§ 91.254 CORRECTIVE PROCEDURE.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of §§ 91.240 through 91.263, Flood Damage Prevention;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate or demolish the building, or to remove fill as applicable.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of §§ 91.240 through 91.263, Flood Damage Prevention, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days ~~or less~~. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to G.S., Ch. 143-215.58 and shall be punished at the discretion of the court (refer to § 91.14).

(Ord. eff. 9-6-2012, § 10.15; Am. Ord. 19-2, passed 7-12-2018)

§ 91.255 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town, hereinafter referred to as the Appeal Board, shall hear and decide requests for variances in accordance with § 91.54(B) from the requirements of §§ 91.240 through 91.263, Flood Damage Prevention.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in Appendix A, provided provisions of divisions (I)(2), (I)(3) and (I)(5) below have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; ~~and~~ **or**

(3) Any other type of development, provided it meets the requirements of this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of §§ 91.240 through 91.263, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under Appendix A of this Unified Development Ordinance as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of §§ 91.240 through 91.263, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Unified Development Ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) Conditions for variances.

(1) Variances shall not be issued when the variance will make the structure in violation of other Federal, State or local laws, regulations or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create

nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(6) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met:

- (a) The use serves a critical need in the community;
- (b) No feasible location exists for the use outside the Special Flood Hazard Area;
- (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;
- (d) The use complies with all other applicable Federal, State and local laws; and
- (e) The town notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. eff. 9-6-2012, § 10.16; Am. Ord. 19-2, passed 7-12-2018)

§ 91.256 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required.

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(1) All new construction and substantial improvement shall have a freeboard of no less than ~~two~~ **three** feet.

(2) All new buildings must be constructed on foundations that are approved by a licensed professional engineer.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities **equipment** shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.

(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed no lower than the finished floor elevation.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

~~(H) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this Unified Development Ordinance, shall meet the requirements of "new construction" as contained in this Unified Development Ordinance.~~
Reserved.

(I) Nothing in this Unified Development Ordinance shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this Unified Development Ordinance and located totally or partially within the floodway, non-encroachment area or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area or stream setback, and provided that such repair, reconstruction or replacement meets all of the other requirements of this Unified Development Ordinance.

(J) Reserved.

(K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(O) When a structure is **partially** located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(P) When a structure is located in ~~multiple flood hazard zones or in~~ a flood hazard risk zone with multiple base flood elevations, the provisions for ~~the more restrictive flood hazard risk zone and~~ the highest base flood elevation shall apply.

(Q) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

(Ord. eff. 9-6-2012, § 10.17; Am. Ord. 19-2, passed 7-12-2018)

§ 91.257 SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas where base flood elevation (BFE) data has been provided, as set forth in §§ 91.245 or 91.258, the following provisions, in addition to § 91.256 are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Other higher standards shall apply:

(1) Floodways and NEAs. No new residential construction or substantial improvement shall be permitted in a regulatory floodway or NEA.

(2) High velocity. No new residential construction or substantial improvement shall be permitted where the product of depth times velocity is greater than 18.

(3) Enclosures below elevated floors. New construction and substantial improvement shall have enclosures below elevated floors limited to no more than 300 square feet.

(4) Setback. New construction shall maintain a minimum 50-foot setback from any stream channel.

(5) Minimize disruption. New construction shall avoid or minimize disruption to shorelines, stream channels, and their banks.

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in Zones A, AE, AH, AO, and A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with § 91.261(B). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator, along with the operational plan and the inspection and maintenance plan. Other higher standards shall apply:

(1) Floodproofing. In cases of new construction or substantial improvement, floodproofing is prohibited.

(2) Enclosures below elevated floors. New construction and substantial improvement shall have enclosures below elevated floors limited to no more than 300 square feet.

(3) Setback. New construction shall maintain a minimum 50-foot setback from any stream channel.

(4) Minimize disruption. New construction shall avoid or minimize disruption to shorelines, stream channels, and their banks.

(C) *Manufactured homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) below.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

(D) *Elevated buildings.* Fully enclosed areas of new construction and substantially improved structures, which are below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood resistant materials, at least to the regulatory flood protection elevation; and

(4) Shall include, ~~in Zones A, AE, AH, AO, and A99,~~ flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

(e) Flood openings may be equipped with screens, louvers or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Shall be limited to no more than 300 square feet.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure; and

(b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure;

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this subchapter. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) *Recreational vehicles*. Recreational vehicles shall either:

(1) Temporary placement.

(a) Be on site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).

(2) Permanent placement. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

(G) *Temporary nonresidential structures*. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified should not exceed three months, renewable up to one year;

(2) The name, address and phone number of the individual responsible for the removal of the temporary structure;

(3) The timeframe prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(H) *Accessory structures.*

(1) When accessory structures (sheds, detached garages and the like) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of § 91.256(A);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of § 91.256(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 91.257(D)(4).

(2) An accessory structure with a footprint less than 150 square feet and satisfies the criteria above is not required to meet the elevation or floodproofing standards of § 91.257(B).

(3) Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 91.252(C).

(I) *Other development.*

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 91.260 of this subchapter.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 91.260 of this subchapter.

(3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of this subchapter. New subdivision streets shall be designed so that during the base flood, they are no more than six inches under water.

(J) *Compensatory storage.* Any reduction in the water-holding capacity of the floodplain caused by any structures, improvements to the land or to a structure, filling or regrading of land shall be compensated for such that no increase in water surface elevation nor increase in peak discharge or velocity shall occur either upstream or downstream of the development site, for all storm events up to and including the one-hundred-year storm.

(K) *Prohibitions.*

(1) Storage tanks. No gas or liquid storage tanks are to be placed within a Special Flood Hazard Area.

(2) Sanitary landfills. No sanitary or construction debris landfills are to be placed within the Special Flood Hazard Area.

(3) Septic systems. No septic systems are to be placed within the Special Flood Hazard Area.

(4) Critical facilities. No critical facilities are to be placed within any flood area: Zone A, B, V, or shaded X.

(Ord. eff. 9-6-2012, § 10.18; Am. Ord. 19-2, passed 7-12-2018)

§ 91.258 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 91.245, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of § 91.256, shall apply.

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 50 feet of the stream channel of twenty (20) feet each side from top of bank or five times the width of the stream,

whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria:

(1) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Unified Development Ordinance and shall be elevated or floodproofed in accordance with standards in §§ 91.256 and 91.257;

(2) When floodway or non-encroachment data is available from Federal, State or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of §§ 91.257 and 91.260;

(3) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with § 91.245 and utilized in implementing this Unified Development Ordinance; and

(4) When base flood elevation (BFE) data is not available from a Federal, State or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Appendix A. All other applicable provisions of § 91.257 shall also apply.

(Ord. eff. 9-6-2012, § 10.19; Am. Ord. 19-2, passed 7-12-2018)

§ 91.259 STANDARDS OF RIVERINE FLOODPLAINS WITH BFE DATA, BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of §§ 91.256 and 91.257; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. eff. 9-6-2012, § 10.20; Am. Ord. 19-2, passed 7-12-2018)

§ 91.260 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in § 91.245. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 91.256 and 91.257, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted, unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If § 91.260(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

(C) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of § 91.257(C); and

(2) The encroachment standards of § 91.260(A).

(Ord. eff. 9-6-2012, § 10.21; Am. Ord. 19-2, passed 7-12-2018)

§ 91.261 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in § 91.245, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to §§ 91.256 and 91.257, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of ~~two~~ **three** feet, above the highest adjacent grade; or at two feet above the highest adjacent grade if no depth number is specified.

(B) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in division (A) so that the structure, together with attendant utility and sanitary

facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with §§ 91.252 and 91.257.

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. eff. 9-6-2012; Am. Ord. 19-2, passed 7-12-2018)

§ 91.262 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in § 91.245, are areas designated as shallow flooding areas. These areas are subject to inundation by one-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Base Flood Elevations are derived from detailed hydraulic analyses shown in this zone. In addition to §§ 91.256 and 91.257, all new construction and substantial improvements shall meet the following requirements:

(A) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. 19-2, passed 7-12-2018)

§ 91.263 LEGAL STATUS PROVISIONS.

(A) *Effect on rights and liabilities under the existing flood damage prevention subchapter.* Sections 91.240 through 91.263, in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted September 17, 1998, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Unified Development Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention subchapter of the town enacted on September 17, 1998, as amended, which are not reenacted herein are repealed.

(B) *Effect upon outstanding floodplain development permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Unified Development Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Unified Development Ordinance.

(Ord. 19-2, passed 7-12-2018)

§§ 91.264—91.269 RESERVED.

PART II: STORMWATER CONTROL

§ 91.270 GENERAL PROVISIONS.

(A) All development shall be required to apply for and obtain a stormwater permit addressing the below, except that listed as a driveway permit shall be covered under that permit and not the stormwater permit.

(1) Driveways. Stormwater runoff from driveways, residential or commercial, shall not discharge directly onto public or private thoroughfares. Runoff shall be diverted to stormwater drainage facilities such as drainage ditches, stormwater systems or on-site intrusion systems. On streets with a curb and gutter section, runoff from a driveway directly to the curb and gutter is anticipated and allowable; provided however, the driveway shall not be steeper than a 3% to 4% grade. For streets with roadside ditches, the driveways shall be cross-sloped or crowned to direct the runoff to the ditch system before the driveway connection to the street. A trench drain may also be used to intercept the runoff before it enters the street. Driveway permit item.

(2) Driveway access. Residential driveway access shall be a maximum of 36 feet wide. Note: this may be split up to allow for two 18-foot driveway access points where the lot size will permit. In any case, the driveways or culvert piping shall not be located any closer than five feet from the side property line. Driveway permit item.

(3) Lot plans. Applicants shall prepare a site plan for each and every lot to be developed that accounts for street flooding and local drainage from and onto adjoining properties. The applicant shall be responsible for protecting the development/building from such local drainage flow and shall discharge the drainage flow onto adjoining lots in a manner that does not adversely impact the adjoining lots, in each and every case providing for a point of collection on the applicant's lot prior to discharge onto an adjoining lot that does not create a hazard or exacerbated drainage problem on adjoining lots.

(4) Impervious surface limits. No lot shall exceed 50% impervious surface without managing stormwater. Such stormwater management shall limit the post-development runoff discharge of the impervious surface area exceeding 50% of the lot to a rate no more than the pre-development 25-year, 24-hour storm runoff discharge rate. The maximum amount of impervious surface permitted on any lot shall be 90%.

(a) Lots that fall outside of a master stormwater permit or otherwise not part of a stormwater management plan approved by the State of North Carolina shall limit the post-development runoff discharge of any impervious surface area to a rate no more than the pre-development 25-year, 24-hour storm runoff discharge rate.

(5) Elevation. The finished floor elevation of the first floor of any structure, including the garage, must be a minimum of 18 inches above the surrounding finished grade or the crown of the roadway, whichever is greater.

(6) Easements. Easements shall be restricted to prohibit all fences and structures which would prevent access to the easement areas and/or prevent the maintenance of the drainage system.

(7) Downspouts. No downspouts from roof gutters shall be discharged into town ditches, or onto public or private driveways, parking areas and other impervious surfaces that drain directly to storm sewers or streams. All such downspouts from roof gutters shall be discharged into stabilized vegetated areas where the runoff can infiltrate or by other means that allows the runoff to infiltrate the ground as may be approved by the UDO Administrator.

(B) If a new development has a disturbance of one acre or more, or, proposes to construct more than 10,000 square feet of built-upon area, all stormwater control designs shall limit the post-development runoff discharge rate to no more than the pre-development 50-year, 24-hour storm runoff discharge rate. The developer shall comply with all applicable requirements and thresholds established by the State Department of Environmental and Natural Resources (Division of Water Quality, Division of Coastal Management (CAMA), and Division of Land Quality), and the U.S. Army Corps of Engineers. A separate master stormwater permit shall be issued pursuant to this section only upon receipt of a completed application including permits from all other regulatory agencies in addition to engineered plans and specifications in compliance with the design limitations set forth herein. The issuance of a master permit under this section shall not preclude or supersede permitting as required in division (A).

(Ord. eff. 9-6-2012, § 10.23; Am. Ord. 19-2, passed 7-12-2018)

§§ 91.271—91.279 RESERVED.

PART III: SEDIMENTATION AND EROSION CONTROL

§ 91.280 GENERAL PROVISIONS.

All projects greater than one acre are required to comply with the North Carolina Sedimentation and Erosion Control regulations. All required permits must be provided to the town prior to project approval.

(Ord. eff. 9-6-2012, § 10.24)

§§ 91.281—91.289 RESERVED.

PART IV: RIPARIAN BUFFERS

§ 91.290 GENERAL PROVISIONS.

Except as provided in G.S. § 143-214.23A, the Town may not impose any riparian buffer requirements.

(Ord. 16-1, passed 4-7-2016)

APPENDIX A: DEFINITIONS

§ A.1 PURPOSE.

For the purposes of this Unified Development Ordinance, certain words, concepts and ideas are defined herein. Except as defined herein, all other words used in this Unified Development Ordinance shall have their customary dictionary definition.

(Ord. eff. 9-6-2012, App. A)

§ A.2 INTERPRETATION.

(A) As used in this Unified Development Ordinance, words importing the masculine gender include the feminine and neuter.

(B) Words used in the singular in this Unified Development Ordinance include the plural and words used in the plural include the singular.

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

(D) The word “person” includes a firm, association, organization, corporation, company, trust and partnership as well as an individual.

(E) The words “may” and “should” are permissive.

(F) The words “shall” and “will” are always mandatory and not merely directive.

(G) The words “used for” shall include the meaning designed for.

(H) The words “used” or “occupied” shall mean intended, designed and arranged to be used or occupied.

(I) The word “lot” shall include the words plot, parcel, site and premises.

(J) The word “structure” shall include the word building.

(K) The word “street” includes the word alley, road, cul-de-sac, highway or thoroughfare, whether designated as public or private.

(L) The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(M) The word “administrator” shall mean the UDO Administrator or his or her designee.

