Town of Richlands
2013 Zoning Ordinance Update

Adopted April 9, 2013

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Town Administrator

RICHLANDS ZONING ORDINANCE

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ARTICLE I. GENERAL PROVISIONS

Section 9-2-1. Short title.

This ordinance shall be known and cited as the Town of Richlands Zoning Ordinance.

Section 9-2-2. Authority.

This ordinance is adopted pursuant to the authority granted by G.S. 160A-360 et seq.

Section 9-2-3. Jurisdiction.

(a) This ordinance is effective throughout the town's planning jurisdiction, which consists of the area within the corporate boundaries of the town and the area beyond the town limits within which the extraterritorial jurisdiction of the town has been extended, pursuant to G.S. 160A-360 et seq., as both may be amended from time to time.

(b) In addition to other locations required by law, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection at the town hall.

Section 9-2-4. Effective dates.

The original zoning ordinance of the Town of Richlands was adopted by the Board of Aldermen on March 5, 1968, effective on March 5, 1968, with significant revisions adopted on April 7, 1987 and October 12, 1999.

Section 9-2-5. Relationship to existing zoning ordinance.

To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the town's zoning ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the reenactment of the zoning ordinance.

Section 9-2-6. Relationship to land use plan.

It is the intention of the Board of Aldermen that this ordinance implements the planning policies adopted by the board for the town and its extraterritorial planning area, as reflected in the land use plan and other planning documents.

Section 9-2-7. No use of land or building except in conformity with ordinance provisions.

(a) Subject to article VIII of this ordinance, Nonconforming Situations, no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of any land or buildings under his control, except in accordance with the applicable provisions of this 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.

Section 9-2-8. Only one principle building permitted on one lot.

No residential lot shall be occupied by more than one (1) principal building, except as provided for in the PUD planned unit development district-residential zone. No part of a yard, court or other open space provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building or structure. A residence shall always constitute a principal use.

Section 9-2-9. Street Access.

No building shall be erected on a lot which does not abut a public street or private street, or have access to a public street or private street, by written or otherwise enforceable easement or agreement, provided that in a commercial district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has access to a street used in common with other lots.

Section 9-2-10. Fees.

(a) Fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to the applicant for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, and other administrative relief. The amount of the fees charged shall be established from time to time by the Board of Aldermen.

(b) Fees established in accordance with subsection (a) shall be paid upon submission of a signed application or notice of appeal.

Section 9-2-11. Severability.

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses or phrases of this ordinance are severable, and if such sections, paragraphs, sentences, clauses, or phrases are declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any other remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 9-2-12. Computation of time.

(a) Unless otherwise specifically provided, the time within which an action is to be taken shall be computed by excluding the first and including the last day. If the last day is Saturday, Sunday, or a legal holiday, that day shall be the next regular working day.

(b) Unless otherwise specifically provided, whenever a person has the right or is required to take some action within some prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 9-2-13—9-2-14. Reserved.

ARTICLE II. DEFINITIONS AND INTERPRETATIONS

Section 9-2-15 General.

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows.

Section 9-2-16 Tense and number.

(a) The present tense includes the future tense and the future tense includes the present tense.

(b) The singular number includes the plural number and the plural number includes the singular number.

Section 9-2-17 Word interpretation.

(a) The word "may" is permissive.

(b) The words "shall" and "will" are mandatory.

(c) The word "county" shall mean the County of Onslow, NC.

(d) The words "zoning board, zoning commission, or planning commission" shall mean the Richlands planning board.

(e) The words "town board" shall mean town Board of Aldermen of Richlands, N.C.

(f) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(g) The words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

(h) As used in this ordinance, words importing the masculine gender include the feminine and the neuter.

(i) Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

Section 9-2-18. Interpretation of district boundaries.

The boundaries of each district which are indicated on the Zoning Map of the Town of Richlands, together with all explanatory matter thereon, are hereby adopted by reference and declaration to be a part of this ordinance.

Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

(a) *Boundaries following center lines:* Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.

(b) *Boundaries following lot lines:* Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

(c) *Boundaries following Town limits:* Boundaries indicated as approximately following Town limits shall be construed as following Town limits.

(d) *Boundaries following shore lines:* Boundaries indicated as approximately following the center lines of streams, creeks, or other bodies of water shall be construed to follow such center lines.

(e) *Boundaries parallel to center lines:* Where district boundaries are so indicated that they are approximately parallel to the center line of streets, alleys or highways, or the rights-of-way of the same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map and/or within the text of the Zoning Ordinance.

(f) *Boundaries dividing lots:* Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than fifty (50) feet beyond the district boundary line. The term "least restricted" shall refer to use restrictions and not to lot size.

(g) *Cases of uncertainty in boundary decisions:* In the event that uncertainty exists in the interpretation of the district boundaries, the Richlands board of adjustment shall interpret the intent of the zoning map as to the location of such boundaries.

(h) *Street vacation:* Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion or such street or alley abandonment. In a case where abutting property has a different zoning district designation, boundaries follow center lines.

Section 9-2-19. Interpretation of district regulations

(a) *Uses by right:* All listed permitted uses are permitted by right according to the terms of this ordinance. Conditional and special uses are permitted subject to strict compliance with additional regulations specified by the Board of Aldermen.

(b) *Minimum regulations*: Regulations set forth in this ordinance shall be minimum regulations. If the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive rule, regulation, or ordinance shall govern.

(c) *Restrictive covenants & deed restrictions*— Unless restriction established by covenants and deed restrictions running with the land are prohibited by the provisions of the ordinance, the U.S. Constitution, or other State or federal law, rule, or regulation, nothing herein contained shall be construed to render such covenants or restrictions inoperative.

Section 9-2-20. Basic definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated below when used in this ordinance:

Abandon*:* To cease the regular use or maintenance of a lot, building, or structure.

Abutting*:* Having common property boundaries or lot lines that are not separated by a street, alley, or other vehicular rights-of-way such as a utility easement.

Accessory structure*:* A structure or building incidental to the principal structure on the same lot. Accessory structures include, but are not limited to, detached garages, sheds, pool houses, material storage areas, barns and workshops.

Adjacent*:* See "Abutting."

Adult bookstore*:* Notwithstanding the definitions of "adult bookstore" contained in G.S. 14-202.10(1), "adult bookstore" means a business establishment that:

* Has one of its principal business purposes the sale or rental of; or

* Has a substantial or significant portion or its stock or trade for sale or rental; or

* Has "publications" that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas: as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(9).

* Has "sexually oriented devices", as defined in G.S. 14-202.10(9).

As used in this definition, "publications" include, by way of illustration, books, magazines, other periodicals, movies, videotapes, and other products offered in photographic, electronic, magnetic, or other imaging medium.

In addition to all other information available to the town planner in making a determination whether a particular use is an "adult bookstore," any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of (i) "publications" that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specific anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11); and/or (ii) "sexually oriented devices" as defined in G.S. 14-202.10(9);

* Restricted access to the business establishment or portions of the business establishment by persons under sixteen (16) years of age; and/or

* Posted signs or notices outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive; and/or

* The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

***Adult establishment**:* Adult cabarets, adult bookstores, adult mini motion picture theaters, and all other places contained in G.S. 14-202.10.

***Accessory use**:* (See Section 9-2-140.)

***Agriculture**:* The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, forestry, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce (not to include slaughterhouses); provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. The following definitions apply to the appropriate zoning districts:

Agriculture-vegetative: The activity of cultivating the soil and/or producing crops.

Agriculture-livestock: The activity of raising livestock. Minimum lot size for livestock activities:

Fowl Averaging Under Five Pounds in Weight: The number of such fowl shall not exceed twenty-five (25) per acre or a maximum of four hundred (400). All housing structures, outdoor pens and feeding areas shall be set back (1) foot per fowl from all property lines. All fowl must be confined or fenced together.
Fowl Averaging Over Five Pounds in Weight: The number of such fowl shall not exceed three (3) per acre or a maximum of thirty-five (35). All housing structures, outdoor pens and feeding areas shall be set back ten feet per fowl from all property lines. All fowl must be confined or fenced together.

Animals, Other Than Fowl, Averaging Over Thirty Pounds In Weight: The number of such animals shall not exceed three (3) per acre or a maximum of thirty-five

(35). All housing structures, outdoor pens and feeding areas for such animals shall be set back ten feet per animal from all property lines. Such animals shall not be confined together. Offspring less than thirty (30) days old shall not be included in the number per acre.

The agriculture-livestock definition does not apply to animals ordinarily considered pets such as dogs, cats and birds.

***Amusement, commercial outdoor**:* Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, par 3 golf course, golf driving range, go cart or motorcycle course, fish ranch, or similar activity to the general public.

***Amusement, commercial indoor**:* Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters. Establishments that offer electronic "internet sweepstakes" or similar electronic games or provide internet services for the principle or accessory service and/or use of providing electronic "internet sweepstakes" are not subject to this definition and the regulation of such establishments are provided in Section 9-2-168.

***Antenna array**:* One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.

***Antenna support structure**:* Any building or structure other than a tower, which can be used for location of telecommunications facilities.

***Antennas, satellite receive-only earth station**:* A satellite receive-only earth station antenna, also known as TV dish antenna, is a dish-shaped antenna designed to receive commercial television broadcasts relayed from earth-orbiting communication satellites which provide home entertainment, public information, and educational type programs.

***Appeal**:* A request for a review of the zoning administrator's interpretation of any provision of this ordinance or a request for a variance.

***Automobile salvage yard**:* Any land or area, other than a vehicle storage area, used, operated, or maintained, in whole or part, for the storage, keeping, accumulation, dismantling, salvaging, disassembling, demolition, buying, selling, or abandonment of junked motor vehicles regardless of the length of time that such vehicles remain on the property, unless such vehicles are currently being restored to an operable condition.

***Automotive repair**:* A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as vehicle repair.

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

***Bed and breakfast (tourist) home**:* A use (i) that takes place within a building that, before the effective date of this ordinance, was designed and used as a single-family detached dwelling, (ii) that consists of a single dwelling unit together with the rental of one or more dwelling rooms on a daily or weekly basis to not more than five tourists, vacationers, or similar transients, (iii) where the provision of meals, if provided at all, is limited to the breakfast meal,

and (iv) where the bed and breakfast operation is conducted primarily by persons who reside within the dwelling unit, with the assistance of not more than the equivalent of one full-time employee.

***Big box development**:* A single structure containing at least fifty thousand (50,000) square feet of gross floor area that is constructed for the purpose of retail or wholesale occupancy.

***Board of Aldermen**:* The governing body of the Town of Richlands.

***Boardinghouse**:* A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A roominghouse or boardinghouse is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

***Buffer (see screening also)**:* A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

***Building**:* A structure designed to be used as a place of occupancy, storage, or shelter.

***Building, accessory**:* A building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use and unless otherwise permitted by the Ordinance cannot be occupied or rented.

***Building, principal**:* The primary building on a lot or a building that houses a principal use.

***Building envelope**:* That portion of the lot where a principal building may be placed in conformity with the applicable setback requirements for the district in which the said lot is located.

***Building permit**:* A permit issued by the building inspector that authorizes the recipient to undertake the construction, reconstruction, conversion, alteration, relocation, enlargement, or demolition of a structure or building as regulated by local and state laws governing such activity.

***Campground**:* Any site or tract of land upon which are located the minimum number of travel trailer spaces of land area required by this ordinance, regardless of whether or not a change is made for such services.

***Certify**:* Whenever this ordinance requires that some agency certify the existence of some fact or circumstance to the town, the town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the town may require that the certification be in the form of a letter or other document.

***Child care home**:* A home for not more than nine orphan, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit. (Definition subject to change in N.C.G.S.)

***Child care institution**:* An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children. (Definition subject to change in N.C.G.S.)

***Church**:* See religious institution

***Circulation area**:* That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

***Club, or private lodge**:* An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated on a nonprofit basis for the benefit of its members and certified as a nonprofit organization by the Secretary of State of North Carolina.

***Collocation/site sharing**:* Use of a common wireless communication facility or common site by more than one wireless license holder or by one wireless license holder for more than one type of communications technology and/or placement of a wireless communication facility on a structure owned or operated by a utility or other public entity.

***Combination use**:* A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permissible Uses (article X, Section 9-2-146). (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. (See Section 9-2-150, Accessory Uses.) In addition, when two or more separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

***Community center**:* A publicly sponsored, nonprofit, indoor facility providing for one or several of various types of recreational uses. Facilities in a community center may include, but are not limited to, gymnasia, swimming pools, indoor court areas, meeting/activity rooms, and other similar uses. For the purposes of this section, the term "publicly sponsored" means that a significant town or nonprofit investment is involved in some fashion in the facility's development or operations.

***Conditional use permit**:* A permit issued by the Board of Aldermen that authorizes the recipient to make use of property in accordance with the requirements of this ordinance as well as any additional requirements imposed by the Board of Aldermen.

***Conservation area**:* Environmentally and aesthetically sensitive and valuable lands protected from an activity that would significantly alter their ecological integrity, balance, or character, except in cases of overriding public interest. Conservation areas include freshwater and tidal marshes, wetlands, natural shorelines, creeks, wooded tracts and other areas of significant biological productivity or scenic beauty.

***Conservation easement**:* An easement granting a right or interest in real property for the purpose of retaining land or water areas predominantly in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses.

***Day care center**:* A day care facility as defined in G.S. 110-86(3) (as it may be amended from time to time), as well as a center providing day care on a regular basis for more than two hours per day for more than five senior citizens.