(N) The words “Planning Board” shall mean the Carolina Shores Planning Board.

(O) The word “town” shall mean the Town of Carolina Shores, a municipality of the State of North Carolina.

(P) The words “map,” “zoning map” and “Carolina Shores Zoning Map” shall mean the Official Zoning Map for the Town of Carolina Shores, North Carolina.

(Q) The words Board of Adjustment shall mean the Carolina Shores Board of Adjustment.

(Ord. eff. 9-6-2012, App. A)

§ A.3 DEFINITIONS.

For the purpose of this Unified Development Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. Having property or district lines in common. Lots are also considered to be ABUTTING if they are directly opposite each other and separated by a street or alley.

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

ACCESSORY BUILDING OR USE. A building or use not including signs, which is:

(1) Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Unified Development Ordinance;

(2) Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and

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

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban ACCESSORY STRUCTURES. Pole barns, hay sheds and the like qualify as ACCESSORY STRUCTURES on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance or other Town development regulations. **Also referred to as ministerial decisions or administrative determinations.**

ADMINISTRATION HEARING. A proceeding to gather facts needed to make an administrative decision.

ADULT CARE HOME. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide

supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an ADULT CARE HOME may be administered by designated trained staff. ADULT CARE HOMES that provide care to two to six unrelated residents are commonly called family care homes.

ADULT DAY CARE PROGRAM. The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled.

ADULT ENTERTAINMENT BUSINESS DEFINITIONS.

(1) ADULT BOOKSTORE. An establishment which derives more than 50% of its revenues from the offering to customers of books, magazines, sexual paraphernalia, films or videotapes (whether for viewing off-premises or on-premises by use of motion picture machines or other image producing devices), periodicals or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) ADULT CABARET. An establishment whose principal business purpose is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(3) ADULT ENTERTAINMENT ESTABLISHMENT. Includes, but is not necessarily limited to, an adult club or cabaret used for any type presentation depicting, exhibiting or describing specified sexual activities or specified anatomical areas for observation by patrons therein and also includes bookstores, theaters, video stores, peep shows, model studios, sexual encounter centers, massage parlors, escort services and motels as the same are further defined herein and any other establishment which contains activities characterized by the performance, depiction or description of specified sexual activities or specified anatomical areas.

(4) ADULT MODEL STUDIO. Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Modeling studios will not be considered adult entertainment establishments if the person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school, licensed by the state; a college, junior college or university supported entirely or partly by taxation; or

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

(5) ADULT MOTEL. A hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(b) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

(6) ADULT THEATER. An establishment, containing a room with tiers or rows of seats facing a screen, or projection area, whose principal business purpose is the exhibition to customers of motion pictures which are intended to provide sexual stimulation or sexual gratification to such customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(7) ADULT VIDEO STORE. A commercial enterprise selling or renting any of the following as more than 50% of its gross revenues:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(8) BODY PIERCING BUSINESS. A legitimate and legally licensed operation offering body piercing services, other than ears, to the general public.

(9) ESCORT SERVICE. A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

(10) EXTERIOR PORTION. Any part of the physical structure of a regulated establishment, including a wall, veneer, door, fence, roof, roof covering or window, which is visible from any public way or public property.

(11) FORTUNE TELLERS. A business that offers for sale the service of predicting the future or spiritual guidance through palm reading, tarot cards, crystal balls or other recognized means of fortune telling.

(12) MASSAGE PARLOR. Any business or establishment where massage is practiced, excluding health clubs which derive more than 90% of revenue from sport activities or sale of memberships to engage in sport activities.

(13) NUDITY. The appearance of a bare human buttocks, male genitals, female genitals or female breast(s).

(14) PEEK SHOWS. A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

(15) SEMI-NUDE. A state of dress in which clothing covers no more than the genitals, pubic region, areolae of the female breast and those portions of the body covered by supporting straps and devices.

(16) SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude; or

(c) Sadistic/masochistic flagellation or torture (real or simulated) of one person by another and/or the fettering, binding or physically restraining one person by another.

(17) SIGN. Any display, design, pictorial or other representation, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of a regulated establishment and that is used to seek the attraction of the public to any goods, services or merchandise available at such regulated establishment. The term SIGN shall also include such representations painted on or otherwise affixed to any exterior portion of a regulated establishment as well as such representations painted on or otherwise affixed to any part of the tract upon which such a regulated establishment is situated.

(18) SPECIFIED ANATOMICAL AREAS.

(a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

(b) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

(19) SPECIFIED SEXUAL ACTIVITY.

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

(d) Flagellation or torture in the context of a sexual relationship;

(e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or

(f) Erotic touching, fondling or other such contact with an animal by a human being.

(20) TATTOOING. The inserting of permanent markings or coloration, or the producing of scars, upon or under human skin through puncturing by use of a needle or any other method.

(21) TATTOOING ESTABLISHMENTS. A legal business consisting of marking and coloring the skin with tattoos, and all furnishings, equipment, instruments, dyes and inks, and other facilities maintained herein incidental to such use. TATTOOING ESTABLISHMENTS shall not include temporary tattooing.

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

ANTENNA. Communications equipment that transmits, receives or transmits and receives electromagnetic signals used in the provision of all types of wireless communications service.

APPLICATION, TELECOMMUNICATION FACILITIES. A request submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

APARTMENT (DWELLING UNIT). A room or suite of rooms intended for use as a residence by a single household or family (i.e., dwelling unit). Such DWELLING UNIT may be located in an apartment house, duplex or as an accessory use in a single-family home or a commercial building.

APARTMENT HOUSE. See MULTI-FAMILY DWELLING .

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this Unified Development Ordinance.

ASSISTED LIVING RESIDENCE. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of ASSISTED LIVING RESIDENCES : adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services.

AUCTION. A building, area or areas within a building used for the public sale of goods, ware, merchandise or equipment to the highest bidder. Said sale must be conducted by an auctioneer licensed in accordance with G.S. § 85B-4. This definition excludes AUCTIONS for which the principal purpose is for the sale of livestock or motor vehicles.

AUCTION, ESTATE. Any sale where tangible personal property is sold by an auctioneer licensed in accordance with G.S. § 85B-4 who is the agent for the executor of the estate controlling the property being sold.

AUTOMOBILE SERVICE STATION (GAS STATION). Any building or land used for the dispensing, sale or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires, except that car washing, mechanical and electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors and has no fuel pumps within 15 feet of any property line or street right-of-way. Incidental activities shall not include tire retreading, body work, major mechanical work or upholstery work.

AUTOMOBILES/USED CAR LOTS. Every vehicle which is self-propelled and designed to run upon the highways and every vehicle which is pulled by such a self-propelled vehicle to the exclusion of buses, semi-trucks, semi-truck trailers and any vehicles defined as commercial motor vehicles in G.S. § 20-4.01 (3rd).

BANNER. A sign or outside advertising display having the letters, illustrations or visual representation applied to cloth, paper, vinyl, fabric or similar material. The term shall include pennants, rafts, T-shirts, floats, balloons, spinners, streamers and kites.

BASE STATION. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies and other associated electronics.

BATTERY CHARGING STATION. An electrical component assembly or cluster or component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed Federal, State and/or local requirements.

BATTERY EXCHANGE STATION. A fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds Federal, State and/or local requirements.

BEDROOMS. As defined by the NC State Building Code.

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

BLOCK FRONTAGE. The portion of a block which abuts a single street.

BOARD OF ADJUSTMENT. A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the UDO Administrator and to consider requests for variances from the terms of the Unified Development Ordinance.

BOARD OF COMMISSIONERS. The governing body of the town.

BOARDING HOUSE. A building other than a hotel or motel where, for compensation, meals are served and lodging is provided.

BONA FIDE FARM PURPOSES. Land being used for farm purposes as defined by G.S. § 160A-360(k). Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax-exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent Federal income tax return; or (4) a forestry management plan.

BUFFER. A fence, wall, hedge or other planted area or device used to enclose, screen or separate one use or lot from another.

BUFFER STRIP. Shall consist of plant material of such growth characteristics as will provide an obscuring screen of not less than seven feet in height. BUFFER STRIP would reasonably be expected within three years of planting. A planted, growing barrier affording visual privacy and sight relief between properties of dissimilar uses or character of buildings.

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

BUILDING FRONTAGE. The linear length of a building facing the principal street right-of-way.

BUILDING, HEIGHT OF. The vertical distance from the average sidewalk grade or street grade or finished grade and the building line, whichever is the highest, to the highest point of the building.

BUILDING INSPECTOR. The person designated by the Board of Commissioners to enforce the provisions of the Standard Building Code and the North Carolina State Building Code.

BUILDING, PRINCIPAL (MAIN). A building in which is conducted the principal use of the plot on which it is situated.

BUILDING SETBACK LINE. A line measured parallel to the front property line in front of which no structure shall be erected.

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

CERTIFICATE OF OCCUPANCY. Official certification that a premises conforms to provisions of the Zoning Code and Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing

structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

CHEMICAL STORAGE FACILITY. A building, portion of a building or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHILD CARE. A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage or adoption.

CHILD CARE CENTER. An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.

CLEARING, FILL AND GRADE PERMIT. Required permit issued by Building Inspection Department prior to any land disturbing activity.

CLUB OR LODGE (PRIVATE NONPROFIT, CIVIC OR FRATERNAL). A nonprofit association of persons, who are bona fide members paying dues, which owns, hires or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

COLLOCATION. The placement, ~~or~~ installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including ~~electrical transmission towers~~ utility poles, Town utility poles, water towers, buildings and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, Town utility poles, or wireless support structures.

COMMERCIAL CENTER. Two or more retail stores, or service establishments, professional offices or any other businesses serving a community or neighborhood, not necessarily owned by one party nor by a single land ownership, which occupy a common and/or adjacent building(s) on premises and utilize common parking area(s).

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

COMMUNICATIONS SERVICE. Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services.

COMMUNICATIONS SERVICE PROVIDER. A cable operator as defined in 47 USC § 522(5); a provider of information service as defined in 47 USC § 153(24); a telecommunications carrier as defined in 47 USC § 153(51); or a wireless provider.

COMPREHENSIVE PLAN. The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans

regarding land use and development that have been officially adopted by the Board of Commissioners.

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

CONDOMINIUM, COMMERCIAL. A single unit in a multi-unit mixed use or nonresidential development, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the development.

CONDOMINIUM, RESIDENTIAL. A single dwelling unit in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

CONSTRUCTION ACCESS PAD. A gravel or stone pad designed to minimize the transfer of soil from the construction site onto the roadway. A CONSTRUCTION ACCESS PAD is required for industrial and commercial development and is to be a minimum of 50 feet long, composed of a gravel bed to be a minimum of four inches deep. A CONSTRUCTION ACCESS PAD is required for new construction in residential development for single-family, multi-family and subdivisions and is required to be a minimum of 20 feet long, composed of coquina to be a minimum of 12 feet wide.

CRITICAL FACILITY. A structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to cause serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired. Critical facilities include health and safety facilities, utilities, government facilities, and hazardous materials facilities.

DECISION MAKING BOARD. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this UDO.

DECORATIVE LIGHTING. A string of outdoor lights suspended between two points.

DEDICATION. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, DEDICATION must be made by written instrument, and is completed with an acceptance.

DENSITY. The number of dwelling units per acre calculated based upon net buildable area as defined herein. Density requirements shall be as follows in the applicable residential districts, except, however, 40% of the total number of dwelling units must be single-family detached units and not more than 75% of the established buildable area may be made impervious.

DETERMINATION. A written, final, and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be

developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT. ~~Without altering the scope of any regulatory authority granted by statute or local act,~~ Unless the context clearly indicates otherwise, the term means any of the following:

- (1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (2) Excavation, grading, filling, clearing, or alternation of land.
- (3) The subdivision of land as defined in G.S. § ~~160A-376.~~ 160D-802.
- (4) The initiation of substantial change in the use of land or the intensity of the use of land.

DEVELOPMENT PERMIT. An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:

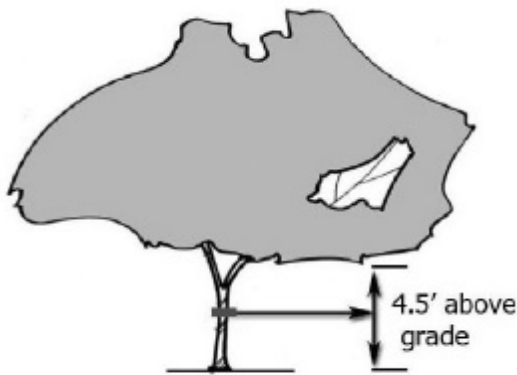
- (1) Zoning permits.
- (2) Site plan approval.
- (3) Special use permits.
- (4) Variances.
- (5) Certificates of appropriateness.
- (6) Plat approvals.
- (7) Development agreements.
- (8) Building permits.
- (9) Subdivision of land.
- (10) State agency permits for development.
- (11) Driveway permits.
- (12) Erosion and sedimentation control permits.
- (13) Sign permits.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to NCGS 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals including, but are not limited to, zoning permits, site plan approvals, special use permits,

variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulations, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development.

DIAMETER BREAST HEIGHT (DBH). A measure of the size of a tree. Diameter is measured by finding the circumference of the tree trunk with a tape measure and dividing the result by pi (3.14159). The circumference measure shall be taken at breast height - four and one-half feet above existing grade (the base of the tree). In the event of a multitrunk tree, the DBH of each trunk shall be summed to determine a total DBH for that tree.



DISH ANTENNA OR EARTH STATION. A dish antenna, or earth station, is any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or a transmitter relay located in planetary orbit.

DISH ANTENNA OR EARTH STATION HEIGHT. The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

DISH ANTENNA OR EARTH STATION SETBACK. The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

DOWN-ZONING. A zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

DUPLEX. A building containing two dwelling units, other than where a second dwelling unit is permitted as an accessory use.

DWELLING. ~~A building that contains one or two DWELLING UNITS used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.~~ Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

DWELLING, ATTACHED. A dwelling unit attached side-by-side to two or more other dwelling units by common vertical walls. Each dwelling unit shall be located on a separately deeded lot.

DWELLING, DETACHED. A dwelling unit not attached to another dwelling unit that is developed with open yards on at least three sides.

DWELLING, DUPLEX. A building containing two (2) dwelling units, other than where a second dwelling unit is permitted as an accessory use.

DWELLING, MULTI-FAMILY. A building containing three (3) or more dwelling units, except where permitted as an accessory use.

DWELLING, SINGLE FAMILY. A single building containing one (1) dwelling unit only, but may include one (1) separate unit as an accessory use to be occupied only by employees or relatives of the household. Such separate unit shall not include kitchen facilities.

DWELLING UNIT. ~~A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~ A room or combination of rooms designed for year round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family. Units located within motels or hotels or travel trailers shall not be included as dwelling units.

EASEMENT. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

ELECTRIC VEHICLE.

(1) Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purpose.

(2) ELECTRIC VEHICLE includes:

- (a) A battery powered electric vehicle; and
- (b) A plug-in hybrid electric vehicle.

ELECTRIC VEHICLE CHARGING STATION. A public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An ELECTRIC VEHICLE CHARGING STATION is permitted as an accessory use to any principal use.

ELECTRIC VEHICLE PARKING SPACE. Any marked parking space that identifies the use to be exclusively for an electric vehicle.

ELIGIBLE FACILITIES REQUEST. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

EQUIPMENT COMPOUND. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

EVENT. Any organized activity, celebration, etc., for members of the general public or a particular group or social/commercial event.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

FALL ZONE. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

FAMILY. One or more persons related by blood, marriage or adoption living together as a single housekeeping unit and having a recognized head of household. For the purposes of this Unified Development Ordinance, such persons may include gratuitous guests, contributing roommates and domestic servants employed on the same premises.

FAMILY CARE HOME. An adult care home having two to six residents. The structure of a FAMILY CARE HOME may be no more than two stories high, and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

FAMILY CHILD CARE HOME. A childcare arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive childcare.

FAMILY FOSTER HOME. The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

FLOOD DAMAGE PREVENTION DEFINITIONS.

(1) ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

(2) AREA OF FUTURE-CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

(3) AREA OF SHALLOW FLOODING. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

(4) AREA OF SPECIAL FLOOD HAZARD. See SPECIAL FLOOD HAZARD AREA (SFHA).

(5) BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

(6) BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

(7) BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

(8) DESIGN FLOOD. See REGULATORY FLOOD PROTECTION ELEVATION.

(9) DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(10) DEVELOPMENT ACTIVITY. Any activity defined as development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

(11) DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

(12) ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

(13) ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a Special Flood Hazard Area, which may impede or alter the flow capacity of a floodplain.

(14) EXISTING BUILDING AND EXISTING STRUCTURE. Any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by a community.

(15) FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.

(16) FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

(17) FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

(18) FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

(19) FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. See also DFIRM.

(20) FLOOD INSURANCE STUDY (FIS). An examination, evaluation and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones and other flood data in a community issued by the Federal Emergency Management Agency. The FLOOD INSURANCE STUDY report includes Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps (FBFMs), if published.

(21) FLOOD PRONE AREA. See FLOODPLAIN.

(22) FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

(23) FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

(24) FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this Unified Development Ordinance, prior to the commencement of any development activity.

(25) FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

(26) FLOODPLAIN MANAGEMENT REGULATIONS. Sections 91.240 through 91.263 of this Unified Development Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

(27) FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

(28) FLOOD-RESISTANT MATERIAL. Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

(29) FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(30) FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

(31) FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(32) FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

(33) LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a Special Flood Hazard Area.

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, Special Flood Hazard Area boundaries and floodway delineations, and other planimetric features.

(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the Special Flood Hazard Area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and

approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

(34) MAP REPOSITORY. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

(35) MEAN SEA LEVEL. For purposes of this Unified Development Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

(36) NON-ENCROACHMENT AREA. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

(37) POST-FIRM. Construction or other development for which the start of construction occurred on or after January 26, 1999, the effective date of the initial Flood Insurance Rate Map.

(38) PRE-FIRM. Construction or other development for which the start of construction occurred before January 26, 1999, the effective date of the initial Flood Insurance Rate Map.

(39) REFERENCE LEVEL. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO or A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within the Special Flood Hazard Areas designated as Zone VE.

(40) REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In Special Flood Hazard Areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus three feet of freeboard. In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade. Duct work and other non-flood resistant materials are exempt from freeboard requirements but must still be above BFE.

(41) REMEDY A VIOLATION. To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages,

implementing the enforcement provisions of the Unified Development Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

(42) RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

(43) SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in §§ 91.240 through 91.263.

(44) STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

(45) TECHNICAL BULLETIN and TECHNICAL FACT SHEET. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. C.F.R. at § 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

(46) TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

(47) VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 91.240 through 91.263 is presumed to be in violation until such time as that documentation is provided.

(48) WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(49) WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. WATERCOURSE includes specifically designated areas in which substantial flood damage may occur.

FLOOR AREA. For determining off-street parking and loading requirements:

(1) The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

(2) However, FLOOR AREA for the purposes of measurement for off-street parking spaces shall not include:

(a) Floor area devoted to primarily storage purposes (except as otherwise noted herein);

(b) Floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or

(c) Basement floor other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

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

FRONTAGE. The length of the property line of any one premises serving as a public street right-of-way line. For lots with multiple FRONTAGES, the PRINCIPAL STREET FRONTAGE shall be the same as that to which the building is oriented. Should the owner wish to direct the sign solely to a FRONTAGE other than the PRINCIPAL FRONTAGE, the linear length of this FRONTAGE will be used to calculate the allowable area of the sign. Should the owner wish to direct the sign to both FRONTAGES, the FRONTAGE having the highest vehicular traffic volume shall be used to calculate the allowable area.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

GARAGE, PRIVATE. A building used as an accessory to or a part of the main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

GOVERNING BODY. The Town or County Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "town/city council" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the NC General Statutes, or local customary usage.

GRANNY PODS. A temporary structure that will house a single mentally or physically impaired person in accordance with G.S. § 160A-383.5 160D-915. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily

living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.

GROUP DEVELOPMENT. Multi-family development having multi-family units grouped within more than one structure. This does not include townhouse development.

HALF STREET. A street whose centerline coincides with a subdivision plat boundary with one-half the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

HAZARDOUS WASTE FACILITY. As defined in G.S. Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste.

HELIPORT. An area providing for the takeoff and landing of helicopter and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance and repair of helicopters.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a certified local government (CLG) program; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program. Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

HOME OCCUPATION. A business, profession, occupation or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building. Further, provided that no more than 25% of the total floor area is used for such purposes; that there is no outside or window display; and no more than one person not residing on the premises is employed in connection with the home occupation.

HOST. A permanent, full-time resident of a property who is present during the homestay term for the entire time lodgers are staying on the property. The host may be temporarily absent from the property for purposes related to normal residential activities, such as shopping, working, attending classes, etc.; however, a host must be at the property overnight when lodgers are present.

HOMESTAY LODGING. A business engaged in the rental of individual bedrooms within a dwelling unit that serves as a host's principal residence, including any single-family or accessory apartment, that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days, that does not include serving food, and to which the definition of family does not apply.

HOTEL or MOTEL. A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where:

- (1) Sleeping accommodations are supplied for pay to transient or permanent guests or tenants;
- (2) Rooms are furnished for the accommodation of such guests; and
- (3) May have one or more dining rooms, restaurants or cafes where meals are served.

INCOMPATIBLE USE. A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous or discordant.

INOPERATIVE VEHICLE. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Unified Development Ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered INOPERATIVE .

JUNK YARD. Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled or handled including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires and bottles. A JUNK YARD includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

LAND DEVELOPMENT REGULATIONS. Any State statute, rule, or regulation, or local ordinance affecting the development or use of real property, including any of the following:

- (1) Unified development ordinance.
- (2) Zoning regulation, including zoning maps.
- (3) Subdivision regulation.
- (4) Erosion and sedimentation control regulations.
- (5) Floodplain or flood damage prevention ordinance.

- (6) Stormwater control regulation.
- (7) Wireless telecommunication facility regulation.
- (8) Historic preservation or landmark regulation.
- (9) Housing code.

LANDOWNER. The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase, to act as his or her agent or representative for the purpose of making applications for development approvals.

LARGE SCALE ZONING AMENDMENT. The rezoning of more than fifty (50) parcels.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS Chapter 160D, Article 10.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 C.F.R. 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

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

LOT. A parcel of land occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as required by this Unified Development Ordinance, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds. Includes the words parcel, plat, plot and tract.

LOT, DEPTH. The DEPTH OF A LOT is the average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

LOT LINE. The line bounding a lot.

LOT LINE, FRONT. The boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the FRONT LOT LINE shall be designated by the owner and filed with the town.

LOT LINE, REAR. That boundary of a lot which is opposite the front lot line. If the REAR LOT LINE is less than ten feet in length, or if the lot forms a point at the rear, the REAR LOT LINE shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any boundary of a lot that is not a front lot line nor a rear lot line.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds by the owner or predecessor in title thereto.

LOT TYPES.

(1) CORNER LOT. A lot located at the intersection of two or more streets. A lot abutting on 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.

(2) DOUBLE FRONTAGE LOT. A continuous (through) lot which is accessible from both streets upon which it fronts.

(3) FLAG LOT. A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

(4) INTERIOR LOT. A lot other than a corner lot with only one frontage on a street.

(5) REVERSED FRONTAGE LOT. A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A REVERSED FRONTAGE LOT may also be a corner lot, an interior lot or a through lot.

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

(7) THROUGH LOT or DOUBLE FRONTAGE LOT. A lot other than a corner lot with frontage on more than one street. THROUGH LOTS abutting two streets may be referred to as DOUBLE FRONTAGE LOTS.

LOT WIDTH. The straight-line distance between the points where the building setback line intersects the two side lot lines.

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's LOWEST FLOOR, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Unified Development Ordinance.

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

- (1) The manufactured home has a length not exceeding four times its width;
- (2) The manufactured home has a minimum of 700 square feet of enclosed living area;
- (3) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (4) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (5) The home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home;
- (6) The moving hitch, wheels and axles, transporting lights have been removed;
- (7) Manufactured home to meet the requirements for Wind Zone 2; and
- (8) All roof structures shall provide an eaves projection of six inch minimum.

MANUFACTURED HOME, CLASS B. A manufactured home ~~constructed after July 1, 1976,~~ that meets or exceeds the construction standards promulgated by the U.S. Department of

Housing and Urban Development that were in effect at the time of construction and that satisfies the following criteria:

- (1) The manufactured home has a length not exceeding four times its width;
- (2) The manufactured home has a minimum of 576 square feet of enclosed living area;
- (3) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (4) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous masonry, vinyl, aluminum or wood curtain wall, unpierced except for required ventilation and access is installed under the perimeter of the manufactured home;
- (5) The moving hitch, wheels and axles, transportation lights have been removed; and
- (6) Manufactured home to meet the requirements for Wind Zone 2.

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

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

MANUFACTURED HOME SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. MARKET VALUE may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

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

MODULAR STRUCTURE. A structure that is constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings and composed of components substantially assembled in a

manufacturing plant and transplanted to the building site for final assembly and placement of a permanent foundation.

MULTI-FAMILY DWELLING. A building containing two or more dwelling units within a structure or multiple single-family structures in a subdivision.

MULTI-PHASE DEVELOPMENT. A development containing 25 acres or more that is both of the following:

- (1) Submitted for development permit approval to occur in more than one phase.
- (2) Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

MULTIPLEX. Either a single family attached unit with individual access or a multi-family unit with shared outside access. Small patios or balconies provide outdoor living space.

MULTI-UNIT ASSISTED HOUSING WITH SERVICES. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.

NET BUILDABLE AREA. That area of the total subdivision less that area designated as permanent recreation/common open space and less those areas comprising the following categories:

- (1) Easements for storm drainage or utilities;
- (2) Highway/streets/associated rights-of-way;
- (3) Sediment basins/water retention ponds;
- (4) Wetlands defined by the North Carolina Coastal Management Act or U.S. Corps of Engineers;
- (5) Water and waste water treatment facilities;
- (6) Local or State designated State historical sites; and
- (7) Water area including seasonal ponds or lakes may be included in net buildable area and counted towards open space if conveyed to a homeowners' or property organization with appropriate restrictions recorded in deed and restrictive covenants to the property

which restrict in perpetuity the use of such land and facilities to open space and recreational uses as shown on the master plan and is practicable to all property owners.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the original version of the community's flood damage prevention requirements and includes any subsequent improvements to such structures.

NEW OR USED CAR LOT. Any building or land used commercially for the sale of or offering for sale of any motor vehicle or vehicles. **MOTOR VEHICLE** or **VEHICLES** is defined as any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

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

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

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

NURSING HOME. A facility, however named, which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A **NURSING HOME** is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities and obstetrical facilities. A **NURSING HOME** provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the Board of Commissioners.

OPEN SPACE. An area (land and/or water) generally lacking in human-made structures and reserved for enjoyment in its unaltered state.

OUT BUILDING. An attached or detached building on a single-family lot, can be used as a workshop or office as a home occupation.

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

PARKING SPACE. A storage space of not less than 200 square feet in area and ten feet by 20 feet in size for one automobile, plus the necessary access space.

PATIO HOME. A single-family detached or semi-detached unit built on a small lot which may be enclosed by walls which provide privacy.

PERMANENT COMMON OPEN SPACE. Any land held and developed as permanent open space or any land dedicated to the public as parks, playgrounds, parkway medians, landscaped green space, schools, community centers or other similar areas held in public ownership or covered by an open space easement. Golf courses may be included in open space designation with appropriate restrictions recorded which restrict in perpetuity the use of such land and facilities for golf course use and are available for all property owners; however, golf courses shall not count towards more than 25% of the required PERMANENT COMMON OPEN SPACE. No plan for a PRD or MIXED USE shall be approved unless such plan provides for PERMANENT COMMON OPEN SPACE equivalent to 25% of the total of the PRD or MIXED-USE site under consideration for development.