***Day care home (small)**:* Any day care program or child care arrangement wherein any person not excluded in G.S. 110-86(2) provides day care on a regular basis of at least once a week for more than four hours per day for more than two children under 13 years of age and for fewer than six children at any one time, wherever operated and whether or not operated for profit. The four-hour limit applies regardless of whether the same or different children attend. Cooperative arrangements among parents to provide day care for their own children as a convenience rather than for employment are not included. To determine whether a child care

arrangement is a day care home, all children shall be counted except the operator's own school-aged children and school-aged children who reside at the location of the day care home. Notwithstanding the limitation to five children prescribed above, the day care home operator may care for three additional school-aged children. (Definition subject to change in N.C.G.S.)

Day care home (large)*:* A child care arrangement as described above in which the provider may care for between six and 12 children when any child present is preschool-aged and a maximum of 15 children when all are school-aged. (Definition subject to change in N.C.G.S.)

Designated buffer*:* An area of land adjacent to lakes or watercourses that pursuant to Section 9-2-389(d) remains undisturbed in order to reduce the sedimentation and pollution of such lakes, creeks, or watercourses.

Developer*:* A person who is responsible for undertaking any activity involving changes to improved or unimproved real estate, including, but not limited to, the division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure or building; the mining, dredging, filling, grading, paving, drilling, or excavation of any land; and other land disturbing activities.

Development*:* That which is to be done pursuant to a zoning, special use, conditional use, or sign permit. [The term includes] any manmade change to improved or unimproved real estate, including, but not limited to, the division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; the mining, dredging, filling, grading, paving, excavation, or drilling of land; and other land disturbing activities.

Dimensional nonconformity*:* A nonconforming situation that occurs when the height, size, or maximum floorspace or floor-to-area ratio of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Driveway*:* A private way, beginning at the property line of a lot abutting a public road, private road, easement or private right-of-way, giving access from a public road, recorded easement, recorded private road or private right-of-way, and leading to a building, use, or structure on that lot.

Duplex*:* (See *Residence, duplex*.)

Dwelling unit*:* A structure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

Electronic Gaming Operation*:* Any business activity or enterprise, whether as a principal, partial or an accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This includes, but is not limited to, internet cafes, internet sweepstakes, cyber cafes, or electronic game parlors in which individuals normally gain access to games of chance, with prize distributions, through the purchase of internet time, telephone cards, or other means of qualification. This does not include any lottery endorsed by the State of North Carolina

Existing lot of record*:* A lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds prior to the adoption of this ordinance, or a lot

described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

***Expenditure**:* A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

***Extraterritorial planning area**:* That portion of the town's planning jurisdiction that lies outside the town's corporate boundaries. The term extraterritorial planning jurisdiction is interchangeable with the term extraterritorial jurisdiction *(ETJ)*.

***Façade**:* The visible exterior portion of a building wall which extends from the ground to the top of the wall or roof line.

***Facade module**:* A 60-foot or shorter horizontal section of facade containing a minimum of five (5) unique architectural elements.

***Facade, other**:* Any facade which is not considered a primary or secondary facade.

***Facade, primary**.* The facade containing the highest number of customer entrances.

***Facade, secondary**:* A facade which is designed to be viewed from a public street but is not the primary facade.

***Family**:* One or more persons living together as a single housekeeping unit.

***Flea market**:* An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private yard sales.

***Glare**:* Discomfort experienced by an observer with a direct line of sight to a light source that often results in visual impairment.

***Guest house (private)**:* An accessory building, not part of the principle building, containing living space for not more than one (1) family for private, personal use and not intended or available for rent or lease.

***Guest house (rental)**:* An accessory building, not part of the principle building, containing living space for not more than one (1) family that is rented out or intended to be rented out and/or available for lease.

***Gross floor area**:* The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

***Habitable floor**:* Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

***Halfway house**:* A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit. (Definition subject to change in N.C.G.S.)

***Handicapped, aged, or infirm home**:* A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally handicapped, aged or infirmed, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. (Definition subject to change in N.C.G.S.)

***Handicapped, aged, or infirm institution**:* An institutional facility that provides residential care for more than nine aged, disabled, or handicapped persons whose principal

need is a home that provides the sheltered or personal care their age or disability necessitates. Medical care at such a facility is only occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. The residents of such a facility do not occupy separate dwelling units, and this distinguishes such a facility from a multifamily development occupied by the elderly, handicapped or disabled. (Definition subject to change in N.C.G.S.)

***Hazardous substance**:* Any substance which may pose a danger to the public health or safety if contained in the public water supply. This includes all substances defined as hazardous chemicals by the community right-to-know reporting requirements under sections 311 and 312 of the Superfund Amendments and Reauthorization Act of 1986, and by the North Carolina Hazardous Chemicals Right-to-Know Act (G.S. 95-173--95-218).

***Home occupation**:* Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use (i) is clearly incidental and secondary to the use of the dwelling for dwelling purposes (i.e., not to exceed 20 percent of the sum of the total gross floor area of the dwelling) and does not change the character thereof, (ii) does not involve an exterior or window display of goods or pieces of merchandise for sale or rent upon the premises, (iii) employs no person not a resident on the premises in connection with the home occupation, (iv) does not involve the use of chemical, mechanical, or electrical equipment that is not routinely used in a residence or a professional or business office, and (v) does not involve a use that would have a significantly adverse impact on surrounding properties (e.g., noise, glare of lights, traffic safety, hours of operation). This definition is not intended to, and does not permit the practice of a profession (i.e., lawyer, doctor, or any other professional required to be licensed by the State of North Carolina) in a dwelling as a home occupation.

***Homeowners' association**:* A formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area who are responsible for owning, operating, and/or maintaining various common areas or facilities.

***Hotel**:* A building containing more than four (4) individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on site management and reception services.

***Ice vending machine**:* A freestanding building or modular unit that produces, stores, bags and or vends ice to the consumer in an automated fashion. These uses are considered a separate use and may not be utilized as accessory structures.

***Independent parking lots or garages**:* An area or garage (i) that is used for the temporary parking (not storage) of motor vehicles, (ii) [that] is located on a lot on which there is no other principal use to which the parking is related, and (iii) where the parking spaces are used by more than one enterprise or by the general public.

***Indoor Pet Boarding Establishment**:* Any lot or premises on which no more than ten (10) domesticated animals more than four (4) months of age are temporarily housed, groomed, or boarded indoors. This activity does not include the breeding, sale, trading or exchanging of domestic animals.

***Intermediate care home**:* A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm. (Definition subject to change in N.C.G.S.)

***Intermediate care institution**:* An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision

at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm. (Definition subject to change in N.C.G.S.)

Internet café/sweepstakes*:* (See Electronic gaming operation)

Junked motor vehicle*:* Any vehicle designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle that does not display a current license plate, and that also: (1) is partially dismantled or wrecked; or (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; or (3) is more than five years old and worth less than $500.00.

Junkyard*:* (See *Scrap materials salvage yard.*)

Kennel, commercial*:* A commercial operation that: (i) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.

Kennel, private*:* A structure used for the outdoor accommodation of small domestic animals and not operated on a commercial basis.

Land disturbing activity*:* Any use of the land by any person that results in a change in the natural cover or topography and that may cause or contribute to sedimentation or soil compaction that affects the critical root zone.

Landscaping*:* The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel. Any live plant material such as trees, shrubs, ground cover, and grass areas left in their natural state. See Article XVI.

Light manufacturing*:* The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place; where such processes are housed entirely within a building; or where the area occupied by outdoor storage of goods and materials used in such processes do not exceed twenty-five (25) percent of the floor area of all buildings on the property.

Loading and unloading area*:* That portion of the vehicle accommodation area used to satisfy the requirements of Section 9-2-232.

Lot*:* A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal unit for purposes of transfer of title.

> If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or the road so created is such that it effectively prevents use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.
>
> Subject to Section 9-2-113, the permit-issuing authority and the owner of two or more contiguous lots may agree to regard the lots as one lot if necessary or convenient to comply with any of the requirements of this ordinance. In the event this is done, it must be recorded in the Onslow County register of deeds office.

Lot area*:* The total area circumscribed by the boundaries of a lot, except that: (i) when the legal instrument creating a lot shows the boundary of the lot extending to the center of a public street right-of-way or into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or a line running parallel to and 25

feet from the center of the traveled portion of the street if the exact right-of-way line cannot be determined, and (ii) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the outside boundary of the traveled portion of that road.

***Lot of record**:* A lot whose existence, location, and dimensions have been legally recorded and registered in a deed or on a plat prior to the effective date of this ordinance. A lot of record may be used as a building site for a structure to be used for a purpose permitted in the district in which the said lot is located, although its size does not permit its owner to comply with minimum area and yard requirements; provided, however, front, side, and rear yards, if required in said district, shall be provided on said lot in no less than the same proportion to those required, as the area of the lot of record compares to the area requirement in said zoning district.

***Manufactured home**:* A dwelling unit, designed for use as a permanent residence that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation and/or assembly on the building site. (See Section 9-2-154)

***Massage therapy**:* Health massage or bodywork therapy, performed by a practitioner with credentials in one of the following ways:

* Having a diploma or certificate from an institute or school of health massage, which has been accredited by either the American Massage Therapists Association, the National Therapists Association, or from an accredited college or university, school of education for massage therapy; or

* Providing verification and documentation of at least five hundred (500) hours of experience in the practice of health massage/bodywork therapy and three letters of reference from state licensed health care professionals or licensed therapists on their professional letterhead.

***Microbrewery**:* means a brewery that produces less than 310,000 gallons of beer per year for wholesale, or wholesale and retail.

***Mobile home**:* A trailer type home on wheels, usually meant for short term occupancy. Such a unit may be readily hooked to the trailer hitch of a pull vehicle and may be moved on short notice. Mobile homes are not self propelled. Mobile homes are distinguished from manufactured homes by their size. Since they are small they do not therefore meet the standards for Class A or Class B manufactured homes (as defined herein). Mobile Homes will not be approved for permanent occupancy in any zoning district in Richlands. (See Travel Trailer)

***Modular structure**:* A dwelling structure constructed in accordance with the standards set forth in the North Carolina state building code for its use and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular structure may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular structure meets the N.C. state building code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

***Nightclub**:* Any commercial establishment serving alcoholic beverages and/or providing entertainment for patrons, including but not limited to bars, lounges, taverns, cabarets, and similar establishments.

***Nonconforming lot**:* A lot existing at the effective date of this ordinance that does not meet the minimum area and dimensional requirements of the district in which the lot is located.

***Nonconforming project**:* Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

***Nonconforming situation**:* A situation that occurs when, on the effective date of this ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum square footage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, because signs do not meet the requirements of this ordinance (article XVII), or because land or buildings are used for purposes made unlawful by this ordinance.

***Nonconforming use**:* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

***Nursing care home**:* A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine persons. (Definition subject to change in N.C.G.S.)

***Nursing care institution**:* An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

***Office**:* A use or structure in which business or professional services are conducted or rendered.

***Open space**:* Any area which is not divided into private or civic building lots, streets, rights of way, parking, or easements. In the low impact subdivision, open space may also include portions of private building lots subject to a permanent open space easement. Urban open space assumes one or more of the forms detailed in subdivision ordinance, and may contain recreation equipment and amenities as indicated. Rural open space is site specific in its designation.

***Open space, common area**:* Common area open spaces are designed to serve the residents of the immediate block or neighborhood. Ownership and maintenance of such common areas shall be in fee simple title to a homeowners association or similar organization.

***Open space, public**:* Public open spaces shall be dedicated to a local government or non-profit conservancy organization for ownership and maintenance. Public open spaces shall maintain free and public access. Hours of access may be restricted in accordance with health and safety guidelines.

***Ordinance**:* This ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

***Out parcel**:* A parcel of land associated with and located within a shopping center, mall or big box development, which is designated on an approved site plan as a location for a structure with an intended use.

***Outdoor recreation**:* Swimming pools, tennis courts, ball fields, and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include any accessory uses, such as snack bars, pro shops,

and club houses which are designed and intended primarily for the use of patrons of the principal recreational use.

***Outside display of goods for sale or rent**:* Display outside of a fully enclosed building of the particular goods or pieces of merchandise or equipment that are themselves for sale. Outside display is to be distinguished from outside storage of goods that are not prepared and displayed for immediate sale or rent.

***Owner**:* Any full or part owner, joint owner tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.

***Parking area aisles**:* A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

***Parking space**:* A portion of the vehicle accommodation area set aside for the parking of one vehicle.

***Person**:* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body or other legal entity.

***Planned unit development (PUD)**:* A development constructed on a tract of land at least two acres [in size] under single ownership (unless totally residential, in which case less than two acres is acceptable), planned and developed as an integral unit, and consisting of a combination of uses as outlined in Section 9-2-130 and Section 9-2-145 of this ordinance.

***Planning jurisdiction**:* The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development pursuant to the authority granted in G.S. 160A-360 et seq.

***Planting strip**:* The area of land along the front property line parallel to the outside of the right-of-way reserved for tree planting and landscaping.

***Plat**:* A map showing the location, boundaries, and ownership of individual properties.

***Religious institution**:* A church, synagogue, temple, mosque, or other place of religious worship, including any customary accessory uses or structure, such as a school, day care center, cemetery or residential dwelling located on the same lot.

***Repair**:* The modification, maintenance and/or replacement of telecommunications equipment not to exceed 50 percent of the total value of the telecommunications facility.

***Residence, duplex**:* A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

***Residence, multifamily**:* A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

***Residence, multifamily condominium**:* A unit in which the occupancy rights are individually owned (or for sale to individuals) and in which the unit ownership does not include any land. (See Section 9-2-157.)

***Residence, multifamily townhouses**:* A multifamily residential use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate ground floor entrance.

***Residence, single-family detached**:* A residential use consisting of a single detached building containing one dwelling unit.

***Restaurant**:* A building or operation, the purpose of which is to accommodate the consumption of food and beverages.

***Retail establishments**:* A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

***Roominghouse**:* (Same as *Boardinghouse*)

***School**:* Institutions that provide a place of academic learning. Publicly owned or privately owned preschools, elementary schools, middle schools, junior high schools, vocational schools, and high schools; but not including institutions the primary function of which is day care. Schools include customary accessory uses such as recreational facilities, cafeterias, and auditoriums. The use of temporary/mobile facilities for school use is further regulated as listed in the Table of Uses, Section 9-2-136.

***School facilities, permanent**:* Permanent, site built facilities, buildings and structures used for the instruction, and customary accessory uses such as recreation facilities, cafeterias and auditoriums.

***School facilities, mobile**:* A detached structure built on a permanent chassis so that it is portable in one or more sections but specifically designed for use as a temporary accessory classroom for an established educational facility.

***Scrap materials salvage yard**:* Any land or area used, operated, or maintained, in whole or part, for the storing, keeping, dismantling, disassembling, salvaging, abandoning, buying or selling of scrap or waste materials, including scrap metals, waste paper, used building materials, used vehicles or machinery, or other scrap materials.

***Screening**:* A fence, wall, hedge, landscaping, buffer area or any combination of these provided to create a visual separation between certain land uses. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

***Shelter, fallout**:* A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fallout, air raids, or storms.

***Shopping center**:* Mercantile establishment consisting of a carefully landscaped complex of shops representing leading merchandisers; usually includes restaurants and a convenient parking area; a modern version of the traditional marketplace. May also referred to as a mall or plaza.

***Sign**:* Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure (including a billboard or poster panel) designed to carry the above visual information.

***Sign, advertising**:* A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered (i) only elsewhere than upon the premises where the sign is displayed, or (ii) as a minor and incidental activity upon the premises where the sign is displayed.

***Sign, business**:* A sign which directs attention to a business, profession, or industry located upon the premises where the sign is displayed, to type of products sold, manufactured, or assembled, and/or to service or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

***Sign, freestanding**:* A sign that (i) is permanent, and (ii) is attached to, erected on, or supported by some structure such as a pole, mast, or frame that is not itself an integral part of a building or other structure having a principal function other than the support of a sign.

***Sign, nonconforming**:* A sign that, on the effective date of this ordinance, does not conform with one or more of the regulations set forth in this ordinance, particularly article XVII (Signs).

***Sign, off-premises**:* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located. The structure on which an advertising sign is displayed of the type commonly known as a "billboard" is also an advertising sign.

***Sign, temporary**:* A sign that (i) 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 period of time after the erection of such sign, or (ii) is intended to remain on the location where it is erected or placed for a period of not more than 15 days, or (iii) is displayed on the premises only during normal operating hours and then removed from that location. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

***Sign, wall**:* A sign attached or erected against the wall of a building or structure, only one side of which is visible.

***Sign, shingle**:* A small signboard hanging or protruding so that both sides are visible and which has no dimension more than two feet and which is no larger than three square feet. A shingle sign may be mounted as a wall sign so that only one side is visible.

***Sign permit**:* A permit issued by the zoning administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

***Site-specific development plan**:* A plan which has been submitted to the town by a property owner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan shall generally 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, driveways, and, if applicable, sidewalks. For purposes of this ordinance, such plan shall be limited to the following plans or approvals: a subdivision general plan, a special use permit, or a conditional use permit.

***Special events**:* Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than one day but not longer than two weeks, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

***Special use permit**:* A permit issued by the board of adjustment that authorizes the recipient to make use of property in accordance with the requirements of this ordinance as well as any additional requirements imposed by the board of adjustment.

***Stealth**:* Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

***Stream**:* A body of water, including large drainage ditches and canals, flowing in a natural surface channel. Flow may be continuous or only during wet periods.

***Stream, intermittent**:* A stream, drainage ditch, or canal that flows only in direct response to precipitation or tidal action. It is dry for a large part of the year.

***Street**:* A public street or a street with respect to which an offer of dedication has been made.

***Street, arterial**:* A major street in the town street system that serves as an avenue for the circulation of traffic into, out [of], or around the city and carries high volumes of traffic. All state-maintained streets within the town and their extensions into the extraterritorial area are arterial streets with a minimum width of 44 feet back of curb to back of curb.

Street, local: A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day with a minimum street width of 27 feet back of curb to back of curb.

Street, subcollector: A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets, including residences indirectly served through connecting streets. It serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day with a minimum street width of 31 feet back of curb to back of curb.

***Structure**:* A walled or roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructure.

***Swimming pool**:* A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above ground pool having a depth of more than thirty (30) inches designed, used, and maintained for swimming and bathing. This includes in-ground, above ground and on ground swimming pools, hot tubs and spas.

***Telecommunications facilities**:* Any cables, wires, lines wave guides, antennae, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include satellite receive-only earth station antennae and household antennae.

***Temporary structure**:* A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring station, mobile class room, construction trailer, and produce stand.

***Tower**:* Any structure such as a bell tower, fire hose tower, or water tower, as well as any structure whose principal function is to support an antenna.

***Tower co-location**:* An arrangement whereby more than one user occupies a single tower or structure.

***Tower, communications**:* A structure greater than sixty feet in height whose primary purpose is to support communications equipment. This definition includes tower/antenna/building combinations and the height measurement applies to those combinations. This definition shall not include wire-supporting electric power transmission and telephone poles.

***Tower, lattice**:* A guyed or self-supporting multi-sided, open, steel frame structure used to support communications equipment.

***Tower, Monopole**:* A structure composed of a single spire used to support communications equipment.

***Tract**:* The term is used interchangeably with the term "parcel," particularly in the context of subdivisions. A tract or parcel is frequently subdivided into "lots" (see “lot” definition).

***Travel trailer**:* A small house trailer, usually drawn by a passenger automobile or small truck, which is equipped for temporary use as a dwelling while traveling.

***Use**:* The activity or function that actually takes place or is intended to take place on a lot.

***Use, principal**:* A use listed in the table of permissible uses.

***Utility facilities**:* Any aboveground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by G.S. 62-3(23) and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures listed in subsection 9-2-141(2).

***Utility facilities, neighborhood**:* Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

***Utility facilities, town or regional**:* All utility facilities other than neighborhood facilities.

***Variance**:* A permit which the board of adjustment may grant in certain situations, enabling a property owner to make use of his property in some way that conflicts with the literal provisions of this ordinance. The circumstances under which the board of adjustment may do this are set out in Section 9-2-77 et seq., hereinbelow.

***Vehicle accommodation area**:* That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

***Vehicle storage area**:* An opaque screened storage area for used vehicles or parts thereof that is used in connection with an automobile service station or an automobile repair shop or body shop as a place to store used vehicles or parts thereof while they are awaiting repair or pending the pickup of such vehicles or parts by their owners, for a period not to exceed 180 days. The opaque screen shall be that type of screen defined in Section 9-2-244(a).

***Vested right**:* The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan, subdivision general plan, or special use or conditional use permit.

***Violation**:* The failure of a structure or other development to be fully compliant with the town’s land use ordinance regulations. A structure or other development without the proper permits, certificates, or other evidence of compliance required in articles IV and V is presumed to be in violation until such time as that documentation is provided.

***Wholesale sales**:* On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

***Wooded area**:* An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per 325 square feet of land where the branches and leaves form a contiguous canopy.

***Yard**:* A required open space unoccupied and unobstructed by a structure or portion of a structure, provided however that fences, walls, poles, posts, other customary yard accessories, yard ornaments, and yard furniture, and normal roof overhangs (not exceeding two (2) feet) may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or movement.

***Yard, front**:* An area extending between side lot lines across the front of a lot adjoining a street. Depth of required front yards shall be measured at right angles to a straight line joining the foremost point of the side lot lines at which the lot meets the normal minimum lot width required by the ordinance. In the case of lots with rounded property corners at street intersections, the foremost point of the lot lines shall be assumed to be the point at which the side and front lines would have met without such rounding.

***Yard, rear**:* An area extending across the full width of the lot and lying between the rear lot line and a line parallel thereto at a distance therefrom as required in the applicable district.

***Yard, side**:* An area extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and a line parallel thereto and a distance therefrom as required in the various districts.

***Yard, corner side**:* An area extending the length of the lot between the required front yard and required rear yard, and between the side street lot line and a line thereto and a distance therefrom as required in the various districts.

***Zoning administrator**:* (See Section 9-2-21.)

***Zoning permit**:* A permit issued by the zoning administrator that authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

ARTICLE III. ADMINISTRATIVE MECHANISMS

PART I. ZONING ADMINISTRATOR AND DIRECTOR OF PLANNING AND INSPECTIONS

Section 9-2-21. Zoning administrator.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this ordinance may be assigned by the town administrator to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this ordinance as the "zoning administrator" or "administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "administrator."

Section 9-2-22—9-2-23. Reserved.

PART II. PLANNING AND ZONING BOARD

Section 9-2-24. Appointment and terms of planning and zoning board members.

(a) There shall be a planning and zoning board consisting of seven members. Five members, appointed by the Board of Aldermen, shall reside within the town. Two members, appointed by the Onslow County board of commissioners, shall reside within the town's extraterritorial planning area. If the Onslow County board fails to make these appointments within 90 days after receiving a resolution from the Board of Aldermen requesting that they be made, the town board may make them. Members may be removed by the appointing authority at any time for failure to attend three consecutive meetings without excuse or for failure to attend 30 percent or more of the meetings within any 12-month period or, after a hearing, for other good cause related to performance of duties. All members shall have demonstrated special interest, experience, or education in banking, economics, environmental and land use policy, housing, or industry.

(b) Planning and zoning board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Initial appointments for planning and zoning board members shall be as follows: Two (2) town members shall be appointed for a term of three (3) years and three (3) town members shall be appointed for a term of two (2) years. The extraterritorial planning members will be appointed initially for one (1) year. Following initial appointment all terms will be for three (3) years. All appointments to fill vacancies shall be for the unexpired terms only.

(c) All members may participate in and vote on all issues before the board, regardless of whether the issue affects property within the town or within the extraterritorial planning area.

Section 9-2-25. Meetings of the planning and zoning board.

(a) The planning and zoning board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 9-2-65 (Applications to be processed expeditiously).

(b) Since the planning and zoning board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all planning and zoning board meetings.

(d) All planning and zoning board meetings shall be open to the public and the agenda for each board meeting shall be made available in advance of the meeting.

(e) Whenever the planning and zoning board is called upon to make recommendations concerning a conditional use permit request, special use permit request, amendments to previously approved subdivision plats, or a zoning amendment proposal, the planning staff shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the planning and zoning board's agenda at a specified date, time, and place. Such notice(s) shall be posted at least seven calendar days prior to the meeting at which the matter is to be considered.

Section 9-2-26. Quorum and voting.

(a) A quorum for the planning and zoning board shall consist of five (5) members if there are no vacant seats. A quorum is necessary for the planning and zoning board to take official action.

(b) All actions of the planning and zoning board shall be taken by majority vote, a quorum being present.

(c) A roll call vote shall be taken upon the request of any member.

Section 9-2-27. Powers and duties of planning and zoning board.

(a) The planning and zoning board may:

(1) Make studies and recommend to the Board of Aldermen plans, goals and objectives relating to the growth, development and redevelopment of the town and the surrounding extraterritorial planning area.

(2) Develop and recommend to the Board of Aldermen policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.

(3) Make recommendations to the Board of Aldermen concerning proposed conditional use permits and proposed zoning map changes.

(4) Make recommendations to the board of adjustment concerning proposed special use permits upon request from the board of adjustment.

(5) Perform any other duties assigned by the Board of Aldermen.

(b) The planning and zoning board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

Section 9-2-28. Advisory committees.

(a) From time to time, the Board of Aldermen may appoint one or more individuals to assist the planning and zoning board in carrying out its responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Board of Aldermen may appoint advisory committees to consider the thoroughfare plan, revitalization plans, housing plans, economic development plans.

(b) Members of such advisory committees shall sit as nonvoting members of the planning and zoning board when such issues are being considered and shall lend their talents, energies, and expertise to the planning and zoning board. However, all formal recommendations to the Board of Aldermen shall be made by the planning and zoning board.

(c) Nothing in this section shall prevent the Board of Aldermen from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Board of Aldermen.

Sections 9-2-29---Reserved.9-2-30.

PART III. BOARD OF ADJUSTMENT

Section 9-2-31. Appointment and terms of board of adjustment.

(a) There shall be a board of adjustment consisting of consisting of seven regular members and two alternate members. Five regular members, appointed by the Board of Aldermen, shall reside within the town. Two regular members, appointed by the Onslow County board of commissioners, shall reside within the town's extraterritorial planning area. Two alternate members, appointed by the board of alderman, shall reside within the town. If the Onslow County board of commissioners fails to make an appointment within 90 days after receiving a notification from the town requesting that an appointment be made, the Board of Aldermen may make the appointment. Upon expansion or reduction of the town's extraterritorial planning area, the Board of Aldermen shall review the impact of such change on the extraterritorial membership of the board of adjustment and, if necessary, make appropriate adjustments in the number of extraterritorial members. Members may be removed by the appointing authority at any time for failure to attend three consecutive meetings without excuse or for missing more than 30 percent of the meetings within any 12-month period or for other good cause related to performance of duties. Because the board of adjustment is a "quasi-judicial" administrative body that operates between the enforcement officers and the courts, members shall have the ability to read and understand complex land ownership and development issues. Members should have backgrounds related to land ownership and development issues (i.e., law, real estate, banking, building, environmental groups, governmental agencies, community organizations, etc.).