PERSON. ~~A firm, association, corporation, trust and company as well as an individual.~~ Any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

PLACE OF ASSEMBLY. A structure or open area for groups of people to gather for an event or regularly scheduled program. PLACES OF PUBLIC ASSEMBLY include, but are not limited to, arenas, lecture halls, banquet facilities and similar facilities.

PLANNED UNIT DEVELOPMENT or PLANNED RESIDENTIAL DEVELOPMENT. Land under unified control to be planned and developed as a whole; in a single development operation or a definitely programmed series of development operations, including lands and buildings; developed according to detailed plans that include, but are not limited to, streets, utilities, lots or building sites, and designed with a program for provision, operation and maintenance of such areas, facilities and improvements as will be for common use by some or all of the occupants of or visitors to the district, but such program will not be provided, operated or maintained at general public expense.

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

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

PRINCIPAL RESIDENCE. The domicile where an individual has a true, fixed, permanent home and principal establishment, and to which place, whenever absent, the individual has the intention of returning. A principal residence is the one a person: (1) uses as his/her voting address; and (2) uses as the address on one of the following: his/her Federal and State tax returns, military purposes, passport, vehicle registration, insurance policy, driver's license, bank account, or any other bill or item that requires a response; and (3) occupies for at least 183 days during a calendar year.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

PRIVATE DRIVEWAY. A roadway serving two or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

PRIVATE STREET. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

PROFESSIONAL SERVICES OFFICE. A business that offers any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization. By way of example, and without limiting the generality of this definition, professional services include services rendered by certified public accountants, public accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists, chiropractists, architects, veterinarians, attorneys at law, physical therapists, life/property insurance agents, real estate agents.

PROPERTY. All real property subject to land use regulation by the Town. The term includes any improvements or structures customarily regarded as part of real property.

PUBLIC AGENCY. An agency of the local, State, or Federal government.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

PUBLIC SEWAGE DISPOSAL SYSTEM. A system serving two or more dwelling units and approved by the County Health Department or the State Department of Natural Resources and Community Development.

QUASI-JUDICIAL DECISIONS. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is 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 regulation authorizes a decision making board to approve 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.

RECREATION AREA OR PARK. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various human-made features that accommodate such activities.

RECREATIONAL VEHICLE (RV). A vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- (5) Is fully licensed and ready for highway use.

RESERVATION. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

RESIDENTIAL CHILD-CARE FACILITY. A staffed premises with paid or volunteer staff where children receive continuing full-time foster care.

RIPARIAN BUFFER. A landward setback from surface waters.

ROW HOUSE. An attached residential dwelling unit.

RURAL ROADS.

(1) LOCAL ROAD. A LOCAL ROAD serves primarily to provide access to adjacent land and for travel over relatively short distances.

(2) MAJOR COLLECTOR. A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

(3) MINOR ARTERIAL. A rural link in a network joining cities and larger towns and providing intrastate and intercounty service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(4) MINOR COLLECTOR. A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

(5) PRINCIPAL ARTERIAL. A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

SALVAGE YARD. Any nonresidential property used for the storage, collection and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.

SEARCH RING. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

SETBACK. The required distance between every structure and the lot lines of the lot on which it is located.

SIGN DEFINITIONS.

(1) **ADVERTISING DEVICE OR SIGN.** Any advertising sign, billboard, statuary or poster which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed; but does not include those advertising signs, billboards or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

(2) **ANIMATION.** The movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving or intermittent illuminating shall be employed.

(3) **BEACON.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same property as the light source. Also, any light with one or more beams that rotate or move.

(4) **DRIVE-THROUGH RESTAURANT MENU BOARD.** A freestanding sign listing the menu items for a drive-through eating establishment.

(5) **FLAG.** Any fabric, banner or bunting containing distinctive colors, patterns or symbols.

(6) **MAINTENANCE.** For the purposes of this Unified Development Ordinance, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

(7) **MULTI-TENANT DEVELOPMENT.** A grouping of lots, parcels or buildings under unified ownership of land or tenancy designed with a common purpose and used primarily for the retail sale of goods and services to the public.

(8) **PARAPET.** The extension of a false front or a false wall above the roofline.

(9) **PENNANT.** Any lightweight plastic, fabric or other material, whether containing a message of any kind, suspended from a rope, wire, string or similar material, usually in series, and designed to move in the wind.

(10) **PREMISES.** A parcel or lot of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map, subdivision map or a

parcel legally created or established pursuant to applicable land use regulations. Out parcels of shopping centers shall be considered on the premises of the shopping center. Multi-unit buildings shall be considered on the premises of a subdivision.

(11) ROOF LINE. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.

(12) SHOPPING CENTER. A building, group of buildings or strip mall either connected or freestanding, under unified ownership of land that is designed with common parking, pedestrian movement, ingress and egress, and is used or is intended to be used primarily for the retail sale of goods and services to the public.

(13) SIGN. Includes but is not limited to any flag, streamer, pole or architectural device when it is intended to draw attention to or announce or identify an enterprise.

(14) SIGN, ABANDONED. A sign, other than a billboard or off-premises sign, that advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is in disrepair, and the activity it is promoting is no longer operating, being offered or conducted.

(15) SIGN, ANIMATED. Any sign that utilizes movement, the illusion of movement, change of lighting, change of copy or other means to depict action or create a special effect.

(16) SIGN, AWNING OR CANOPY. Any sign that is a part of or attached to an awning, canopy or other structural protective covering above a door, entrance, window or walkway.

(17) SIGN, BACKLIGHTING OR BACKLIT. Illumination of a sign in which lights are placed within or behind raised opaque letters, thereby casting light upon the background of the letters rather than through the letters.

(18) SIGN, BILLBOARD. One advertising device used to disseminate information concerning a person, place or thing not pertaining to the use of the land upon which it is located.



(19) SIGN, COLUMN/POLE. A sign supported by one or more columns or poles or other similar support.

(20) SIGN, DOUBLE-FACED. A sign with two faces which are usually parallel, but may be V-shaped.

(21) SIGN, FREESTANDING. A sign supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object (other than the sign structure) for support. A FREESTANDING SIGN may contain a sign or signs on one side only or it may be a V-shaped structure or one containing signs back-to-back. A FREESTANDING SIGN STRUCTURE is one sign.

(22) SIGN, GROUND-MOUNTED. A freestanding sign, supported by a contiguous structural base or planter box that is permanently affixed to the ground.

(23) SIGN, HEIGHT OF. The vertical distance measured from the ground to the top of the sign face or sign structure, whichever is greater.

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

(25) SIGN, ILLEGAL. A sign that did not meet the applicable sign regulations and regulations at the time that it was erected, does not meet the current sign restrictions and regulations, or does not qualify as a nonconforming sign.

(26) SIGN, INFORMATIONAL. Any sign that serves solely to provide direction or information to persons using the property, such as entrance, exit, parking or telephone, and that does not include business names, brand names or information regarding product lines.

(27) SIGN, INTERNALLY ILLUMINATED. A sign where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, the following signs are also categorized as being internally illuminated:

(a) Consist of or contain tubes that are filled with neon or some other gas that glows when an electric current passes through it; and

(b) Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message.



(28) SIGN, KIOSK. A sign consisting of three to five sides that lists names of businesses located on a property or in a building.

(29) SIGN, MENU BOARD. A permanently mounted structure displaying the bill of fare of a restaurant.

(30) SIGN, MESSAGE BOARD. A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This definition does not include menu and sandwich board signs.

(31) SIGN, NONCONFORMING. Any sign that was legal when established but that does not conform to the requirements set forth herein as of the effective date of this Unified Development Ordinance.

(32) SIGN, OFF-PREMISES. A sign or billboard that identifies or communicates a message related to an activity conducted, a service rendered or a commodity sold, which is not the primary activity, service or commodity provided on the premises where the sign is located.

(33) SIGN, ON-PREMISES. A sign that directs attention to a business commodity, service or establishment conducted, sold or offered on the premises on which the sign is erected.

(34) SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Includes, but is not limited to, signs designed to be transported by means of wheels, runners, casters, trailers or other mobile devices; signs converted to A-frames or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is regularly and customarily used in the normal day-to-day operations of the business.

(35) SIGN, PROJECTING. A sign attached to a wall and projecting away from that wall more than 12 inches, but not more than five feet.

(36) SIGN, PUBLIC INFORMATION. A sign, erected and maintained by a public agency, which provides the public with information including, but not limited to, speed limit signs,

stop signs, city limit signs, street name signs and directional signs. These signs are in no way regulated by this Unified Development Ordinance.

(37) SIGN, ROOF. Any sign erected, constructed or maintained upon or over the roof of a building or extending above the highest wall of the building, and having its principal support on the roof or walls of the building.

(38) SIGN, SANDWICH BOARD. A temporary A-frame or easel sign listing specials of the establishment.

(39) SIGN, SNIPE. An off-premises sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects



(40) SIGN, STRUCTURE. Any structure that is built to support, supports or has supported a sign.

(41) SIGN, SUBDIVISION. A sign identifying a recognized residential subdivision, condominium complex or residential development.

(42) SIGN, TEMPORARY. A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than 15 days prior to and/or following the associated circumstances, situation, or event.

(43) SIGN, WALL. Any sign attached to, or erected against or within the wall of a building or structure, having the exposed face of the sign in a plane parallel to the plane of such wall.

(44) SIGN, WINDOW. Any sign, picture, symbol or combination thereof, designed to communicate information about an activity, business, commodity, sale or service that is placed inside a window, or upon the window panes or glass, and is visible from the exterior of the window. For the purposes of this Unified Development Ordinance, a sign that rests against a window, a sign that is separated from the window by a bumper pad, or a sign that is placed within two inches of the window through the use of a hanging device, shall also be considered a WINDOW SIGN.

(45) STREAMER. A long, narrow, ribbon-shaped flag or pennant.

SINGLE-FAMILY. A building containing one dwelling unit only, but may include one separate unit as an accessory use to be occupied only by employees, guests or relatives of the household.

SITE PLAN. ~~A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and human-made and, depending on requirements, the location of proposed utility lines.~~ A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SITE PLAN, MAJOR. All site plans not meeting the requirements for a minor site plan.

SITE PLAN, MINOR. Includes the following:

- (1) Buildings or additions with an aggregate enclosed square footage of less than 20,000 square feet;
- (2) Buildings or additions involving land disturbance of less than one acre;
- (3) Multi-family development involving less than ten dwelling units;
- (4) Parking lot expansions which comply with this Unified Development Ordinance with no increase in enclosed floor area;
- (5) Revisions to landscaping, signage or lighting which comply with the requirements of this Unified Development Ordinance;
- (6) Accessory uses which comply with the requirements of this Unified Development Ordinance; and

(7) Site plans which do not require a variance or modification of the requirements of this Unified Development Ordinance, and otherwise comply with this UDO.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a DWELLING UNIT are not sleeping units.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications:

(1) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.

(2) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

SOLID WASTE DISPOSAL FACILITY. As defined in G.S. § 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

SPECIAL USE. A use permitted in a particular zoning district by the Board of Commissioners after having held a public hearing and determined that the use in a specified location complies with certain findings of fact as specified in this Ordinance.

SPECIAL USE PERMIT. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

SPECIFIC TYPE RURAL OR URBAN STREETS.

(1) **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.

(2) **CUL-DE-SAC.** A short street having but one end open to traffic and other end being permanently terminated and a vehicular turnaround provided.

(3) **FREEWAY, EXPRESSWAY or PARKWAY.** Divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. A FREEWAY is a divided highway

providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An EXPRESSWAY is a divided highway with full or partial control of access and generally with grade separations at major intersections. A PARKWAY is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of parklike development.

(4) FRONTAGE ROAD. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

(5) LOCAL RESIDENTIAL STREET. Cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

(6) RESIDENTIAL COLLECTOR STREET. A local access street which serves as a connector street between local residential streets and the thoroughfare system.

(7) RESIDENTIAL COLLECTOR STREETS typically collect traffic from 100 to 400 dwelling units.

SPOT ZONING. The zoning of a relatively small area of land differently from the way the majority of the surrounding land is zoned. Spot zoning is legal only if the government establishes that it is reasonable. Reasonableness is determined by considering the size of the area; any special conditions or factors regarding the area; the consistency of the zoning with the land use plan; the degree of change in the zoning; the degree it allows uses different from the surrounding area; and the relative benefits and detriments for the owner, the neighbors, and the surrounding community. The town should consider the following factors in deliberating any potential spot zoning:

(1) The size and nature of the tract. The larger the area of spot zoning the more likely it is to be reasonable. Singling out an individual lot for special zoning treatment is more suspect than creating a zoning district that involves multiple parcels and owners. Special site characteristics, such as topography, availability of utilities, or access to rail or highways, can be important in this analysis.

(2) Compatibility with existing plans. If a clear public policy rationale for the different zoning treatment is set out in the local government's adopted plans, that evidences a public purpose for the zoning. By contrast, a zoning action that is inconsistent with a plan may indicate special treatment that is contrary to the public interest and thus be unreasonable.

(3) The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community. An action that is of great benefit to the owner and only a mild inconvenience for the neighbors may be reasonable, while a zoning decision that significantly harms the neighbors while only modestly benefitting the owner would be unreasonable.

(4) The relationship between the newly allowed uses in a spot rezoning and the previously allowed uses. The degree of difference in the existing surrounding land uses and

the proposed new use is also important. The greater the difference in allowed uses, the more likely the rezoning will be found unreasonable. For example, in an area previously zoned for residential uses, allowing slightly higher residential density may be reasonable while allowing industrial uses would be unreasonable.

(5) Ownership. In order to constitute spot zoning, the area to be rezoned must be owned by a single owner.

STANDING. The following persons shall have standing to file an appeal:

(1) Any person meeting any of the following criteria:

(a) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.

(b) Has an option or contract to purchase the property that is the subject of the decision being appealed.