(b) Board of adjustment members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Initial appointments for regular board of adjustment members shall be as follows: Two (2) town members shall be appointed for a term of three (3) years and three (3) town members shall be appointed for a term of two (2) years. The extraterritorial planning members will be appointed initially for one (1) year. Initial appointments for alternate board of adjustment members shall be as follows: One (1) alternate member shall be appointed for a term of three (3) years and one (1) alternate member shall be appointed for a term of two (2) years. Following initial appointment all terms will be for three (3) years. All appointments to fill vacancies shall be for the unexpired terms only.

(c) All regular members may participate in and vote on all issues before the board. Alternate members shall only serve in the absence of regular members.

Section 9-2-32. Meetings of the board of adjustment.

(a) The board of adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 9-2-65 (Applications to be processed expeditiously).

(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in articles IV, V, and VI.

(c) All meetings of the board of adjustment shall be open to the public and the agenda for each board meeting shall be made available in advance of the meeting.

Section 9-2-33. Quorum.

A quorum for the board of adjustment shall consist of six members. A quorum is necessary for the board to take official action.

Section 9-2-34. Voting.

(a) The concurring vote of three-fifths of the members of the board of adjustment shall be necessary to issue a special use permit in accordance with Section 9-2-54. The concurring vote of four-fifths of the members shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator or the town building inspector, or to grant a variance from the provisions of this ordinance. All other actions of the board of adjustment shall be taken by majority vote, a quorum being present.

(b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) or has been allowed to withdraw from the meeting in accordance with subsection (d).

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue; or

(2) If the matter at issue involves the member's own official conduct; or

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(f) A roll call vote shall be taken upon the request of any member.

Section 9-2-35. Board of adjustment officers.

(a) The board of adjustment shall elect one of its members to serve as chairman who shall preside over the board's meetings and one member to serve as vice-chairman. The persons so elected shall serve a term of one year or until their terms expire, whichever comes first. The chairman may succeed himself or herself.

(b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board of adjustment.

(c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.

(d) The board of adjustment shall elect one of its members to serve as secretary of the board of adjustment. The person so elected shall serve a term of one year or until their terms expire, whichever comes first.

(e) The secretary may take part in all deliberations and vote on all issues.

Section 9-2-36. Powers and duties of board of adjustment.

(a) The board of adjustment shall hear and decide:

(1) Appeals from any order, decision, requirement, or interpretation made by the zoning administrator, as provided in Section 9-2-91;

(2) Applications for special use permits, as provided in Section 9-2-46;

(3) Applications for variances, as provided in Section 9-2-92;

(4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 9-2-93;

(5) Any other matter the board is required to act upon by any other town ordinance.

(b) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

PART V. BOARD OF ALDERMEN

Section 9-2-40. Board of Aldermen.

(a) The Board of Aldermen, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in articles IV and VI of this ordinance.

(b) In considering proposed changes in the text of this ordinance or in the official zoning map, the Board of Aldermen acts in its legislative capacity and must proceed in accordance with the requirements of article XX.

(c) Unless otherwise specifically provided in this ordinance, in acting upon conditional use permit requests or in considering amendments to this ordinance or the official zoning map, the Board of Aldermen shall follow the regular voting procedures and other requirements as set forth in other provisions of the Town Code, the Town Charter, or general law.

Sections 9-2-41--9-2-45. Reserved.

ARTICLE IV. PERMITS

PART I. PERMIT REQUIREMENTS

Section 9-2-46. Permits required.

(a) Subject to Section 9-2-201, the use made of property may not be substantially changed (see Section 9-2-142), clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:

(1) A zoning permit issued by the zoning administrator;

(2) A special use permit issued by the board of adjustment; and

(3) A conditional use permit issued by the Board of Aldermen.

(b) Zoning permits, special use permits, conditional use permits, and sign permits are issued under this ordinance in respect to plans submitted by the applicant that demonstrate compliance with the ordinance provisions contained herein. Such plans as are finally approved are incorporated into any permit issued in reliance thereon, and, except as otherwise provided in Section 9-2-63, all development shall occur strictly in accordance with such approved plans.

(c) A zoning permit, conditional use permit, special use permit, or sign permit shall be issued in the name of the applicant (as defined in Section 9-2-48), and shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

Section 9-2-47. No occupancy, use, or sale of lots until requirements fulfilled.

Issuance of a conditional use, special use, or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land, or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures, or to undertake activities not specifically prescribed by ordinance but which are deemed to reflect the intent of the ordinance. However, except as provided in Sections 9-2-53, 9-2-61 [9-2-59], and 9-2-62 [9-2-60], the intended use may not be commenced, no building may be occupied, and no activities not specifically prescribed by ordinance may be undertaken until all of the requirements of this ordinance and/or all additional requirements imposed pursuant to the issuance of a conditional use or special use permit have been complied with.

Section 9-2-48. Who may submit permit applications.

(a) Applications for zoning, special use, conditional use, or sign permits will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance and have the owner's consent, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

(b) The permit-issuing authority may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

Section 9-2-49. Applications to be complete.

(a) All applications for zoning, special use, conditional use, or sign permits must be completed before the permit-issuing authority is required to consider the application.

(b) Subject to subsection (c), an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance.

(c) In this ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the appendices to this ordinance. It may not be necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this ordinance. However, whenever the permit-issuing authority under this ordinance requires a certain element of a development to be constructed in accordance with the detail requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings shall have been submitted to and approved by the zoning administrator and/or the chief building inspector or his designee. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in article VII (Enforcement and Review).

(d) The presumption established by this ordinance is that all of the information set forth in this ordinance is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Aldermen or board of adjustment, the applicant may rely in the first instance on the recommendations of the zoning administrator as to whether more or less information than that set forth in this ordinance should be submitted.

(e) The zoning administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the zoning administrator to determine compliance with this ordinance, such as applications for zoning permits to construct single-family houses or duplexes, or applications for sign permits, the zoning administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

Section 9-2-50. Staff consultation before formal application.

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this ordinance, pre-application consultation between the developer and the planning staff is encouraged or required as provided in this section.

(b) Before submitting an application for a conditional use permit authorizing a development that consists of or contains a major subdivision, the developer shall consult with the planning staff.

(c) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this ordinance to the proposed development.

Section 9-2-51. Staff consultation after application submitted.

(a) Upon receipt of a formal application for a zoning, special use, or conditional use permit, or minor plat approval, the zoning administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable provisions of this ordinance, that he has submitted all of the information that he intends to submit, and that the application represents what he proposes to do.

(b) If the application is for a special use or conditional use permit, the zoning administrator shall place the application on the agenda of the appropriate board after the applicant indicates that the application is as complete as he intends to make it. If the zoning administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

Section 9-2-52. Zoning permits.

(a) A complete application form for a zoning permit shall be submitted to the zoning administrator by filing a copy of the application with the zoning administrator in the planning and inspections department.

(b) The zoning administrator shall issue the zoning permit unless he finds, after reviewing the application, that:

(1) The requested permit is not within his jurisdiction according to the table of permissible uses; or

(2) The application is incomplete; or

(3) If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance (not including those requirements imposed when a variance has been granted or those the applicant is not required to comply with under the circumstances specified in article VIII (Nonconforming Situations)).

Section 9-2-53. Authorizing use or occupancy before completion of development under zoning permit.

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this ordinance prior to commencing the intended use of the property or occupying any buildings, the zoning administrator may notify the building inspector that the applicant may be allowed to commence the intended use or the occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond, cash funds, letter of credit, real estate of equal value, or other security satisfactory to the administrator to ensure that all of the requirements of this ordinance will be fulfilled within a reasonable period (not to exceed 12 months). In general, satisfactory security shall be reasonably liquid and shall equal 120 percent of the value of the improvements. Final authorization to issue a certificate of occupancy or commence the use of a property rests with the building inspector.

Section 9-2-54. Special use permits.

(a) An application for a special use permit shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator in the planning and inspections department.

(b) The board of adjustment shall conduct a public hearing on this application. The hearing shall be conducted according to the provisions of article VI and this section.

(c) The burden of presenting a complete application to the board of adjustment shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(d) Subject to subsection (e), the board of adjustment shall issue the special use permit upon finding that:

(1) The requested permit is within its jurisdiction according to the table of permissible uses;

(2) The application is complete;

(3) If completed as proposed in the application, the development will comply with all of the requirements of this ordinance;

(4) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;

(5) The use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity; and

(6) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the town.

(e) The burden of presenting evidence under each part of subsection (d) rests upon the applicant. The board shall consider each part of subsection (d) separately, and for each part shall:

(1) Determine whether the applicant has submitted competent, material, and substantial evidence showing that the requirements of that part have been met;

(2) Determine whether competent, material, and substantial evidence has been submitted at the hearing showing that the requirements of that part have not been met;

(3) Make a finding as to whether or not the requirements of the part have been met. In making this finding, the board shall find that the requirements have been met if the applicant produces evidence in support of his position and there is no competent, material, and substantial evidence showing that the requirements have not been met. If the board finds that the requirements have not been met, the board shall state specifically upon which facts it has relied in making that decision.

The board shall then grant the permit with the concurring vote of four-fifths of the members if all of the requirements of subsection (d) have been met; and shall deny the permit if any of the requirements of subsection (d) have not been met.

Section 9-2-55. Recommendations on special use permits.

(a) When presented to the board of adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 9-2-49 (Application to be complete) and the other requirements of this ordinance, as well as any

staff recommendations for additional requirements to be imposed by the board of adjustment.

(b) If the staff proposes a finding or conclusion that the application fails to comply with Section 9-2-49 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

Section 9-2-56. Conditional use permits.

(a) An application for a conditional use permit shall be submitted to the Board of Aldermen by filing a copy of the application with the zoning administrator in the planning and inspections department.

(b) The Board of Aldermen shall conduct a public hearing on this application. The hearing shall be conducted according to the provisions of article VI and this section.

(c) The burden of presenting a complete application to the Board of Aldermen shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(d) Subject to subsection (e), the Board of Aldermen shall issue the conditional use permit upon finding that:

(1) The requested permit is within its jurisdiction according to the table of permissible uses;

(2) The application is complete;

(3) If completed as proposed in the application, the development will comply with all of the requirements of this ordinance;

(4) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

(5) The use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity; and

(6) The location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the town.

(e) The burden of presenting evidence under each part of subsection (d) rests upon the applicant. The board shall consider each part of subsection (d) separately, and for each part shall:

(1) Determine whether the applicant has submitted competent, material, and substantial evidence showing that the requirements of that part have been met;

(2) Determine whether competent, material, and substantial evidence has been submitted at the hearing showing that the requirements of that part have not been met;

(3) Make a finding as to whether or not the requirements of the part have been met. In making this finding, the board shall find that the requirements have been met if the applicant produces evidence in support of his position and there is no competent, material, and substantial evidence showing that the requirements

have not been met. If the board finds that the requirements have not been met, the board shall state specifically upon what facts it has relied in making that decision.

The board shall then grant the permit if all of the requirements of subsection (d) have been met, and shall deny the permit if any of the requirements of subsection (d) have not been met.

Section 9-2-57. Recommendations on conditional use permits.

(a) Before being presented to the Board of Aldermen, an application for a conditional use permit shall be referred to the planning and zoning board for action in accordance with this section. In addition, at the request of the planning and zoning board, the Board of Aldermen may continue the public hearing to allow the planning and zoning board more time to consider or reconsider the application.

(b) When presented to the planning and zoning board, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 9-2-49 and other requirements of this ordinance, as well as any staff recommendations. If the planning staff report proposes a finding or conclusion that the application fails to comply with Section 9-2-49 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(c) The planning and zoning board shall consider the application and the attached staff report within 45 days of the receipt of a completed application, and shall hear from the applicant or members of the public. (Posting of notice is provided for in Section 9-2-25(e).)

(d) After reviewing the application, the planning and zoning board shall report to the Board of Aldermen whether it concurs in whole or in part with the staff's proposed findings and conditions, and, to the extent there are differences, the planning and zoning board shall propose its own recommendations and the reasons therefor.

(e) In response to the planning and zoning board's recommendations, the applicant may modify his application prior to submission to the Board of Aldermen, and the planning staff may likewise revise its recommendations.

Section 9-2-58. Additional requirements on special use and conditional use permits.

(a) Subject to subsection (b), in granting a special or conditional use permit, the board of adjustment or town Board of Aldermen, respectively, may attach to the permit such reasonable requirements in addition to those specified in this ordinance as will ensure that the development in its proposed location:

(1) Will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

(2) Will not substantially reduce the value of adjoining or abutting property;

(3) Will be in harmony with the area in which it is located; and

(4) Will be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Board of Aldermen.

(b) The permit-issuing board may attach additional conditions if the development in question presents circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in this article.

Section 9-2-59. Authorizing use, occupancy, or sale before completion of development under special use or conditional use permits.

(a) In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this ordinance before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board shall then notify the building inspector that the applicant may commence the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond, cash funds, letter of credit, real estate of equal value, or other security satisfactory to the board of adjustment and/or the Board of Aldermen to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months). In general, satisfactory security shall be reasonably liquid and shall equal 120 percent of the value of the improvements. Final authorization to issue a certificate of occupancy or commence the use of a property rests with the building inspector.

(b) With respect to subdivisions in which the developer is selling only undeveloped lots, the Board of Aldermen may authorize final plat approval and the sale of lots before all the requirements of this ordinance are fulfilled if the subdivider provides a performance bond, cash funds, letter of credit, real estate of equal value, or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval. In general, satisfactory security shall be reasonably liquid and shall equal 120 percent of the value of the improvements.

Section 9-2-60. Completing developments in phases.

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Section 9-2-47 (No occupancy, use, or sale of lots until requirements fulfilled) and Section 9-2-59 (exceptions to Section 9-2-47) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this ordinance that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit,

provided that, if the improvement is one required by this ordinance, then the developer may utilize provisions of Sections 9-2-59(a) or 15-59(b).

Section 9-2-61. Expiration of permits.

(a) Zoning and sign permits shall expire automatically two years after the issuance of such permits and special use and conditional use permits shall expire automatically two years after the issuance of such permits, if:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or

(2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 9-2-60), this requirement shall apply only to the first phase of the development in which the permit applies.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire, unless the permittee has acquired a vested right under Section 9-2-67 et seq. However, expiration of the permit shall not affect the provisions of Section 9-2-62.

(c) The permit-issuing authority may extend for a period up to six months the date when a permit would otherwise expire pursuant to subsections (a) or (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the permit within the jurisdiction of the Board of Aldermen or the board of adjustment is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when a copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant.

Section 9-2-62. Effect of permit on successors and assigns.

(a) Zoning, special use, conditional use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continue to be used for the purposes for which the permit was granted, then:

(1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than

those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice of the existence of the permit at the time they acquired their interest.

Section 9-2-63. Amendments to and modifications of permits.

(a) Insignificant deviations from the permit (including approved plans) issued by the Board of Aldermen, the board of adjustment, or the zoning administrator are permissible and the zoning administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. Such deviation shall be documented in writing and submitted to the appropriate permit-issuing authority.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Aldermen or board of adjustment, new conditions may be imposed in accordance with Section 9-2-58, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The zoning administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (a), (b) and (c).

(e) A developer requesting approval of changes shall submit a written request for such approval to the zoning administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 9-2-64. Reconsideration of board action.

(a) Whenever (i) the Board of Aldermen disapproves a conditional use permit application, or (ii) the board of adjustment disapproves an application for a special use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board within a six-month period unless the applicant clearly demonstrates that:

(1) Circumstances affecting the property that is the subject of the application have substantially changed;

(2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the zoning administrator within the time period for an appeal to superior court (see Section 9-2-106). However, such a request does not extend the period within which an appeal must be taken; or

(3) The board erred in its decision-making due to a misinterpretation of the submitted evidence.

(b) Notwithstanding subsection (a), the Board of Aldermen or board of adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Section 9-2-65. Applications to be processed expeditiously.

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this ordinance.

Section 9-2-66. Maintenance of common areas, improvements, and facilities.

The recipient of any zoning, special use, conditional use, or sign permit, or his successor, shall be responsible for maintaining all common area improvements, or facilities required by this ordinance or any permit issued in accordance with its provisions, except in those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private driveways and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, planting, or shading must be replaced if they die or are destroyed.

Section 9-2-67. Establishment of vested right.

A vested right, as defined in article II of this ordinance and as further explained in G.S. 160A-385, shall be deemed established with respect to any property upon the valid issuance of a special use or conditional use permit or approval of a general plan in the case of subdivision, following notice and public hearing by the board of adjustment, or Board of Aldermen, or the planning and zoning board, as the case may be. Such vested right shall confer upon the property owner the right to undertake and complete the development and use of said property under the terms and conditions of the special use or conditional use permit, or general plan, including any amendments thereto. The town may approve a special use or conditional use permit, or general 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 property owner to waive his vested rights as a condition of development approval. A special use or conditional use permit, or general plan shall be deemed approved upon the effective date of the town's action or ordinance relating thereto.

Section 9-2-68. Duration and termination of vested right.

(a) A right which has been vested as provided for in this article shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a special use or conditional use permit, or general plan, unless expressly provided by the town.

(b) Notwithstanding subsection (a), the town, in the case of special use or conditional use permits or general plans, may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the town. In extending the established two-year vesting period, the town may require the property owner to submit a site-specific development plan, or general plan in the case of subdivision, for approval by the permit-issuing authority with respect to each additional phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification(s).

(c) Following approval or conditional approval of a special or conditional use permit, or general plan, nothing in this section shall exempt such a plan from subsequent reviews and 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 said original approval. Nothing in this section shall prohibit the town from revoking the original approval for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(d) Upon issuance of a building permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply, except that a permit shall not expire or be revoked because of the running of time while a vested right under this ordinance is outstanding.

(e) A right which has been vested, as provided in this section, shall terminate at the end of the applicable vesting period with respect to buildings or uses for which no valid building permit applications have been filed.

Section 9-2-69. Subsequent changes prohibited [after establishment of vested right]; exceptions.

(a) A vested right, once established, as provided for in this section [article], precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of property as set forth in a special use or conditional use permit, or an approved general plan, except:

(1) With the written consent of the affected property owner; or

(2) Upon findings, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the special use or conditional use permit, or general plan; or

(3) To the extent that the affected property owner receives compensation for all costs, expenses, and other losses incurred by the property owner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action; or

(4) Upon findings, by ordinance after notice and a hearing, that the property owner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the board of adjustment or Board of Aldermen in the case of special use or conditional use permits respectively, or the planning and zoning board in the case of general plans; or

(5) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as authorized by a special use or conditional use permit, or as contemplated in the subdivision general plan, in which case the board of adjustment, Board of Aldermen, or planning and zoning board, as the case may be, may modify, by ordinance after notice and a public hearing, the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan.

(b) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or

intensity of use, or ordinances, or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town of Richlands, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property which is subject to a special use or conditional use permit, or general plan upon the expiration or termination of the vesting period provided for in this section.

(c) Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change, or impair the authority of the town to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses.

Section 9-2-70. Miscellaneous provisions [pertaining to vested rights].

(a) A vested right obtained under this ordinance is not a personal right, but shall attach to and run with the applicable property. After approval of the special use or conditional use permit or subdivision general plan, all successors to the original property owner shall be entitled to exercise such rights.

(b) Nothing in this article 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.

Sections 9-2-71--9-2-75. Reserved.

ARTICLE V. APPEALS, VARIANCES, INTERPRETATIONS

Section 9-2-76. Appeals.

(a) An appeal from any final order or decision of the zoning administrator may be taken to the board of adjustment by any person aggrieved or by an officer, department, board, or bureau of the town. An appeal is taken by filing with the zoning administrator and the board of adjustment, a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the zoning administrator and the board of adjustment when delivered in a form deemed complete and acceptable to the zoning administrator. The date and time of filing shall be entered on the notice by the zoning administrator.

(b) An appeal must be taken within ten calendar days after the date of the decision or order appealed from, unless the board of adjustment shall by general rule prescribe a different time as permitted by G.S. 160A-388(b).

(c) Whenever an appeal is filed, the zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record of the action from which an appeal is being taken.

(d) An appeal stays all actions by the zoning administrator seeking enforcement of, or compliance with, the order or decision appealed from, unless the zoning administrator certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board of adjustment shall fix a reasonable time for hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time.

(e) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the power of the officer from whom the appeal is taken.

(f) A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

Section 9-2-77. Variances.

(a) An application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator in the planning and inspections department. Applications shall be handled in the same manner as applications for special use permits in conformity with the provisions of Sections 9-2-48, 9-2-49, and 9-2-54.

(b) A variance may be granted by the board of adjustment if it concludes:

(1) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance;

(2) That the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and

(3) That in the granting of the variance the public safety and welfare have been assured and substantial justice has been done. It may reach these conclusions if it finds facts that support the following:

a. If the applicant complies with the provisions of the ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his property; and

b. That the hardship results from the application of the ordinance to his property; and

c. That the hardship of which he complains is suffered by his property directly, i.e., his land, buildings, or structures, rather than the applicant's personal circumstances; and

d. That the hardship is unique, or nearly so, rather than one shared by many surrounding properties; and

e. That the hardship is not the result of the applicant's own action; and

f. That the variance will neither result in the extension of a nonconforming situation in violation of article VIII nor authorize the initiation of a nonconforming use of land.

(c) In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

(d) A variance may be issued for an indefinite duration or for a specified duration only.

(e) 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 ordinance.

(f) In granting a variance, the board must vote affirmatively on each of the three required findings stated in subsection (b). Insofar as practicable, a separate motion to make an affirmative finding on each of the requirements set forth in subsection (b) shall include a statement of the specific reasons or findings of fact supporting each motion.

(g) A motion to deny the variance may be made on the basis that any one or more of the three criteria set forth in subsection (b) is not satisfied or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it.

Section 9-2-78. Interpretations.

(a) The zoning administrator is authorized to interpret the official zoning map and to pass 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 zoning administrator, they shall be handled as provided in Section 9-2-76.

(b) A written request for a map interpretation shall be submitted to the zoning administrator (or board of adjustment in cases of appeal by filing a copy of the application with the zoning administrator). The written request or application in the case of appeal shall contain sufficient information to enable the zoning administrator or board to make the necessary interpretation.

(c) Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following lot lines, town limits or extraterritorial boundary lines shall be construed as following such lines, limits or boundaries.

(3) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline shall be construed as following such changed shorelines.

(4) Where distances are not specifically indicated on the official zoning map, the boundary shall be determined by measurement, using the scale of the official zoning map. Where a zoning district boundary divides a lot, the zoning district that occupies the majority of the lot shall be considered the zoning district for the entire lot. Said district boundary shall be interpreted to follow lot lines.

(5) Where any street or alley is hereafter officially closed, the regulation applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such closing.

Section 9-2-79. Requests to be heard expeditiously.

As provided in Section 9-2-65, the board of adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow a regularly established meeting schedule, [follow] agenda procedures, provide notice in accordance with article VI (Hearing Procedures for Appeals and Applications), and obtain the necessary information to make sound decisions.

Section 9-2-80. Burden of proof in appeals and variances.

(a) When an appeal is taken to the board of adjustment in accordance with Section 9-2-91, the zoning administrator shall have the initial burden of presenting to the board 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.

(b) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in Section 9-2-77(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 9-2-81. Board action on appeals and variances.

(a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion. If such a motion is not made or fails to receive the votes necessary for adoption (see Section 9-2-34), then the stated decision of the zoning administrator shall stand.

(b) In granting a variance, the board must vote affirmatively (by a four-fifths majority, see Section 9-2-34) to all of the three required findings stated in Section 9-2-77(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 9-2-77 (b) shall include a statement of the specific reasons for findings of fact supporting such motion.

(c) A motion to deny a variance may be made on the basis that any one or more of the three criteria set forth in Section 9-2-77 (b) is not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.

(d) If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption (see Section 9-2-34), then the decision of the zoning administrator shall stand.

Sections 9-2-81—9-2-90. Reserved.

ARTICLE VI. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 9-2-91. Hearing required on appeals and applications.

(a) Before making a decision on an appeal or an application for a variance, special use permit, or conditional use permit, or a petition from the planning staff to revoke a special use permit or conditional use permit, the board of adjustment or the Board of Aldermen, as the case may be, shall hold a hearing on the appeal or application. Hearings on conditional use permits shall be conducted by the Board of Aldermen.

(b) Subject to subsection (c), 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 and ask questions of persons who testify. Such persons may be presented [represented] by counsel.

(c) The board of adjustment or Board of Aldermen 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.

(d) The hearing board 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.

Section 9-2-92. Notice of hearing.

The zoning administrator shall give notice of any hearing required by Section 9-2-91 as follows:

(a) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice no later than ten calendar days before the hearing.

(b) With respect to hearings on matters other than conditional use permits, notice shall be given to neighboring property owners by mailing a written notice no later than ten calendar days (15 calendar days in the case of the board of adjustment) before the hearing to those persons who own property located within 100 feet of the lot that is the subject of the application or appeal. With respect to hearings on the issuance or revocation of conditional use permits, notice shall be given to neighboring property owners by mailing a written notice no later than ten days before the hearing to those persons who own property located within 200 feet of the lot that is the subject of the conditional use permit. In all cases, the applicant shall provide stamped, addressed envelopes of neighboring property owners to the zoning administrator. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted no less than ten calendar days prior to the hearing.

(c) In the case of conditional use permits, notice shall be given to other potentially interested persons by publishing a notice in the local newspaper with the greatest circulation one time not less than seven calendar nor more than 15 calendar days prior to the hearing.

(d) 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.

Section 9-2-93. Evidence.

(a) The provisions of this section apply to all hearings for which a notice is required by Section 9-2-92.

(b) All persons who intend to present evidence in relation to appeals, variances, or permits shall be sworn.

(c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal shall be based upon competent, material, and substantial evidence.

Section 9-2-94. Modification of application at hearing.

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Aldermen, planning and zoning board, or board of adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

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

Section 9-2-95. Record.

(a) A record of all hearings required by Section 9-2-91 shall be made by a court reporter or by electronic means. Accurate minutes shall also be kept of all such proceedings.

(b) All documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings. With the approval of the parties, copies may be submitted for the originals. Such evidence shall be kept by the town for at least five years; provided, however, such evidence shall be disposed of by agreement of the parties or by the rendering of a final decision by the court.

Section 9-2-96. Written decision.

(a) Any decision made by the board of adjustment or Board of Aldermen regarding an appeal, or variance, or issuance or revocation of a conditional use permit or special use permit shall be reduced to writing and served upon the applicant or appellant within ten calendar [days] of the decision as required by law and all other persons who request a copy at the hearing or who make a written request for a copy.

(b) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

Sections 9-2-97--9-2-100. Reserved.

ARTICLE VII. ENFORCEMENT AND REVIEW

Section 9-2-101. Complaints regarding violations.

Whenever the zoning administrator receives a verbal or written signed complaint alleging a violation of this ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant verbally or in writing what actions have been or will be taken.

Section 9-2-102. Persons liable.

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 ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Section 9-2-103. Procedures upon discovery of violations.