(c) Was an applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A Town whose decision-making board has made a decision that the council believes improperly grants a variance from or is otherwise inconsistent with the property interpretation of an ordinance adopted by that council.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The ACTUAL START means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the ACTUAL START OF CONSTRUCTION means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STREET. A dedicated and accepted public right-of-way for vehicular traffic (or a private road only if permitted by this Unified Development Ordinance).

STREET LINE. The line between the street right-of-way and abutting property.

STREET, PRIVATE. Any road or street which is not publicly owned and maintained and is used for access by the occupants of the development, their guests and the general public.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.

STRUCTURE. Anything constructed or erected, the use of which requires location in or on the land or attachment to something having a permanent location in or on the land.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this part.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in this Unified Development Ordinance;

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

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

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as shown in this Unified Development Ordinance.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

SUBDIVISION, MAJOR. All subdivisions not meeting the requirements for a minor subdivision.

SUBDIVISION, MINOR. Includes all subdivisions that do not involve a public street dedication, public easement dedication, dedication of floodplain and open space, or other property dedication; or a subdivision containing ten lots or less.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any ten-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 24% of the market value of the structure before the damage occurred. See definition of SUBSTANTIAL IMPROVEMENT. SUBSTANTIAL DAMAGE also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred; also considered repetitive loss.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any ten-year period for which the cumulative cost equals or exceeds 24% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of State or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to § 91.255.

SUBSTANTIAL MODIFICATION. The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a SUBSTANTIAL MODIFICATION if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

(1) Increasing the existing vertical height of the structure by the greater of:

(a) More than 10%; or

(b) The height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

(2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a

wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of:

(a) More than 20 feet; or

(b) More than the width of the wireless support structure at the level of the appurtenance.

(3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

TEMPORARY STRUCTURE. A structure intended to serve a specific event and to be removed upon the completion of that event. This term includes, but is not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms and other impermanent devices, which do not involve grading or land form alteration for installation, and which are not permanently affixed to the ground.

TEMPORARY USE. An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize temporary structures for the duration of the event.

THERAPEUTIC FOSTER HOME. A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program or a licensed private agency.

TINY HOUSE. A single-family detached home not exceeding 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.

TOURIST HOME/BED AND BREAKFAST. Any dwelling occupied by the owner or operator in which rooms are rented to guests, for lodging of transients and travelers for compensation, and where food may be served.

TOWN HOUSE. A single-family attached dwelling in which units share common side walls and are often designed in rows. Yard areas are small and privacy requires careful protection.

TOWN RIGHT-OF-WAY. A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

TOWN UTILITY POLE. A pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

TRAILER. Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. TRAILERS shall include the following.

(1) **CAMPING TRAILER.** A folding structure manufactured of metal, wood, canvas, plastic or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation or vacation use.

(2) **RECREATIONAL VEHICLE.** A self-propelled vehicle or portable structure mounted on such a vehicle designed as a temporary dwelling for travel, recreation and vacation.

(3) **TOW TRAILER.** A structure designed to be hauled by another vehicle and to transport vehicles, boats or freight.

(4) **TRAVEL TRAILER.** A vehicular, portable structure built on a wheeled chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation or vacation purposes, having a body width ten feet or less or body length 32 feet or less when equipped for road travel.

TWIN HOUSE. A semi-detached, single family house, which is connected along a common breeze-way to a similar unit. Each structure has only two dwellings.

UDO ADMINISTRATOR. The person designated by the Board of Commissioners to administer and enforce the provisions of this Unified Development Ordinance.

URBAN STREETS.

(1) **LOCAL STREET.** Any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

(2) **MAJOR THOROUGHFARES.** Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(3) **MINOR THOROUGHFARES.** Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

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

USED FOR. Includes the phrases arranged for, designed for, intended for and occupied for.

UTILITY POLE. A structure that is designed for and used to carry lines, cables, ~~or~~ wires, lighting facilities, or small wireless facilities for telephone, cable television, ~~or~~ electricity, ~~or to provide~~ lighting, or wireless services.

VARIANCE. Grant of relief from the requirements of this Unified Development Ordinance in accordance with § 91.54(B).

VESTED RIGHT. The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS Chapter 160D-108 or under common law.

WAREHOUSE. A building where goods are stored before distribution to retailers or kept in reserve.

WATER TOWER. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

WHOLE-HOUSE LODGING. A business engaged in the rental of an entire dwelling unit that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days and does not include serving of food. Whole-house lodging uses are exempt from the definition of family.

WIRELESS FACILITY. ~~The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless data and wireless telecommunication services to a discrete geographic area.~~ Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

(1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

(2) Wireline backhaul facilities.

(3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES. Any services, using licensed or unlicensed wireless spectrum, including the use of WI-FI, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER. A person who provides wireless services.

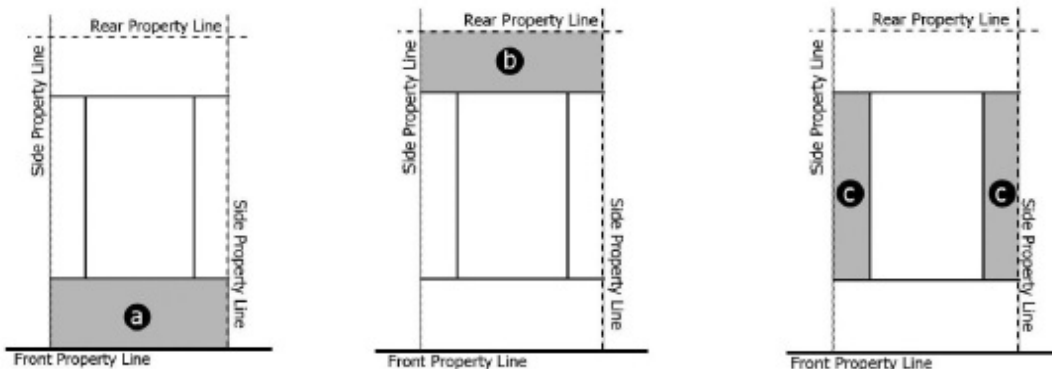
WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a monopole, lattice tower or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

YARD. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, including the area of steps, eaves and uncovered porches, but not including the areas of covered porches. See Figure a below.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building. See Figure b below.

YARD, SIDE. An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot. See Figure c below.



ZERO LOT LINE. A concept commonly used in planned developments where individual commercial buildings or dwellings, are to be sold along with the ground underneath and, perhaps, a small yard or patio area. With ZERO LOT LINE the minimum requirements for lot area and yards are not met and construction takes place right up to the lot line.

ZERO LOT LINE HOUSE. A single family detached unit which, instead of being centered on the lot, is placed against one of the side lot lines.

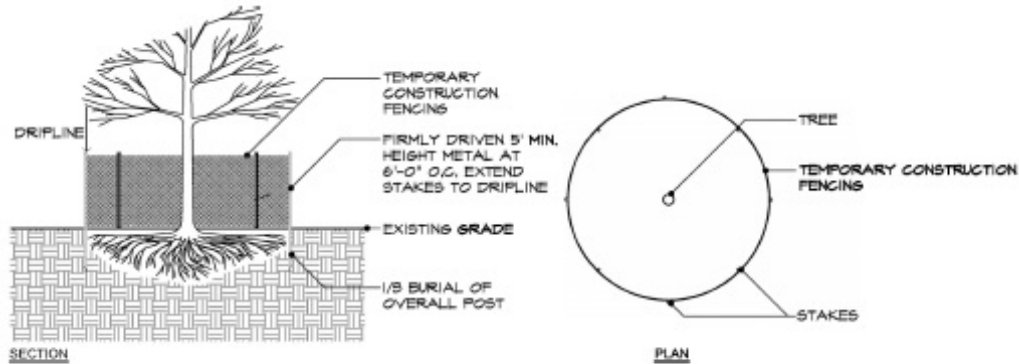
ZONING. A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement and other development standards.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

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the

territorial jurisdiction of the Town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the Town, (ii) the repeal of a zoning map and read option of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

(Ord. eff. 9-6-2012, App. A; Am. Ord. 16-1, passed 4-7-2016; Am. Ord. 19-2, passed 7-12-2018; Am. Ord. 19-11, passed 5-9-2019)

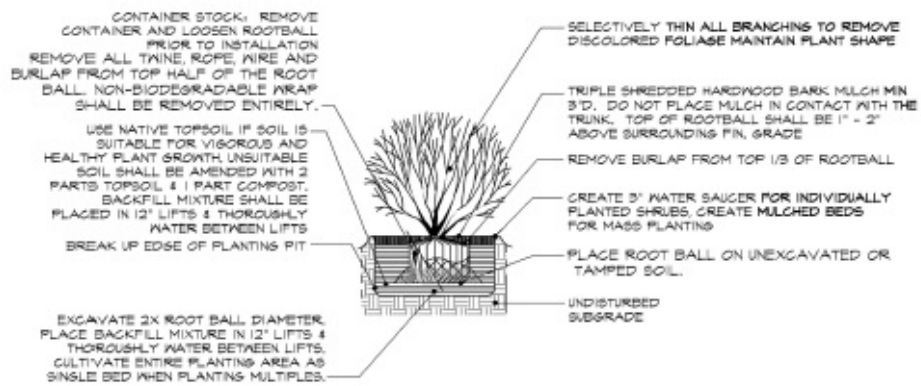
APPENDIX B: INSTALLATION DETAIL TREE PROTECTION



SHRUB PLANTING

NOTES:

1. VERIFY THAT ADEQUATE DRAINAGE AND SOIL EXISTS PRIOR TO PLANTING. SOIL ANALYSIS SHALL BE OBTAINED PRIOR TO PLANTING. SOIL SHALL BE AMENDED AS RECOMMENDED.
2. ALL PLANTS SHALL CONFORM TO AMERICAN STANDARDS FOR NURSERY STOCK PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN (A.A.N.).
3. TO ADEQUATELY PROVIDE WATER, NUTRIENTS, AND AIR CIRCULATION TO THE PLANTS ROOTS TO SUPPORT HEALTHY AND VIGOROUS PLANT GROWTH, THE USE OF LANDSCAPE FABRIC IS HIGHLY DISCOURAGED.



SHADE AND SMALL TREE PLANTING

NOTES:

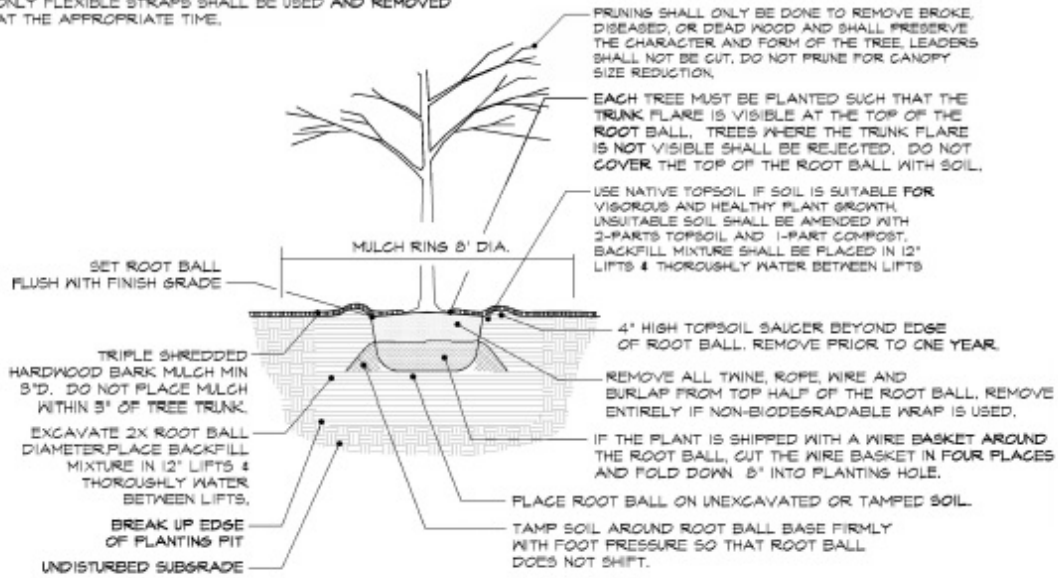
1. VERIFY THAT ADEQUATE DRAINAGE AND SOIL EXISTS PRIOR TO PLANTING. SOIL ANALYSIS SHALL BE OBTAINED PRIOR TO PLANTING. SOIL SHALL BE AMENDED AS RECOMMENDED.

2. ALL PLANTS SHALL CONFORM TO AMERICAN STANDARDS FOR NURSERY STOCK PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN (A.A.N.).

3. STAKING IS ONLY RECOMMENDED FOR WINDY SITES. ONLY FLEXIBLE STRAPS SHALL BE USED AND REMOVED AT THE APPROPRIATE TIME.

4. DO NOT WRAP TRUNK OF TREE.

5. TO ADEQUATELY PROVIDE WATER, NUTRIENTS, AND AIR CIRCULATION TO THE PLANT'S ROOTS TO SUPPORT HEALTHY AND VIGOROUS PLANT GROWTH, THE USE OF LANDSCAPE FABRIC IS HIGHLY DISCOURAGED.



(Ord. eff. 9-6-2012, App. B)

ORDINANCE 21-2

AN ORDINANCE RELINQUISHING AN AREA OF EXTRATERRITORIAL JURISDICTION OF THE TOWN OF CAROLINA SHORES, NORTH CAROLINA

WHEREAS, the Charter of the Town of Carolina Shores (“Town”) provides a defined area of extraterritorial jurisdiction outside the Town’s corporate limits wherein the powers granted by Article 19, Chapter 160A of the North Carolina General Statutes may be exercised by the Town;

WHEREAS, Meadowlands is a county-approved PUD residential development located in Brunswick County, North Carolina (“County”);

WHEREAS, permits issued for and inspections of the Meadowlands development are within the County’s jurisdiction;

WHEREAS, Meadowlands is being developed by the Meadowlands Golf Club, Inc. (“Petitioner”);

WHEREAS, Petitioner also owns Brunswick County Parcel No. 2250003911 (the “Property”), a 24.21 acre tract more fully described in a survey plat dated May 11, 2020 (the “Map”) and recorded in Map Cabinet 121 at Page 60 in the County’s Register of Deeds, a copy of the Map being attached hereto and incorporated herein by reference;

WHEREAS, the Property is contiguous to the Meadowlands development;

WHEREAS, Petitioner has petitioned the Town to relinquish its extraterritorial jurisdiction over the Property;

WHEREAS, the Town of Carolina Shores Board of Commissioners (“Board”) finds that without relinquishing extraterritorial jurisdiction, Petitioner’s development of the Property could result in regulatory issues given the possibility of split jurisdictional authority between the Town and the County; and

WHEREAS, the Town has held a duly noticed public hearing on the question of relinquishing extraterritorial jurisdiction over the Property.