(a) If the zoning administrator finds that any provision of this ordinance is being violated, he 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 zoning administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the zoning administrator intends to take if the violation is not corrected and shall advise that the zoning administrator's decision or order may be appealed to the board of adjustment as provided in Section 9-2-76.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the zoning administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 9-2-104.

Section 9-2-104. Penalties and remedies for violations.

(a) Violations of the provisions of this 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 or conditional use permits, shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

(b) Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the granting of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of $50.00 (unless otherwise stated), which includes administrative fees. If the offender fails to correct this violation within ten days after being cited for said violation, the penalty may be recovered by the town in a civil action in the nature of a debt. A civil penalty may not be appealed to the board of adjustment if the offender was sent final notice of violation in accordance with Section 9-2-103 and did not take an appeal to the board of adjustment within the prescribed time.

(c) This article may also be enforced by any appropriate equitable action authorized by law.

(d) Each day that any violation continues after notification that such violation exists by the zoning administrator shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(e) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.

Section 9-2-105. Permit revocation.

(a) A zoning, sign, special use, or conditional use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.

(b) Before a conditional use or special use permit may be revoked, all of the notice, hearing and other requirements of article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the zoning administrator shall give the permit recipient a ten-calendar-day notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the zoning administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special use or conditional use permit after such permit has been revoked in accordance with this section.

Section 9-2-106. Judicial review.

(a) Every decision of the Board of Aldermen granting or denying a conditional use permit and every final decision of the board of adjustment shall be subject to review by the superior court of Onslow County by proceedings in the nature of certiorari.

(b) Any petition for the writ of certiorari shall be filed with the clerk of superior court of Onslow County within 30 days after a written copy of the board's decision (see Section 9-2-96) has been filed in the planning and inspections department, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such a copy with the secretary or chairman of the board of adjustment in the case of special use permits, or the town clerk or mayor in the case of conditional use permits, at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or certified mail return receipt requested.

Sections 9-2-107--9-2-110. Reserved.

ARTICLE VIII. NONCONFORMING SITUATIONS

Section 9-2-111. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance.

***Dimensional nonconformity**:* A nonconforming situation that occurs when the height, size, or minimum floorspace of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

***Effective date of this ordinance**:* Whenever this article refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this ordinance if the amendment, rather than this ordinance as originally adopted, creates a nonconforming situation.

***Expenditure**:* A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

***Nonconforming lot**:* A lot existing at the effective date of this ordinance that does not meet the minimum area and dimensional requirements of the district in which the lot is located.

***Nonconforming project**:* Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

***Nonconforming sign**:* A sign (see Section 9-2-15 for definition) that, on the effective date of this ordinance, does not conform to one or more of the regulations set forth in this ordinance, particularly article XIV (Signs).

***Nonconforming use**:* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

***Nonconforming situation**:* A situation that occurs when, on the effective date of this ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum square footage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, or because land or buildings are used for purposes not permitted by this ordinance. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this article but shall be governed by the provisions of Section 9-2-119.

Section 9-2-112. Continuation of nonconforming situations and completion of nonconforming projects.

(a) Nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued, subject to the restrictions and qualifications set forth in the sections below.

(b) Nonconforming projects may be completed only in accordance with the provisions of Section 9-2-118 (Completion of nonconforming projects).

Section 9-2-113. Nonconforming lots.

(a) When a nonconforming lot, existing prior to the adoption of this ordinance, can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Section 9-2-170, the lot may be used as proposed just as if it were conforming. However, no use (e.g., a duplex) that requires a greater lot size for a particular zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (see Section 9-2-177) cannot reasonably be complied with, the Zoning administrator shall be authorized to reduce the yard requirements for such lot by not more than twenty (20) percent. If the proposed use requires modifications to the yard setback requirements in excess of twenty (20) percent, then the board of adjustment, authorized by this ordinance to issue a permit for the proposed use, may allow deviations from the applicable setback requirements if it finds that:

(1) The property cannot reasonably be developed for the use proposed without such deviations;

(2) These deviations are necessitated by the size or shape of the nonconforming lot; and

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) For purposes of subsection (b), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 9-2-116 (Change in use of property where a nonconforming situation exists).

(e) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 9-2-114. Extension or enlargement of nonconforming situations.

(a) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(1) An increase in the total amount of space devoted to a nonconforming use; or

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. In addition, a nonconforming use may be extended to additional buildings located on the premises or to unimproved land outside the original building or the additional buildings upon the issuance of a special use permit by the board of adjustment which authorizes such additional nonconforming use. Review and action on said special use permit shall be based on the criteria contained in Section 9-2-54, special use permits.

(c) Subject to Section 9-2-118 (Completion of nonconforming projects), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed at the effective date of this ordinance.

(d) The volume, intensity, or frequency of use or property where a nonconforming situation exists may be increased, and the equipment or processes used at a location where a nonconforming situation exists may be changed, if these or similar changes amount only to changes in the degree of activity rather than changes in kind, and no violations of other paragraphs of this section occur.

(e) Notwithstanding subsection (a), any stick-built structure used for single-family residential purposes (other than manufactured homes) and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. With the following exceptions, manufactured homes used for single-family residential purposes may be enlarged or replaced in accordance with this subsection; provided, however, said enlargement or expansion in the case of those manufactured homes that have remained vacant beyond the 180-day discontinuance period shall be prohibited by this ordinance. This subsection is subject to the limitations stated in Section 9-2-117 (Abandonment and discontinuance of nonconforming situations). These exceptions are:

(1) Manufactured homes on individual lots in any commercial, office and institutional district may not be replaced by another manufactured home of any class.

(2) Manufactured homes on individual lots in the R-10 and R-15 zoning districts may only be replaced by Class A manufactured homes on permanent foundations with brick or masonry underpinning.

(f) Notwithstanding subsection (a), whenever (i) there exists a lot with one or more structures on it, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking requirements article XV (Parking) that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the proposed use shall not be regarded as resulting in an impermissible

extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 9-2-230 if, (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required, and (ii) such satellite parking is reasonably available.

Section 9-2-115. Repair, maintenance and reconstruction.

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 75 percent of the appraised valuation of the structure prior to damage and/or renovation, may be done only in accordance with a zoning permit issued pursuant to this section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 75 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Section 9-2-114(e).

(c) For purposes of subsections (a) and (b):

(1) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsections (a) or (b) by doing such work incrementally.

(3) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

It shall be the responsibility of the property owner to supply the town with the appraised valuation of the property. Said valuation shall include the necessary documentation to support the valuation.

(d) The zoning administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:

(1) No violation of Section 9-2-114 will occur; and

(2) The permittee will comply to the extent reasonably possible with all provisions of this ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use except for those reasons outlined in Section 9-2-117).

Compliance with a requirement of this article is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

Section 9-2-116. Change in use of property where a nonconforming situation exists.

(a) A change in use of property that is sufficiently substantial to require a new zoning, special, or conditional use permit in accordance with Section 9-2-46 (Permits required) may not be made except in accordance with subsections (b) through (d). However, this requirement shall not apply if only a sign permit is needed.

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this ordinance is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the zoning administrator issues a permit authorizing the change. This permit may be issued if the zoning administrator finds, in addition to any other findings that may be required by this ordinance, that:

(1) The intended change will not result in a violation of Section 9-2-114 (Extension or enlargement of nonconforming situations); and

(2) All of the applicable requirements of this ordinance that can reasonably be complied with will be complied with. Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the zoning administrator issues a permit authorizing the change. The zoning administrator may issue the permit if it finds, in addition to other findings that may be required by this ordinance, that:

(1) The use requested is one that is permissible in some zoning district with either a zoning, special or conditional use permit; and

(2) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied; and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

Section 9-2-117. Abandonment and discontinuance of nonconforming situations.

(a) When a nonconforming use is discontinued for a continuous period of 180 days, the property involved may thereafter be used only for conforming purposes, except as detailed in subsection (f) of this section.

(b) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a continuous period of 180 days, then that property may thereafter be used only in conformity with all of the regulations applicable

to the preexisting use, unless the entity with authority to issue a permit for the intended use (i.e., the board of adjustment) issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the board of adjustment finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

(c) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the 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 for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. Likewise, if a nonconforming building remains on the market for rent or sale and fails to be rented within a 180-day period, the said nonconforming building shall be allowed to continue as a nonconformity so long as there is evidence of the owner's intention to actively rent or sell the said building.

(d) If a nonconforming use 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.

(e) When a structure or operation made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the 180-day period for purposes of this section begins to run at the effective date of this ordinance.

It shall be the duty of the zoning administrator to determine "substantial" compliance with the minimum standards set forth above, along with other applicable standards specified by this ordinance. The determination of the zoning officer must be set forth in writing and must include an affirmative assertion by him that:

(1) The continuance of the nonconforming residential dwelling will contribute to the preservation of the existing housing stock and not result in an increase in any nonconformity;

(2) The continuance of the nonconforming residential dwelling will provide the occupants thereof with decent, safe, and sanitary housing; and

(3) The continuance of the nonconforming residential dwelling will be in general conformity with the Town of Richlands' objectives of providing affordable housing opportunities for its citizens and/or encouraging historic preservation.

Section 9-2-118. Completion of nonconforming projects.

(a) All nonconforming projects on which construction was begun at least 180 days before the effective date of this ordinance as well as all nonconforming projects that are at least 25 percent completed in terms of the total expected cost of the project on the effective date of this ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) Except as provided in subsection (a), all work on any nonconforming project shall cease on the effective date of this ordinance, and all permits previously issued for work on nonconforming projects shall be revoked as of that date. Thereafter, work on nonconforming projects may begin or may be continued only pursuant to a zoning,

special or conditional use, or sign permit issued in accordance with this section by the individual or board authorized by this ordinance to issue permits for the type of development proposed. The permit-issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit-issuing authority shall be guided by the following, as well as other relevant considerations:

(1) All expenditures made pursuant to a validly issued and unrevoked building, zoning, sign, special use, or conditional use permit shall be considered as evidence of reasonable reliance on the land use law that existed before this ordinance became effective.

(2) Except as provided in subsection (b)(1), no expenditures made more than 180 days before the effective date of this ordinance may be considered as evidence of reasonable reliance on the land use law that existed before this ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimated cost of the proposed project, and (ii) the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use affecting a development site, the permit-issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit-issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and (ii) the developer had legitimate business reasons for making expenditures.

(c) The permit-issuing authority shall not consider any application for the permit authorized by subsection (b) that is submitted more than 60 days after the effective date

of this ordinance. The permit-issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(d) The permit-issuing authority shall establish expedited procedures for hearing applications for permits under this section, so that construction work is not needlessly interrupted.

(e) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments, or other discrete units, the permit-issuing authority shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to ensure reasonable completion of the project.

Section 9-2-119. Nonconforming signs.

(a) Notwithstanding any other provision of this ordinance, a nonconforming sign that exceeds the height or size limitations of on-premises signs by more than ten percent or that is nonconforming in some other way shall, within three years following the effective date of this ordinance, or two years after notification, whichever is sooner, be altered to comply with the provisions of this ordinance (particularly on-premises signs) or be removed. If the nonconformity consists of too many freestanding signs or an excess of total sign area, the person responsible for the violation may determine which sign or signs need to be altered or removed by bringing the development into conformity with the provisions of on-premises signs.

(b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this ordinance.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to the extend that the cost of restoring the sign to its former stature, or replacing it with an equivalent sign, equals or exceeds 50 percent of its value as listed for tax purposes by the Onslow County tax administrator.

(e) The message of a nonconforming sign may be changed so long as this does not create new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work within any 12-month period does not exceed the lesser of:

(1) Its fair market value, or

(2) Its most current tax value.

(g) Within one year after the effective date of this ordinance, the zoning administrator shall make every reasonable effort to identify all the nonconforming signs within the town’s planning jurisdiction. He shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (i) that the sign is nonconforming, (ii)

how it is nonconforming, (iii) what must be done to correct it and by what date and (iv) the consequences of failure to make the necessary corrections. The zoning administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

Sections 9-2-120--9-2-125. Reserved.

ARTICLE IX. ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

Section 9-2-126. Residential districts established.

(a) The following residential districts are hereby established: A-5, R-20, R-15, R-10, RM-10, R-8, RM-8, R-6 and RM-6. The purpose of each residential district is to secure for the persons who reside there a comfortable, healthy, safe and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

(b) The A-5, R-20, R-15, R-10, RM-10, R-8, RM-8, R-6 and RM-6 districts differ primarily in the density and dimensional requirements as contained in article XII (Density and Dimensional Regulations) and in uses allowed as contained in article X (Table of Permissible Uses):

(1) The A-5 agriculture district is designed to secure the agricultural integrity of the areas so classified and to allow for low-density single-family development on five acre minimum lots. The uses encouraged in this district are primarily agricultural or forestry related. Residential developments of five units or more shall comply with the cluster subdivision provision outlined in article XII of this ordinance. For the A-5 agriculture district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage the conservation of the area's existing agricultural and forestry resources and to promote the further expansion of these land-related resources;

b. To prohibit non-agricultural and non-forestry-related commercial and industrial use of the land and to prohibit any other influx of uses likely to render it undesirable for farms and low-density development;

c. To encourage the sensitive incorporation of low-density single-family or multifamily development into an agricultural and forested area in an effort to maintain rural character and conserve valuable lands; and

d. To discourage any use which, because of its character or size, would create requirements and cost for public services, such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and cost if the district were developed solely for single-family purposes.

(2) The R-20 rural residential district is designed to accommodate low-density single-family dwellings with 20,000 square feet minimum lots that may not be serviced with town sewer service or multifamily dwellings that are serviced with town sewer. For the R-20 residential district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage the construction of and the continued use of the land for low density single-family or multifamily dwellings;

b. To encourage the preservation of the rural character of the land;

c. To prohibit commercial and industrial use of the land and to prohibit any other influx of uses likely to render it undesirable for low density development;

d. To discourage any use which, because of its character or size, would create requirements and cost for public services, such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and cost if the district were developed solely for single-family dwellings;

e. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district; and

f. To encourage development to take place in a manner that promotes a healthy environment.

(3) The R-15 residential district is designed to accommodate low-density single-family dwellings with 15,000 square feet minimum lots. For the R-15 residential district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage the construction of and the continued use of the land for single-family dwellings;

b. To prohibit commercial and industrial use of the land and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

d. To discourage any use which would generate traffic on minor streets other than normal traffic to serve residences on those streets; and

e. To discourage any use which, because of its character or size, would create requirements and costs for public services, such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for residential purposes.

(4) The R-10 residential district is designed to accommodate medium-density single-family dwellings with 10,000 square feet minimum lots. For the R-10 residential district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage the continued use of the land for residential purposes;

b. To prohibit commercial and industrial use of the land and to prohibit any other use which would substantially interfere with development or continuation of single and multi-family dwellings (see R-10A) in the district;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

d. To discourage any use which would generate traffic on minor streets other than normal traffic to serve residences on those streets; and

e. To discourage any use which because of its character and size would create requirements and costs for public services, such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for residential purposes.

(5) The RM-10 residential district is designed to accommodate single-, two-, and multifamily dwellings with the same lot sizes and density as allowed in the R-10 residential district. In promoting the general purposes of this ordinance, the general intent of this district is the same as the R-10 residential district.

(6) The R-8 residential district is designed to accommodate single-family dwellings with a minimum 8,000 square feet lot for one unit and 4,000 square feet for each additional unit; multifamily density maximum is approximately 10.6 units per acre (based on a five-acre tract). For the R-8 residential district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage the continued use of the land for residential purposes;

b. To prohibit commercial and industrial use of the land and to prohibit any other use which would substantially interfere with development or continuation of residential uses in the district;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

d. To discourage any use which would generate traffic on minor streets other than normal traffic to serve residences on those streets; and

e. To discourage any use which because of its character or size would create requirements and costs for public services such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for residential purposes.

(7) The RM-8 residential district is designed to accommodate single-, two-, and multifamily dwellings with the same lot sizes and density as allowed in the R-8 residential district. In promoting the general purposes of this ordinance, the general intent of this district is the same as the R-8 residential district.

(8) The R-6 residential district is designed to accommodate single-family dwellings with 6,000 square feet minimum lots for one dwelling unit and 2,000 square feet required for each additional unit. For the R-6 residential district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To encourage continued use of the land for residential purposes and certain compatible nonresidential uses;

b. To prohibit commercial and industrial use of the land; to prohibit any other use which would substantially interfere with the development or continuation of residential structures in the district;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in the district; and

d. To discourage any use which because of its character or size would generate traffic or require municipal services substantially in excess of traffic and services that would exist if the district were developed solely for residential uses.

(9) The RM-6 residential district is designed to accommodate single-, two-, and multifamily dwellings with the same lot sizes and density as allowed in the R-6 residential district. Manufactured homes and manufactured home parks are also

permitted and shall be subject to the standards described in Sections 9-2-160 and 9-2-160. In promoting the general purposes of this ordinance, the general intent of this district is the same as the R-6 residential district.

Section 9-2-127. Commercial districts established.

The following commercial districts are hereby created to accomplish the purposes and serve the objectives indicated:

(1) The C-1 central business district is established as the centrally located trade and commercial service area of the community and region. The regulations are designed to encourage the continued use of land for regional trade and commercial service uses, to permit a concentrated, intensive development of the permitted uses while maintaining a substantial relationship between the intensity of land use and the capacity of utilities and streets. Residential uses are also permitted. The use of this zoning classification, as is expressly provided in the title of the district itself, is limited to the central business district of the Town of Richlands, and any expansion thereof which might take place. It shall not be applied to outlying commercial areas.

(2) The C-2 commercial district is established as a district for offices, personal services, and the retailing of durable and convenience goods. This district will generally be located on the town's major radial roads. Because these districts will be located on high-volume traffic arteries and will be subject to the view not only of local residents but tourists and other non-local motorists, ample off-street parking, controlled traffic movement, and an appropriate appearance including suitable planting shall be provided.

(3) The C-3 neighborhood business district is established as a district in which the principal use of land is to provide for the retailing of goods and services to the nearby residential neighborhoods. The regulations of this district are designed to limit the businesses which may be established therein in order to protect the abutting residential areas.

Section 9-2-128. Office and institutional districts established.

The following office and institutional districts are hereby created to accomplish the purposes and serve the objectives indicated:

(1) The C-4 office and institutional district is established as the district in which the principal use of the land is for residences, certain limited business and professional offices, and some institutional type uses, such as hospitals, medical offices and clinics. In establishing this zoning classification, the specific intent of this district is:

a. To encourage use of land for institutional and office purposes;

b. To prohibit commercial and industrial uses of land which would generate large volumes of traffic, or would interfere with the use of land for residential, office, and institutional purposes;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

d. To encourage the development of areas which will serve as a transition zone between the more intensive business districts and less intensive residential districts provided for in this ordinance.

(2) The C-5 professional office district is established as the district in which the principal use of the land is for certain professional offices, governmental facilities, and residences. In establishing the zoning classification, the specific intent of this district is:

a. To encourage the use of land for office, governmental facility, and/or residential purposes;

b. To prohibit commercial and industrial uses of land which would generate large volumes of traffic or would interfere with the use of land for professional office, governmental facility, and residential purposes;

c. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

d. To encourage the development of areas which will serve as a transition zone between the more intensive commercial districts and less intensive residential districts provided for in this ordinance.

Section 9-2-129. Industrial districts established.

The industrial districts are designed to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment. In promoting the general purposes of this ordinance, the following industrial districts are hereby created to accomplish the purposes and serve the objectives indicated:

(1) The I-1 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; warehousing and wholesaling activities with limited contact with the general public; and for certain outdoor amusement facilities which generate large volumes of automobile traffic. The regulations are designed to prohibit the use of land for heavy industry which should be properly segregated and to prohibit any other use which would substantially interfere with the development of industrial and wholesaling establishments in the district. Residential uses in this district are permitted only upon the issuance of a special use permit.

(2) The I-2 industrial district is established as a district in which the principal use of land is for warehousing, mixed industrial, heavy industrial and heavy commercial type uses. For the I-2 industrial district, in promoting the general purposes of this ordinance, the specific intent of this district is:

a. To provide appropriate zoning districts for existing industrial type areas which are predominantly developed at the time of the adoption of this ordinance;

b. To encourage the discontinuance of existing uses that would not be permitted as new uses in this district;

c. To encourage the continued use of land for industrial purposes;

d. To discourage residential and light commercial uses of land and to prohibit any other use which would substantially interfere with the continuation of permitted uses in the district;

e. To encourage heavy users of municipal services, especially water and sewer service, to congregate in specific sections of the community so that

the town may effectively provide services to its industries without undue expenditure of funds.

Section 9-2-130. Planned unit developments established.

(a) There are hereby established different planned unit developments (PUDs) as described in this section. Each PUD is designed to accommodate a range of residential, commercial, or industrial uses either singularly or in combination. The intent of a planned unit development is to provide the necessary flexibility to encourage creative land development, while working with the density and permissible use requirements mandated by the established zoning districts and the town's standards for streets and other public utilities. Planned unit developments may be constructed without complying with minimum lot size, permissible yard coverage, yard dimensions, and setback requirements within the district in which the development is located. However, all planned unit developments shall be located no less than 20 feet from any adjoining property zoned for residential uses only, unless the use is commercial or industrial in nature in which case the separation must be no less than 100 feet. Such separations shall be accomplished through the use of appropriate screening as detailed in article XVI, Section 9-2-245.

(1) The residential planned unit development (PUD) is designed to accommodate those uses which would be permissible in one of the Town of Richlands' eight residential zoning districts (A-5, R-20, R-15, R-10, R-10A, R-10S, R-8, and R-6). All development must be in accordance with the regulations applicable to the residential zoning district to which the particular PUD corresponds, except as modified in paragraph (a) of this section.

(2) The residential/commercial planned unit development (PUD) is designed to accommodate a combination of residential and C-3 commercial uses. Within the portion of a PUD that is developed for purposes permissible in a commercial district, all development must be properly screened from adjoining residential developments within the PUD in accordance with the standards outlined in article XIX, Section 9-2-245 (Table of screening requirements). All development must be in accordance with the regulations applicable to the commercial district in which the particular PUD is to be located. Additionally, no commercial use located within the residential/commercial PUD may be located within 100 feet of any residential district that is not a part of the PUD.

(3) The commercial planned unit development (PUD) is designed to accommodate those uses which would be permissible in one of the Town of Richlands' five commercial zoning districts (C-1, C-2, C-3, C-4, C-5, and C-5). All development must be in accordance with the regulations applicable to the commercial district in which the particular PUD zoning district is to be located.

(4) The commercial/industrial planned unit development (PUD) is designed to accommodate a combination of commercial and light industrial uses. Within the portion of the PUD that is developed for purposes permissible in an I-1 industrial district, all development must be properly screened from adjoining commercial development in the PUD in accordance with the standards outlined in article XIX, Section 9-2-245 (Table of screening requirements).

(5) The industrial planned unit development (PUD) is designed to accommodate those uses which would be permissible in one of the Town of Richlands' two industrial zoning districts (I-1 and I-2). All development must be in accordance

with the regulations applicable to the industrial district in which the particular PUD is to be located.

PART II. ZONING MAP

Section 9-2-132. Official zoning map.

(a) There shall be a map known and designated as the official zoning map, which shall show the boundaries of all zoning and overlay districts within the town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the engineering department.

(b) The official zoning map is the map which was adopted as a part of the zoning ordinance, which was adopted on March 5, 1968, as amended to date by ordinances adopted by the Board of Aldermen of the Town of Richlands. The latest edition of said map bears the title:

RICHLANDS ZONING MAP
Revised February 19, 2013
Produced by Onslow County GIS

Amendments to the map shall be made and posted in accordance with Section 9-2-143 of this ordinance.

(c) Should the official zoning map be lost, destroyed, or damaged, the director of planning and inspections may have a new map drawn on acetate or other durable material from which prints can be made. No further board authorization or action is required so long as district boundaries are not changed in this process.

Section 9-2-133. Amendments to official zoning map.

(a) Amendments to the official zoning map are accomplished using the same procedures that apply to other amendments to this ordinance, as set forth in article XX.

(b) The town administrator or his designee shall update the official zoning map as soon as possible after amendments to it are adopted by the board. Upon entering any such amendment on the map, the town administrator or his designee shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the official zoning map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference. Additional copies of current and superseded zoning maps shall be kept in the town vault.

Sections 9-2-134-9-2-135. Reserved.

ARTICLE X. PERMISSIBLE USES

Section 9-2-136. Table of permissible uses.

There is hereby established a table of permissible uses, as hereinafter set forth. This table should be read in close conjunction with the definitions of terms set forth in section 9-2-15 and the other interpretive provisions set out in this article.

TABLE OF PERMITTED USES

	District															
	Residential									*Commercial*					*Industrial*	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Accessory structures	P	P	P	P	P	P	P	P	P	P	P	C	P	P	P	P
Accessory uses (See Section 9-2-140)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Adult establishment											C				C	
Agriculture-vegetative	P	P						C	C							
Agriculture-livestock	C	C														
Alcohol beverage packaged, retail sales											P				P	
Amusement, commercial outdoor											P				P	
Amusement, commercial indoor										P	P					
Advertising agency																
Ambulance service/rescue squad (EMS)										P	P	P	P	P		
Amusement park																
Animal hospital/veterinarian clinic										P	P	P	P			
Antique shops										P	P	P				
Apparel and footwear (sales)										P	P	P				
Appliances (sales)										P	P					
Appliances (service, and repair)										P	P					
Aquarium										P	P					
Architect companies										P	P	P	P			
Art galleries										P	P	P				
Art supplies										P	P					
Arts and graphics services										P	P					
Asphalt products manufacturing															P	
Auction house											P					
Auto, truck, and motorcycle sales											P	C				
Auto-detailing											P	P				
Automatic teller machine										P	P	P	P	P		
Automobile salvage yard															C	
Automobiles manufacturing															P	
Automotive supplies										P	P	C				
Bait and tackle sales										P	P	P				
Bakeries										P	P				P	
Banks and finance companies										P	P					
Barber and beauty shops										P	P	P	C	C		
Baseball hitting ranges											P					

P – Permitted Use
C – Conditional Use by Board of Aldermen
S – Special Use by Board of Adjustment

	District															
	Residential									Commercial					Industrial	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Bed and Breakfast		C				C	C	C	C	C						
Bedding and carpet manufacturing															P	
Bicycle sales and service										P	P	P				
Big box development											C				C	
Billiard or pool halls										P	P					
Blacksmith operations															P	
Blueprints and drafting supplies										P	P					
Boat (repairs, sales and service)											P				P	
Bicycle repair shops										P	P	P				
Boat works manufacturing															P	
Bona fide farms (ten acres or more)	P	P														
Book and stationary stores										P	P	P				
Bottling plants															P	P
Bowling alley											P					
Brick, tile, and pottery yards (sales/service)											P				P	
Building cleaning and maintenance services											P				P	
Building materials (sales)											P				P	
Building over 50 feet in height																
Bus garages											P					
Bus terminal											P				P	
Business offices										P	P		P	P		
Cabinet shops										P	P				P	
Camera and photography supplies										P	P	P				
Campgrounds and RV Parks	P										P					
Campsites	P															
Candy store										P	P	P				
Canvas goods manufacturing															P	
Car wash											P					
Cardboard containers manufacturing															P	
Cemetery, private	C	C	C	C	C	C	C	C	C							
Cemetery, public	C	C	C	C	C	C	C	C	C							
Chemical manufacturing															P	
Chicken houses	C															
Church (see religious institutions)																
Clothing and textiles production															P	
Club and/or Lodge																
Coin-operated laundry										P	P	P				
College/university/technical college	P	P									P	P				
Community centers, private										C	P	C				
Community centers, public										P	P	P	P	P		
Computer and data processing services										P	P					
Concrete products production															P	
Contractor's office											P				P	
Convenience store										P	P	P				
Correctional facilities	C														P	