NOW, THEREFORE, BE IT ORDAINED by the Board, in a meeting duly noticed and assembled, that:

Section 1. The Property, as described by and shown on the Map, is hereby removed from the Town's extraterritorial jurisdiction.

Section 2. Staff is directed to record this ordinance in the Brunswick County Registry of Deeds.

Section 3. This ordinance shall be effective immediately upon its adoption.

In the COUNTY OF BRUNSWICK

Adopted this ____ day of September, 2020.

TOWN OF CAROLINA SHORES BOARD OF COMMISSIONERS

By: _____
Joyce Dunn, Mayor

ATTEST:

Nicole Hewett, Clerk to the Board

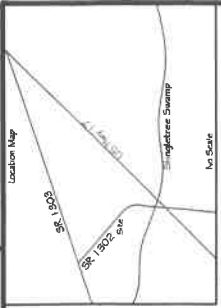
North Carolina, Brunswick County

I, Julie Munday, a Notary Public for Brunswick County, North Carolina, do hereby certify that Joyce Dunn and Nicole Hewett personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this ____ day of September, 2020.

My commission expires: February 25, 2021.

121/60



Traverse Along SR 1302

LINE	BEARING	DISTANCE
L1	S 43°23'53" E	54.60'
L2	S 44°50'35" E	45.91'
L3	N 45°47'22" W	47.41'
L4	S 47°55'47" E	54.49'
L5	S 47°55'47" E	54.49'
L6	S 46°56'47" E	54.21'
L7	S 49°55'35" E	55.77'
L8	S 50°25'21" E	55.15'
L9	S 52°35'06" E	53.63'
L10	S 52°35'06" E	53.63'
L11	S 53°18'07" E	59.24'
L12	S 59°50'35" E	54.39'
L13	S 59°51'07" E	59.65'
L14	S 53°21'56" E	59.05'
L15	S 53°21'56" E	59.05'
L16	S 53°15'55" E	56.70'
L17	S 52°49'14" E	50.00'



I, **Steve M. Norris**, a Professional Land Surveyor, certify that this map was drawn from an actual survey made by me, that the ratio of precision of the actual field closure, as calculated by traverse and departures is 1 : 10,000 +, that it conforms to G.S. 47-20, insofar as that it is true and correct to the best of my knowledge and belief.

I hereby certify that this is a correct and accurate survey, or other exception to the definition of subdivision.

Witness my hand and seal this 12th day of May, 2020.

Steve M. Norris, P.L.S. L-2911

Cornelia Worsham, Revenue Officer of Brunswick County, certify that the map on file to which this certification is affixed meets all statutory requirements for recording.

Revenue Officer: **Cornelia Worsham**

Date: **16 June 20**

Certificate of Approval for Recording Final Plat

I, **John M. Woodcock**, LDO Administrator, certify that the Town of Carolina Shores fully approved the final plat of the Subdivision entitled Survey For Henry D. & Amelia W. Bennett.

John M. Woodcock, LDO Administrator

Meadowlands Golf Club, Inc.
 DB. 3889, PG. 819
 MB. 68, PG. 31
 2250008903

NOTES:
 For additional fee and reference see maps as referenced herein.
 Aiding Property owners based on information found in the Brunswick County Tax office.
 Based on Town of Carolina Shores Flood Insurance Rate Map 376210200K, Community Number 370517 Parcel 1026, the parcel appears to be in Flood Zone 'X' & 'FC'.
 All Distances are horizontal ground distances unless otherwise noted.

NW NORRIS & WARD
 Land Surveyors, P.A.
 North Carolina & South Carolina

PO Box 7894
 Ocean View Beach, N.C. 28442
 C-1087

919-377-3400 Fax 919-377-3400
 Steve M. Norris, P.L.S. Cornelia D. Ward, P.L.S.

Surveyed By: **SNW**
 Drawn By: **SNW**
 Checked By: **2020-D**
 Work Order #: **202001**
 File No.: **202001**



Survey For
Henry D. & Amelia W. Bennett
 On A Part of The Lands Claimed in DB 2194, PG 979
 MB. 32, PG. 538
 Remainder of
 22500039

Sheets: Township Brunswick County, N.C.
 Scale 1" = 100'
 May 11th, 2020
 COURTESY & WARD LAND SURVEYORS, P.A. 2020

September 2020

Map Cabinet 121 Page 60

TOWN OF CAROLINA SHORES NORTH CAROLINA



MEMORANDUM

TO: Mayor and Board of Commissioners
FROM: Nicole L. Hewett, Interim Town Administrator
SUBJECT: September 2020 Administrative Report
DATE: 9/2020
ENCL: None
CC: File

Administration:

Staffing – The Operations Superintendent for Maintenance has expressed the need to fill one vacant position for Maintenance Worker. In addition, there will be an open position for Project Coordinator at the end of September and the Board should consider how they would like to proceed with that position.

Ratification of the State of Emergency for Hurricane Isaias – Resolution 21-1 is on the agenda for Board consideration under New Business.

Right of Way Encroachment Agreement, The Farm at Brunswick – Commissioner Przywara requested this item be placed on the September agenda. This item is under Old Business on the agenda.

Convenience Site – Emergency pink paper passes will expire on September 30, 2020. Staff would like Board direction on opening up recyclables and going back to normal Convenience Site hours.

Halloween – Resolution 21-2 is under New Business for Board discussion.

East Park – Staff needs direction from the Board on how to proceed with East Park or due to COVID 19, place on hold. The parking lot has been paved and Maintenance has graded and stoned. The entranceway is presently blocked with cones. Items to consider if work on the park moves forward: dirt, light, sign, hours, gate, etc.

Parks Commission – There are currently 3 members that were up for re-appointment. Members Kathy Madola and William Hanley would like for the Board to consider their re-appointment. Staff has not heard back from member Paul Richards. In addition, there are still member vacancies on the Parks Commission for the communities of Carolina Shores Subdivision and Beacon Townes.

Planning Board – With the resignation of a Planning Board member in March, there is currently a vacancy on the Planning Board. Staff would like to recommend that Town Alternate Marlene Vandergrift be considered for appointment as a regular member and then fill the open position of Town Alternate.

Economic Development Commission – As there is not presently any business to discuss, staff recommends canceling the meeting for September.

Finance:

Ms. Julie Munday, Finance Director to give Finance Report.
(report is included in the agenda packet)

Public Works:

Maintenance prepared for Hurricane Isaias which included: walking each swell and removing debris, removal of debris from roadside ditches in each zone and roadside ditches in The Village. This process also involves post-shots and maps after each ditch are complete. Nicholas, Wedge and Cedar Ct. were jetted and 15 loads were hauled away. Maintenance has been handling Service Requests, maintenance on town equipment and vehicles, trash pick-up every morning and removed dead tree at Town Hall. In addition, both islands were cleaned at Hwy 17 at Persimmon and Country Club. Pot holes were repaired and maintenance took care of the sink hole on Pinewood Dr. Maintenance graded and stoned East Park.

Public Safety:

For the month of August, Code Compliance activities included: preparing for Hurricane Isaias, handling of debris left on private property from Hurricane Isaias, animal complaints, speeding complaints, overnight parking issues, sign compliance, networking with Brunswick County Sheriff's Office and other individual code compliance issues.

Inspections:

The month of August was extremely busy with permitting and inspections. The full detailed report is included in the agenda packet.

Project:

Drainage
No capital projects this fiscal year.

Roadway:

Board imposed delay due to COVID-19 until January 1, 2021. Bids received.

BUILDING INSPECTIONS DIVISION
MONTHLY ACTIVITY REPORT
August 2020

This report covers the period of August 1-31, 2020. The month of August was busy with permitting and inspections.

BUILDING PERMITS & CERTIFICATES OF OCCUPANCY ISSUED

18 permits for new single family homes were approved (construction value \$4,884,280).

In addition, there are 7 building permits for repair/remodel underway.

4 certificates of occupancy were issued in August 2020 (construction value \$619,092)

There are 51 valid new home permits open now where the homes are in various stages of construction.

OTHER PERMITS ISSUED

Mechanical: 25
Electrical: 5
Plumbing: 1
Zoning: 31
Floodplain: 56
Driveway: 20
Demolition: 0

INSPECTIONS

124 building inspections have been completed.

TREE PERMITS

Permits: 6
Trees: 20
Clearing: 1
Approved: 20 + clearing
Denied: 0
Replacement: 0

OTHER ACTIVITIES

Approximately \$79,230.64 in permit fees was collected in August 2020. YTD collected \$103,044.87.

All monthly reports to federal, state, and county have been completed in addition to weekly and monthly reports to construction statisticians.

Building inspections staff issued 71 recycle center stickers. The number of stickers issued per development is as follows: Beacon Townes-0, Carolina Shores-47, Calabash Lakes-10, Farm at Brunswick-8, Lighthouse Cove-0, and Village at Calabash-6.

ACTIVITY REPORT – BUILDING PERMITS
TOWN OF CAROLINA SHORES
AUGUST 2020

Single Family Residence	18
Total Cost of Construction (Stick built – SF)	\$4,884,280
Multi- Unit Housing	0
Total Cost of Construction (Multi-Unit Housing)	\$0
Modular Home Permits	0
Total Cost of Construction – Modular	\$0
Manufactured Home Permits	0
Total Cost of Construction – Manufactured Homes	\$0
Commercial/Industrial Building Permits	0
Total Cost of Construction Commercial/Industrial Building	\$0
TOTAL BUILDING PERMIT CONSTRUCTION VALUATION	\$4,884,280
Other Building Permits (i.e. Addition, fence, deck, garage, shed, sunroom, mail station, concrete/asphalt paving, roof over deck, windows) construction valuation	\$2,506
Building Permits	7
Demolition	0
Floodplain Permits	56
Electrical Permits	5
Driveway Permits	20
Mechanical Permits/Gas Permits	25
Zoning Permits	31
Plumbing Permits	0
Sign Commercial	0
Inspections Completed	124
Certificate of Occupancy Certificates	4
TOTAL CERTIFICATE OF OCCUPANCY (CONSTRUCTION VALUATION)	\$619,092
PERMIT FEE REVENUE	\$23,814.23
YEAR TO DATE PERMIT REVENUE	\$103,044.87

Cc: Town Administrator – FINAL REPORT August 2020
Judy – Brunswick Co. Inspection Dept. 253-2024

**TOWN OF CAROLINA SHORES
FINANCE REPORT
7-31-2020**

GENERAL FUND

BUDGET SUMMARY

	2019-2020 REVISED ADOPTED	ACTUAL AS OF 7-31-2020	PERCENT
EXPENDITURES			
OPERATING	2,111,700	243,720	
CAPITAL	218,300	0	
TOTAL...	2,330,000	243,720	10%
REVENUES			
PROPERTY & MV TAX	500,000	843	
SALES TAX	900,000	82,517	
UTILITY FRANCHISE	180,000	0	
MISC. (Bldg.Permits, Beer/Wine, Interest)	385,000	458,653	
Approp. Funds	250,000	0	
Powell Bill Funds	115,000	0	
TOTAL...	2,330,000	124,548	5%

CHECKING ACCOUNT

Beginning Balance- 7/1/20	\$ 633,503.52
Ending Balance - 7/31/20	\$ 513,221.58

GL Balance Sheet

Period Ending 7/31/2020

Town of Carolina Shores

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10 GERNERAL FUND		
Asset		
10-0101-000 South State - Checking		\$513,221.58
10-0101-015 CAPITAL TRUST FUND		\$929,469.08
10-0101-020 SOUTH STATE - CD		\$249,925.68
10-0101-021 FIRST NATIONAL- CD		\$206,715.57
10-0110-000 TAXES RECEIVABLE		\$9,418.51
10-0110-010 MV TAXES REC.		\$1,467.90
10 GERNERAL FUND	Asset Total	\$1,910,218.32
Liability		
10-0201-000 ACCOUNTS PAYABLE		-\$1.87
10-0201-010 ASSESMENT PAYABLE		-\$0.71
10-0210-001 State Tax 4.75%		-\$39,825.74
10-0210-010 County Tax 2.00%		-\$18,897.57
10-0223-000 STATE W/H PAYABLE		-\$2.17
10-0224-000 RETIREMENT PAYABLE		\$141.56
10-0224-001 401K		\$5,467.99
10-0225-000 ACCRUED PAYROLL		\$6,562.23
10-0225-001 MEDICAL INS. PAYABLE		-\$425.45
10-0226-000 457 PLAN		\$745.98
10-0230-002 HOMEOWNERS FUND RECOVERY		\$2,212.00
10-0230-005 BUILDERS BOND		\$49,280.00
10-0280-000 DEFERRED REV TAXES		\$15,776.43
10-0299-000 FUND BALANCE		\$1,737,813.41
Current Fund Balance Adjustment		-\$119,171.86
P/Y Fund Balance Adjustment		\$270,544.09
10 GERNERAL FUND	Liability Total	\$1,910,218.32

Budget vs Actual

Town of Carolina Shores
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Period Ending 7/31/2020

10 GERNERAL FUND

Description	Budget	MTD	YTD	Variance	Percent
Revenues					
10-0000-000 "GENERAL FUND"	0	0.00	0.00	0.00	
10-0300-000 GENERAL FUND	0	0.00	0.00	0.00	
REVENUES					
10-3100-101 TAXES-2019	0	0.00	0.00	0.00	
10-3100-102 TAXES, 2018	0	0.00	0.00	0.00	
10-3100-103 TAXES, 2020	500,000	843.04	843.04	(499,156.96)	0%
10-3113-144 TAXES, 2017	0	0.00	0.00	0.00	
10-3193-180 TAX INTEREST	0	3.46	3.46	3.46	
10-3194-120 MV TAXES	50,000	3,876.13	3,876.13	(46,123.87)	8%
10-3230-351 LOCAL OPTION SALES TAX	900,000	82,517.62	82,517.62	(817,482.38)	9%
10-3230-360 HOLD HARMLESS DISTRIBUTIONS	0	0.00	0.00	0.00	
10-3250-110 Solid Waste Disposal Tax	2,000	0.00	0.00	(2,000.00)	
10-3260-110 Business Registration	3,000	3,150.00	3,150.00	150.00	105%
10-3316-000 Powell Bill Revenue	115,000	0.00	0.00	(115,000.00)	
10-3321-000 Sales & Use Tax Refund	25,000	0.00	0.00	(25,000.00)	
10-3322-350 BEER/WINE EXCISE TAX	15,000	0.00	0.00	(15,000.00)	
10-3324-310 UTILITY FRANCHISE	180,000	0.00	0.00	(180,000.00)	
10-3325-310 TELECOMMUNICATIONS TAX	0	0.00	0.00	0.00	
10-3326-315 SALES OF SERVICE(FastTrack)	15,000	0.00	0.00	(15,000.00)	
10-3343-410 BUILDING PERMITS	150,000	31,611.48	31,611.48	(118,388.52)	21%
10-3343-415 ZONING PERMITS	12,000	1,900.00	1,900.00	(10,100.00)	16%
10-3343-430 CERTIFICATE OF OCCUPANCY	12,000	500.00	500.00	(11,500.00)	4%
10-3346-430 APPLICATION FEE/ZONING	1,000	0.00	0.00	(1,000.00)	
10-3831-491 INTEREST GENERAL FUND	25,000	146.49	146.49	(24,853.51)	1%
10-3832-630 Hurricane Reimbursement	0	0.00	0.00	0.00	
10-3839-890 MISC. INCOME	75,000	0.00	0.00	(75,000.00)	
10-3991-990 APPROP. FUNDS	250,000	0.00	0.00	(250,000.00)	
Revenues Totals:	2,330,000	124,548.22	124,548.22	(2,205,451.78)	5%

Budget vs Actual

Town of Carolina Shores
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Period Ending 7/31/2020

10 GERNERAL FUND						
Description	Budget	MTD	YTD	Variance	Percent	
Expenses						
10-4110-000 GOVERNING BODY	0	0.00	0.00	0.00		
10-4110-126 BOARD/FEES	15,700	0.00	0.00	15,700.00		
10-4110-181 FICA/MED	800	0.00	0.00	800.00		
10-4110-310 TRAVEL	200	0.00	0.00	200.00		
10-4110-499 MISC.	1,000	0.00	0.00	1,000.00		
10-4110-500 PAY ADJUSTMENTS	0	0.00	0.00	0.00		
GOVERNING BODY Totals:	17,700	0.00	0.00	17,700.00		
10-4120-000 ADMINISTRATION	0	0.00	0.00	0.00		
10-4120-121 SALARIES F/T	274,062	30,710.48	30,710.48	243,351.52	11%	
10-4120-126 SALARIES P/T	0	0.00	0.00	0.00		
10-4120-180 FRINGE BENEFITS	0	0.00	0.00	0.00		
10-4120-181 FICA/MED	20,895	2,349.34	2,349.34	18,545.66	11%	
10-4120-182 RETIREMENT	23,520	1,832.69	1,832.69	21,687.31	8%	
10-4120-183 GROUP INSURANCE	47,250	7,514.16	7,514.16	39,735.84	16%	
10-4120-184 457	0	0.00	0.00	0.00		
10-4120-185 401K	12,473	305.88	305.88	12,167.12	2%	
10-4120-190 CONTRACT SERVICE (ADMI)	7,000	311.15	311.15	6,688.85	4%	
10-4120-191 PROF FEES ACCTG	15,000	0.00	0.00	15,000.00		
10-4120-192 PROF FEES LEGAL	20,000	0.00	0.00	20,000.00		
10-4120-195 PROF FEE- TOWN CODE	2,000	450.00	450.00	1,550.00	23%	
10-4120-199 PROF FEES Other	10,000	0.00	0.00	10,000.00		
10-4120-250 AUTO SUPPLIES	1,000	0.00	0.00	1,000.00		
10-4120-260 OFFICE SUPPLIES	2,000	0.00	0.00	2,000.00		
10-4120-265 OFFICE FURNITURE	2,000	0.00	0.00	2,000.00		
10-4120-321 TELEPHONE	8,000	667.14	667.14	7,332.86	8%	
10-4120-325 POSTAGE	1,000	55.24	55.24	944.76	6%	
10-4120-352 MAIN/REPAIR EQUIPT	1,000	0.00	0.00	1,000.00		
10-4120-353 MAIN/REPAIRS AUTO	1,500	0.00	0.00	1,500.00		
10-4120-370 LEGAL ADVERTISING	2,000	0.00	0.00	2,000.00		
10-4120-380 COMPUTER SER/PROGRAMS	10,000	4,547.99	4,547.99	5,452.01	45%	
10-4120-395 EMPLOYEE TRAINING	2,500	0.00	0.00	2,500.00		
10-4120-450 INS/BOND/WC	53,800	43,687.54	43,687.54	10,112.46	81%	
10-4120-480 E.S.C. - Unemployment Pymts.	2,000	0.00	0.00	2,000.00		
10-4120-491 DUES/SUBS	8,000	5,300.00	5,300.00	2,700.00	66%	
10-4120-499 MISC	5,000	125.12	125.12	4,874.88	3%	
ADMINISTRATION Totals:	532,000	97,856.73	97,856.73	434,143.27	18%	
10-4140-190 TAXES-COLLECTION FEE	4,000	6.32	6.32	3,993.68	0%	
10-4140-191 DMV-COLLECTION FEE	500	0.00	0.00	500.00		
Totals:	4,500	6.32	6.32	4,493.68	0%	

Budget vs Actual

Town of Carolina Shores
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Period Ending 7/31/2020

10 GERNERAL FUND

Description	Budget	MTD	YTD	Variance	Percent
10-4170-190 Elections Fee	0	0.00	0.00	0.00	
ELECTIONS Totals:	0	0.00	0.00	0.00	
10-4190-000 PUBLIC BLDG/BEAUTY	0	0.00	0.00	0.00	
10-4190-126 SALARIES P/T	33,020	4,632.56	4,632.56	28,387.44	14%
10-4190-181 FICA/MED	2,600	354.40	354.40	2,245.60	14%
10-4190-182 RETIREMENT	0	0.00	0.00	0.00	
10-4190-190 CONTRACTED SERVICES	5,000	343.90	343.90	4,656.10	7%
10-4190-240 MAINT/REPAIR BLDG	7,500	402.72	402.72	7,097.28	5%
10-4190-290 DEPT. MATERIALS	4,380	221.06	221.06	4,158.94	5%
10-4190-291 RECREATIONAL/EVENTS	0	0.00	0.00	0.00	
10-4190-331 UTILITIES-TH	15,500	1,044.58	1,044.58	14,455.42	7%
10-4190-352 REPAIR/MAINT EQUIP	2,000	0.00	0.00	2,000.00	
10-4190-590 CAPITAL OUTLAY-OTHER	0	0.00	0.00	0.00	
PUBLIC BUILD/BEAUTY Totals:	70,000	6,999.22	6,999.22	63,000.78	10%
10-4330-000 PUBLIC SAFETY	0	0.00	0.00	0.00	
10-4330-126 SALARIES P/T	37,084	3,708.74	3,708.74	33,375.26	10%
10-4330-181 FICA/MED	3,000	283.72	283.72	2,716.28	9%
10-4330-190 CONTRACT SERVICES	20,000	2,025.00	2,025.00	17,975.00	10%
10-4330-240 CALABASH FIRE DEPT	25,000	25,000.00	25,000.00	0.00	100%
10-4330-245 CALABASH EMS	0	0.00	0.00	0.00	
10-4330-250 BRUNSWICK CTY FIRE FEES	0	0.00	0.00	0.00	
10-4330-255 AUTO SUPPLIES	1,000	0.00	0.00	1,000.00	
10-4330-260 DEPARTMENT SUPPLIES	964	50.00	50.00	913.50	5%
10-4330-266 EMERGENCY MGMT	953	110.99	110.99	841.51	12%
10-4330-395 EMPLOYEE TRAINING	1,000	0.00	0.00	1,000.00	
10-4330-500 PUBLIC SAFETY RESERVE	40,000	0.00	0.00	40,000.00	
10-4330-590 CAPITAL OUTLAY	0	0.00	0.00	0.00	
PUBLIC SAFETY Totals:	129,000	31,178.45	31,178.45	97,821.55	24%
10-4340-000 ECONOMIC DEVELOPMENT	8,000	0.00	0.00	8,000.00	
10-4340-180 INCENTIVE PAYMENTS	0	0.00	0.00	0.00	
10-4340-190 CONTRACT SERVICES	0	0.00	0.00	0.00	
10-4340-199 PROFESSIONAL FEES	0	0.00	0.00	0.00	
10-4340-250 BRUNSWICK COUNTY FIRE FEES	1,000	0.00	0.00	1,000.00	
10-4340-260 DEPARTMENT SUPPLIES	0	0.00	0.00	0.00	
10-4340-266 CHAMBER OF COMMERCE	0	0.00	0.00	0.00	
10-4340-310 TRAVEL	0	0.00	0.00	0.00	
10-4340-480 MARKETING	400	2,250.00	2,250.00	(1,850.00)	563%
10-4340-491 DUES/FEES - OTHER	100	0.00	0.00	100.00	

Budget vs Actual

Town of Carolina Shores
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Period Ending 7/31/2020

NON-DEPARTMENTAL Totals:	9,500	2,250.00	2,250.00	7,250.00	24%
10-4350-000 BUILDING INSPECTIONS	0	0.00	0.00	0.00	
10-4350-121 SALARIES F/T	160,100	15,206.44	15,206.44	144,893.56	9%
10-4350-126 SALARIES P/T	0	0.00	0.00	0.00	
10-4350-181 FICA/MED	21,530	1,163.29	1,163.29	20,366.71	5%
10-4350-182 RETIREMENT	16,500	1,202.02	1,202.02	15,297.98	7%
10-4350-183 GROUP INSURANCE	52,500	10,028.08	10,028.08	42,471.92	19%
10-4350-185 401K	3,200	129.86	129.86	3,070.14	4%
10-4350-231 EDUCATION/TRAINING	6,070	0.00	0.00	6,070.00	
10-4350-250 AUTO SUPPLIES/FUEL	7,500	0.00	0.00	7,500.00	
10-4350-260 DEPARTMENT SUPPLIES	2,000	3,522.67	3,522.67	(1,522.67)	176%
10-4350-265 EQUIPMENT	0	0.00	0.00	0.00	
10-4350-321 TELEPHONE	1,500	100.00	100.00	1,400.00	7%
10-4350-325 POSTAGE/PRINTING	600	55.25	55.25	544.75	9%
10-4350-352 REPAIRS/MAINT EQUIP	200	0.00	0.00	200.00	
10-4350-353 MAINTENANCE/REPAIRS VEHIC	1,000	0.00	0.00	1,000.00	
10-4350-380 COMPUTER SERVICE/PROGRAM	3,000	48.64	48.64	2,951.36	2%
10-4350-491 DUES/FEES	300	0.00	0.00	300.00	
10-4350-590 CAPITAL OUTLAY-VEHICLE	0	0.00	0.00	0.00	
BUILDING INSPECTIONS Totals:	276,000	31,456.25	31,456.25	244,543.75	11%
10-4500-000 STREETS	0	0.00	0.00	0.00	
10-4500-121 SALARIES F/T	284,487	24,387.10	24,387.10	260,099.90	9%
10-4500-126 SALARIES P/T	27,563	1,180.21	1,180.21	26,382.29	4%
10-4500-181 FICA/MED	22,050	1,955.92	1,955.92	20,094.08	9%
10-4500-182 RETIREMENT	30,975	1,999.32	1,999.32	28,975.68	6%
10-4500-183 GROUP INSURANCE	136,290	19,070.80	19,070.80	117,219.20	14%
10-4500-185 401K	14,595	741.19	741.19	13,853.33	5%
10-4500-190 CONTRACTED SERVICES	20,000	636.20	636.20	19,363.80	3%
10-4500-240 STREET SUPPLIES	25,000	121.58	121.58	24,878.42	0%
10-4500-250 AUTO SUPPLIES	25,000	969.67	969.67	24,030.33	4%
10-4500-321 TELEPHONES	1,000	100.00	100.00	900.00	10%
10-4500-331 STREET LIGHTS	114,041	10,681.48	10,681.48	103,359.50	9%
10-4500-350 STREET REPAIRS	10,000	0.00	0.00	10,000.00	
10-4500-352 REPAIR/MAINT EQUIP	20,000	165.58	165.58	19,834.42	1%
10-4500-395 EMPLOYEE TRAINING	0	0.00	0.00	0.00	
10-4500-590 CAPITAL OUTLAY	0	0.00	0.00	0.00	
STREETS Totals:	731,000	62,009.05	62,009.05	668,990.95	8%
10-4510-000 POWELL BILL	0	0.00	0.00	0.00	
10-4510-126 SALARIES P/T	0	0.00	0.00	0.00	
10-4510-181 FICA/MED	0	0.00	0.00	0.00	
10-4510-182 RETIREMENT	0	0.00	0.00	0.00	
10-4510-190 CONTRACTED SERVICES	0	0.00	0.00	0.00	
10-4510-240 STREET SUPPLIES	0	0.00	0.00	0.00	

Budget vs Actual

Town of Carolina Shores
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10 GERNERAL FUND