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	District															
	Residential									Commercial					Industrial	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Cottage Development																
Country clubs (golf course / private)	P	P														
Country clubs (golf course / public)	P	P														
Crematorium											C				C	
Dairy, meat, and seafood market										P	P	P				
Dance schools										P	P	P				
Day care center		C	C	C	C	C	C	C	C	P	P	P	P	P		
Day care home (small)		C	C	C	C	C	C	C	C							
Day care (large)		C	C	C	C	C	C	C	C							
Delicatessen										P	P	P	P	P		
Department stores										P	P					
Detective agency										P	P					
Discount stores											P					
Dragstrip and race tracks															P	
Drinking establishments (bars/lounge/pub)										P						
Drug stores										P						
Dry cleaners										C	P					
Dry cleaning plants															C	
Dwelling (See Residence)																
Electrical appliances and equipment manufacturing															P	
Electrical equipment sales											P				P	
Electronic and electrical repair										P	P	C				
Electronic gaming establishment											C					
Employment agency										P	P					
Engineering company										P	P	P	P	P		
Equipment rental										P	P				P	
Exterminators										P	P	P				
Fabric stores										P	P					
Family care home		C	C	C	C	C	C	C	C		P	P				
Farm machinery manufacturing															P	P
Farm supplies										P	P					
Farm/heavy equipment sales and rental										P	P					
Fertilizers manufacturing and storage											P				P	
Fiberglass manufacturing and storage															P	
Firing range, indoor											P				P	
Firing range, outdoor											C				P	
Fishing Lakes/Impoundments																
Flea markets (indoor)										P	P					
Flea markets (outdoor)											C					
Floor covering stores (sales &installations)										P	P					
Florists										P	P	P				
Flour and feed mills											P				P	
Food and food products manufacturing															P	

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	District															
	Residential									*Commercial*					*Industrial*	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Food catering										P	P	P				
Food store (under 10,000 sq. ft.)										P	P	P				
Forestry service (public)	P														P	
Funeral home w/o crematorium								C	C	P	P	P				
Furniture manufacturing															P	
Furniture and home furnishings store										P	P					
Furniture refinishing and repair											P				P	
Gas or service station										P	P	C				
Gift shops										P	P	P				
Glass and mirror shops (sales and service)																
Glass products manufacturing																
Go cart track																
Golf course, public/private	C	C														
Golf driving ranges																
Governmental maintenance facility											P			P		
Grading Business																
Greenhouse and/or nurseries (commercial)											P	P			P	P
Greenhouse (private)		P	P	P												
Greenways																
Guest house (private)		P	P	P	P	P	P	P	P							
Guest house (rental)						C	C	C	C							
Gun and ammunition sales										P	P					
Gunsmith (repair shop)										P	P					
Hardware stores										P	P					
Hatcheries															P	
Health clubs											P					
Health practitioner's office										P	P	C	P			
Heating and refrigeration sales and service										P	P					
Heavy equipment manufacturing																P
Hobby, toy, and craft stores										P	P	P				
Home occupation	C	C	C	C	C	C	C	C	C							
Horse show/riding facility											P				P	
Hosiery mills															P	
Hospital (human)											P					
Hotels/Motels										P	P					
Hunting Preserves/Hunt Clubs	C															
Ice manufacturing															P	
Industrial supplies and equipment sales											P				P	
Insurance agency										P	P	P	P			
Interior designers										P	P	P	P			
Jewelry stores										P	P	P				
Judicial and Law enforcement services											P		P	P		
Junkyards and Auto Salvage Yards															C	
Kennel and Animal Shelters											C					
Knitting mills															P	

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	District															
	Residential									Commercial					Industrial	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Landfills, construction, demolition																C
Landfills, L.C.I.D. site																C
Landfills, sanitary																C
Landscapers										P	P	P				
Lawn and garden care (service)										P	P	P			P	
Lawn and garden supplies										P	P	P			P	
Lawnmower repair											P	P			P	
Leather products manufacturing											P	P			P	
Legal services										P	P	P	P	P		
Libraries										P	P	P	P	P		
Licensed Massage/Bodywork Therapists										P	P	C				
Linen and uniform supply services										P	P					
Liquor store (ABC store)											P	C				
Livestock petting zoo																
Livestock sales																
Locksmith										P	P	P				
Log home manufacturing																P
Luggage manufacturing															P	
Lumber and building materials-sales											P					
Machine and welding shops											P				P	
Machine tools manufacturing											C				P	
Mail order office										P	P	P				
Management consultants										P	P	P	P			
Manufactured home/recreational vehicle sales											P				P	
Manufactured Home Parks (See 9-2-160)	C															
Manufacturer's showrooms											P					
Meatpacking and poultry processing plants																C
Medical/dental clinics											P	C	P	P		
Medical/dental laboratories											P	P	P	P		
Metal fabrication plants															P	
Metal fabrication shop											P				P	
Miniature golf	C										P					
Mining under one (1) acre	C															
Mining and quarrying	C															
Mini-warehouse											P				P	
Monument works / sales										P	P				P	
Motor vehicle body and paint shop											P				P	
Motor vehicle repair shop/service/towing										P	P	C				
Motorcross track	C															
Movie theatres (indoor)										P	P					
Museums										P	P	P	P	P		
Music stores										P	P	P				
News syndicates (publisher)											P					
Newsstands										P	P	P	P			
Novelty and souvenir stores										P	P	P				

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	District															
	Residential									Commercial					Industrial	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Nursing, convalescent, assisted living facility											P				C	
Oil and gasoline bulk storage																C
Open storage facility											C				P	
Optician and optical supply store										P	P	P	P	P		
Outdoor Advertising Signs (off-premise)											C					
Paint and wallpaper stores										P	P	P				
Paints, varnishes, finishes manufacturing															C	
Parking lot (commercial)										P	P					
Paving and grading operation											P					
Paper goods manufacturing																
Par 3 Golf course											P					
Parks and playgrounds (public)	C	C	C	C	C	P	P	P	P	P	P	P	P	P		
Pawn shop										C	P					
Pet shop										P	P	P				
Pharmaceuticals manufacturing															C	
Photocopying services										P	P	P				
Photofinishing laboratories															C	
Photography services and studios										P	P	P				
Pillow manufacturing															P	
Plastic products manufacturing																C
Plumbing and heating supplies										P	P				P	
Post office										P	P	P		P		
Precision instruments manufacturing															P	
Private recreation clubs (non-adult)						C	C	C	C		P	C				
Processing plants																C
Produce Sales										P	P	P				
Public relations services										P	P		P	P		
Public utility facility (substation)						P	P	P	P							
Publishing and printing										P	P	P	P			
Radio and television repair										P	P					
Radio and television studios											P					
Real estate office and services										P	P	P	P			
Recycling collection center															C	C
Recycling Facility																C
Recycling Plant																C
Refineries																
Rehabilitation facility										C	P	P	P	P		
Religious institutions (See Section 9-2-153)		P	P	P	P	P	P	P	P	P	P	P		P		
Rental of vehicles										P	P					
Research activities																
Residence, duplex		C			P	C	P	P	P							
Residence, manufactured home (Class A)	P	C						C	P							
Residence, manufactured home (Class B)									C							
Residence, multifamily					C	C	P	P	P							
Residence, multifamily condominium					C	C	P	P	P							

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	District															
	Residential									Commercial					Industrial	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Residence, multifamily townhouses					C	C	P	P	P							
Residence, single-family detached	P	P	P	P	P	P	P	P	P	P	P	P				
Residential development sales (office on-site)		P	P	P	P	P	P	P	P							
Restaurant (walk-in, fast-food)(w/drive through)											P	C				
Restaurant (walk-in) (with-out drive through)										P	P	C				
Roadside stand											C					
Rodeo	C															
Saddleries (repairs, sales, and service)										P	P					
Sanitarium and mental institutions														C		
Sawmills															P	
School facilities, permanent (public or private)	P	P	C	C	P	P	P	P	P	C	P	P	P			
School facilities, mobile (public or private)	C	C	C	C	C	C	C	C	C	C	C	C	C			
Seamstress shop										P	P					
Secondhand store/swap shops/thrift shops										P	P					
Septic services											P					
Sheet metal shops											P				P	
Sheriff Department and jail facility																
Shoe repair and shining										P	P	P				
Shoe stores										P	P	P				
Sign painting										P	P					
Skating rinks											P					
Slaughterhouse																C
Small motor repair										P	P	P				
Sporting goods										P						
Springs manufacturing															P	
Stable (private) See Section 9-2-159	P	P														
Stable (public) See Section 9-2-159	C	C														
Swimming pool	P	P	P	P	P	P	P	P	P							
Swine farm (See Agricultural-livestock)																
Supermarkets (over 10,000 sq. feet)											P	C				
Surveying company										P	P	P	P			
Taxi Dispatch Stand											P					
Taxi Dispatch Stand and Garage											P					
Tailoring and dressmaking shops										P	P					
Telephone Call Centers											P					
Tire recapping shops											P					
Tobacco products manufacturing																
Tobacco shop										P	P	C				
Tree service																
Truck, farm equip., heavy equip. sales/service										P	P					
Truck/freight terminal (6 or fewer trucks)											P					
Truck/freight terminal (more than 6 trucks)											C					
Turkey houses (See Agricultural-livestock)																
Upholstering shops										P	P					
Utility company operation center											P					
Vacuum cleaner repair										P	P					

P – Permitted Use
C – Conditional Use by Board of Aldermen
S – Special Use by Board of Adjustment

	District															
	Residential									*Commercial*					*Industrial*	
Use	**A-5**	**R-20**	**R-15**	**R-10**	**RM-10**	**R-8**	**RM-8**	**R-6**	**RM-6**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**I-1**	**I-2**
Variety stores										P	P	P				
Vending companies											P					
Volunteer Fire Department										P	P					
Warehousing											P				P	
Watch, clock, jewelry repair										P	P	P				
Wholesale distribution											P					
Wholesale store											P					
Winery	C															
Wireless communication towers	C															
Woodworking shops										P	P					

P – Permitted Use
C – Conditional Use by Board of Aldermen
S – Special Use by Board of Adjustment

Section 9-2-137. Use of the designations P, S, C in table of permissible uses.

(a) Subject to Section 9-2-138, when used in connection with a particular use in the table of permissible uses, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the zoning administrator. The letter "S" means a special use permit must be obtained from the board of adjustment, and the letter "C" means a conditional use permit must be obtained from the Board of Aldermen.

(b) Subject to Section 9-2-138, the use of the designation "P, S" means that a zoning permit must be obtained if the development is located on a lot of two acres or less, while a special use permit must be obtained for developments in excess of two acres.

(c) When used in connection with multifamily residences the designation "P, S" means that such developments of less than five dwelling units must be pursuant to a zoning permit and developments of five or more dwelling units need a special use permit.

(d) Subject to Section 9-2-138, use of the designation "P, S" means that a zoning permit must be obtained if the development is located on a lot of (i) two acres or less in the C-1, C-2, C-3, C-4, C-5, or C-5A zones, or (ii) two acres or less in all other zones, while a special use permit must be obtained for all developments on lots in excess of these limits.

Section 9-2-138. Board of adjustment jurisdiction over uses otherwise permissible with a zoning permit.

Notwithstanding any other provision of this article, whenever the table of permissible uses (interpreted in the light of Section 9-2-137 and the other provisions of this article) provides that a use in a nonresidential zone is permissible with a zoning permit, a special use permit shall nevertheless be required if the zoning administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the zoning administrator shall consider, among other factors, (i) whether the use is proposed for an undeveloped or previously developed lot, (ii) whether the proposed use constitutes a change from one principal use classification to another, (iii) whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and (iv) whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question. Said determination by the zoning administrator shall be rendered in writing and shall include findings based on the above-mentioned factors.

Section 9-2-139. Permissible uses and specific exclusions.

(a) The presumption established by this ordinance is that all legitimate uses of land are permissible within at least one zoning district in the town's planning jurisdiction. Therefore, because the list of permissible uses set forth in the table of permissible uses cannot be all-inclusive, those uses that are listed may be interpreted broadly to include other uses that have similar impacts to the listed uses in terms of traffic volume generation, emphasis on vehicular or walk-in trade, number of employees, and nature of business operations.

(b) All uses that are not listed in the table of permissible uses and that do not have impacts that are similar to those of the listed uses are prohibited. Nor shall the table of permissible uses be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Stockyards, slaughterhouses, rendering plants.

(2) Use of a travel trailer or recreational vehicle as a residence, temporary or permanent.

(3) The use of any motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any service is performed, or other business is conducted (as defined in Title 6 of the town Code), except that the following shall not be prohibited solely by this subsection:

a. Retail sales of food products and goods manufactured, created, or produced by the seller; and

b. Sale of food products on property by persons authorized by or acting on behalf of the town.

Section 9-2-140. Accessory uses.

(a) The table of permissible uses (Section 9-2-136) classifies different principal uses according to their different impacts. Whenever two activities or uses occur on the same lot and one use