Description	Budget	MTD	YTD	Variance	Percent
10-4510-352 REPAIR/MAINT EQUIPT	0	0.00	0.00	0.00	
10-4510-550 CAPITAL OUTLAY-EQUIPT	0	0.00	0.00	0.00	
10-4510-591 ROAD PAVING/PATCHING	115,000	0.00	0.00	115,000.00	
POWELL Totals:	115,000	0.00	0.00	115,000.00	
10-4700-000 ENVIRO. PROTECTIONS	0	0.00	0.00	0.00	
10-4700-190 CONTRACT SERVICE	25,000	2,109.00	2,109.00	22,891.00	8%
10-4700-240 Departmental Supplies	5,000	0.00	0.00	5,000.00	
10-4700-350	5,000	0.00	0.00	5,000.00	
DRAINAGE-RIPRAP,STONE					
10-4700-351 DRAINAGE DITCHES	0	0.00	0.00	0.00	
ENVIRO PROTECTION Totals:	35,000	2,109.00	2,109.00	32,891.00	6%
10-4710-000 SANITATION	0	0.00	0.00	0.00	
10-4710-126 SALARIES P/T	21,420	2,089.69	2,089.69	19,330.31	10%
10-4710-181 FICA/MED	1,680	159.87	159.87	1,520.13	10%
10-4710-182 Retirement	0	0.00	0.00	0.00	
10-4710-190 CONTRACTED SERVICES	45,000	145.50	145.50	44,854.50	0%
10-4710-290 DEPT. MATERIALS	1,000	0.00	0.00	1,000.00	
10-4710-352 REPAIR/MAINT EQUIP	400	0.00	0.00	400.00	
10-4710-580 CAPITAL OUTLAY	0	0.00	0.00	0.00	
SANITATION Totals:	69,500	2,395.06	2,395.06	67,104.94	3%
10-4910-000 PLANNING & ZONING	0	0.00	0.00	0.00	
10-4910-121 SALARIES F/T	0	0.00	0.00	0.00	
10-4910-126 BOARD/FEES	2,600	0.00	0.00	2,600.00	
10-4910-181 Fica/Med	0	0.00	0.00	0.00	
10-4910-182 RETIREMENT	0	0.00	0.00	0.00	
10-4910-183 GROUP INSURANCE	0	0.00	0.00	0.00	
10-4910-185 401	0	0.00	0.00	0.00	
10-4910-199 PROF FEES	12,000	7,460.00	7,460.00	4,540.00	62%
10-4910-260 Department Supplies	200	0.00	0.00	200.00	
10-4910-325 Postage/Printing	0	0.00	0.00	0.00	
10-4910-370 Legal Advertising	1,000	0.00	0.00	1,000.00	
10-4910-395 Education/Training	0	0.00	0.00	0.00	
PLANNING & ZONING Totals:	15,800	7,460.00	7,460.00	8,340.00	47%
10-6120-000 CULTURAL & RECREATIONAL	0	0.00	0.00	0.00	
10-6120-190 CONTRACT SERVICES	1,000	0.00	0.00	1,000.00	
10-6120-290 DEPARTMENT MATERIALS	500	0.00	0.00	500.00	
10-6120-331 UTILITIES-PARKS	1,200	0.00	0.00	1,200.00	
10-6120-352 REPAIRS/MAINTENANCE	1,000	0.00	0.00	1,000.00	
10-6120-450 SPECIAL EVENTS	3,000	0.00	0.00	3,000.00	
Totals:	6,700	0.00	0.00	6,700.00	
10-9910-000 CONTINGENCY	0	0.00	0.00	0.00	

Budget vs Actual

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10 GERNERAL FUND

Description	Budget	MTD	YTD	Variance	Percent
10-9910-991 CONTINGENCY DEPT.	100,000	0.00	0.00	100,000.00	
CONTINGENCY Totals:	100,000	0.00	0.00	100,000.00	
10-9930-000 CAPITAL PROJECTS	0	0.00	0.00	0.00	
10-9930-199 PROFESSIONAL FEES	3,000	0.00	0.00	3,000.00	
10-9930-540 STORMWATER	0	0.00	0.00	0.00	
10-9930-545 PAVING	100,000	0.00	0.00	100,000.00	
10-9930-580 CAPITAL OUTLAY-EQUIP	100,000	0.00	0.00	100,000.00	
10-9930-581 CAPITAL OUTLAY-OTHER	0	0.00	0.00	0.00	
10-9930-990 CONTINGENCY	15,300	0.00	0.00	15,300.00	
RESERVES Totals:	218,300	0.00	0.00	218,300.00	
Expenses Totals:	2,330,000	243,720.08	243,720.08	2,086,279.92	10%

Budget vs Actual

Town of Carolina Shores
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Period Ending 7/31/2020

10 GERNERAL FUND Totals:	(119,171.86)	(119,171.86)
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TOWN OF CAROLINA SHORES

RIGHT OF WAY ENCROACHMENT AGREEMENT

-AND-

TOWN STREETS

The Farm at Brunswick Homeowners Association
c/o CAMS Management, 3081 Deville Street,
Myrtle Beach, South Carolina 29577

THIS AGREEMENT, made and entered into this the _____ day of _____ 20 _____ by and between the
Town of Carolina Shores, party of the first part; and _____ party of the second part

WITNESSETH

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as
Street(s) Carolina Farms Boulevard, located at Thomasboro Road and Carolina Farms
Boulevard intersection
with the construction and/or erection of: Low profile fencing in the Town's easement.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part
in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as
indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and
privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a
part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first
part's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and such revisions and
amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the
Director of Public Works of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition
that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the
party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and
existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the
location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said
facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and
other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and
Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Director of
Public Works of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for
damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Director of
Public Works of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and
maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or
other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of
Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties,
municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the
ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass
cover to meet the satisfaction of the Director of Public Works of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Director of
Public Works of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement
showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of
approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to
give written notice to the Director of Public Works of the party of the first part when all work contained herein has been completed. Unless
specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to
stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within
one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the
party of the first part.

Party of the Second Part certifies that this agreement is true and accurate copy of the form incorporating all revisions

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

TOWN OF CAROLINA SHORES

BY: _____
TOWN ADMINISTRATOR

ATTEST OR WITNESS:

Second Party

INSTRUCTIONS

When the applicant is a corporation, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered official, unless a waiver of corporate seal and attestation by the secretary or by the empowered official is on file with the Town. In the space provided in this agreement for execution, the name of the corporation shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the existing and/or proposed encroachment.
4. Length, size and type of encroachment.
5. Method of installation.
6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, etc.
7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc.
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure).
9. Method of attachment to drainage structures or bridges.
10. Manhole design.
11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
14. Location of vents.

GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Town Engineer.
2. All crossings should be as near as possible normal to the centerline of the highway.
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Town.
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Town.
7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Town must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
8. The Director of Public Works should be given notice by the applicant prior to actual starting of installation included in this agreement.



-78.555 33.920 Degrees

60ft



TOWN OF CAROLINA SHORES BOARD OF COMMISSIONERS

A RESOLUTION
GRANTING ENCROACHMENT PERMITS TO VARIOUS ENTITIES

WHEREAS, the Board of Commissioners of the Town of Carolina acknowledges that entities have worked on the right-of-ways of the Town prior to the formation of the Town; and

WHEREAS, the Town has sovereignty over the various rights-of-way dedicated to the Town for the pleasure, use, and enjoyment of the public as provide by General Statute (GS 160A-296); and

WHEREAS, the Town desires to acknowledge and to affirm the prior existing infrastructure that existed prior to the re-adoption of the Town Code of Ordinance on October 9, 2014; and

WHEREAS, in recognition of these various pieces of infrastructure that continue to encroach onto the public right-of-way; and

WHEREAS, in acknowledgement that entities who operate within the Town have vegetative maintenance needs in excess of the uniform vegetative maintenance program of the Town;

NOW, THEREFORE BE IT RESOLVED that the Town of Carolina Shores Board of Commissioners does hereby:

1. Grant a blanket encroachment permit for pre-existing infrastructure located within the public right-of-way subject to the jurisdiction of the Town to the following entities:
 - a. Carolina Shores Subdivision
 - b. Beacon Townes Subdivision
 - c. Village at Calabash Subdivision
 - d. Lighthouse Cove Subdivision
 - e. Calabash Lakes Subdivision
 - f. The Farm at Brunswick Subdivision
 - g. Brunswick County Public Utilities
 - h. Atlantic Telephone Membership Corporation
 - i. Brunswick Electric Membership Cooperative
 - j. Calabash Volunteer Fire Department
2. The terms of this blanket encroachment shall be construed to give the above named the right to operate, maintain, and to continue such encroachments and appurtenances thereto onto the public rights-of-way of the Town subject to the application of reasonable rules that from time to time may be required to be imposed in order to protect the health, safety, and welfare of the public including, but not limited to those found within the Town Code of Ordinances.

3. Such right to operate and maintain as identified in Item 2 above shall preclude maintenance activity that will disturb, disrupt, or damage Town infrastructure (e.g. such as a utility cut into asphalt) and such right shall further preclude the expansion by means of new construction of any such encroachment covered under Item 2 above.
4. Such right shall not give the entities listed in Item 1 above the right for reimbursement for damage caused by the existence of the encroachment in the public right-of-way, shall not entitle such encroachment to be maintained by the Town nor shall it require the Town to indemnify the encroachment or the party responsible for the encroachment.
5. Varying levels of vegetative maintenance – the Town acknowledges that the entities listed in Item 1 above, their successors and assigns, may from time to time either consistently or intermittently require vegetative maintenance within their service area, community boundary, or similar distinct sub-region of the Town that exceeds the uniform vegetative maintenance that the Town provides. Such varying levels of vegetative maintenance exercised by the entities in Item 1 shall be separate and apart from the activities of the Town, shall not be reimbursable by the Town, indemnified by the Town, or in any way associated with the Town. During the conduct of such varying levels of vegetative maintenance the entities listed in Item 1 shall be wholly responsible for safe operation, traffic control/signage, and shall under no circumstances create a hazard to the public’s health, safety or welfare and/or damage Town infrastructure.
6. New entities not a part of this Resolution shall avail themselves of the encroachment standards within the Town Code of Ordinances as shall any expansion or new construction associated with further encroachment by the entities so listed in Item 1.
7. Pursuant to the Code of Ordinances, the Director of Public Works shall coordinate and administer the activities occurring within the public right-of-way insofar as the entities listed within Items 1 and 6 shall consider the Director as their point of contact.

In the COUNTY OF BRUNSWICK

Adopted this 4th Day of December, 2014

TOWN OF CAROLINA SHORES BOARD OF COMMISSIONERS

By: Walter Goodenough
Mr. Walter Goodenough, Mayor

Nicole R. Marks
Ms. Nicole Marks, Clerk to the Board





RESOLUTION 21-1

TOWN OF CAROLINA SHORES RESOLUTION

STATE OF EMERGENCY FOR HURRICANE ISAIAS RATIFICATION

THE BOARD OF COMMISSIONERS ON THE ADVICE OF THE DIRECTOR OF EMERGENCY SERVICES FIND, PURSUANT TO LAW, THAT AN EMERGENCY SITUATION EXISTED AND WAS DULY PROCLAIMED SUBJECT TO THE CODE OF ORDINANCES (CH 32) AND EMERGENCY OPERATIONS PLAN:

A LOCAL EMERGENCY EXISTED IN THE TOWN OF CAROLINA SHORES, NORTH CAROLINA STARTING AT 12 NOON JULY 31, 2020 AND WAS ON-GOING.

WHEREAS, the Board of Commissioners of the Town of Carolina Shores, North Carolina, do hereby find as follows:

1. Pursuant to Executive Order #154 issued by the Honorable Governor of the State of North Carolina, Roy Cooper, that a State of North Carolina level State of Emergency existed throughout the entire State of North Carolina including Brunswick County and the Town of Carolina Shores.
2. That due to the occurrence of Hurricane Isaias, the Town of Carolina Shores faced a condition of extreme peril to the lives, safety and property of the residents of the Town of Carolina Shores.
3. That as a result of this extreme peril, the proclamation of the existence of an emergency was necessary to permit the full powers of government to deal effectively with this condition of peril.

NOW, THEREFORE, BE IT HEREBY DECLARED by the Board of Commissioners of the Town of Carolina Shores, North Carolina, by and pursuant to the locally adopted Emergency Operation Plan, that a local emergency existed throughout the Town of Carolina Shores. During the existence of this emergency the powers, functions, and duties of the Emergency Management Agency and functions of the Town of Carolina Shores were prescribed by the laws of the State of North Carolina and the ordinances, resolutions, and approved plans of the Town of Carolina Shores in order to mitigate the effects of said emergency.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Carolina Shores, North Carolina, that the actions necessary to respond during the State of Emergency are ratified by the Board of Commissioners.

In the COUNTY OF BRUNSWICK, NORTH CAROLINA

Proclaimed this 14th Day of September, 2020.

TOWN OF CAROLINA SHORES, NORTH CAROLINA

By: _____
Ms. Joyce Dunn, Mayor

_____ ATTEST:
Nicole L. Hewett, Town Clerk



**Town of Carolina Shores
Resolution
Halloween Observance 2020**

WHEREAS, the Mayor and Board of Commissioners of the Town of Carolina Shores recognize the observance and participation of Halloween Trick-or-Treating; and

WHEREAS, persons that desire to participate in Halloween Trick-or-Treating should observe certain safety, courtesy and common-sense guidelines; and

WHEREAS, Halloween should take place on Saturday, October 31, 2020, preferably between early evening and 8:00 p.m.; and

WHEREAS, all children taking part in Trick-or-Treating should be clothed in safe costumes that do not obstruct the children's vision and have materials that can be seen by motorists; and

WHEREAS, those not wishing to participate in Halloween Trick-or-Treating preferably do so by leaving their front porch lights off and that participants respect the wishes of those who choose not to participate in Halloween Trick-or-Treating by not visiting homes where porch lights are off.

NOW THEREFORE BE IT RESOLVED that the Board of Commissioners of the Town of Carolina Shores recommends that persons who desire to participate in Halloween Trick-or-Treating observe the safe, courteous and common-sense guidelines listed above.

This the _____ day of September, 2020.

Mayor

Nicole L. Hewett, Town Clerk

ATTEST: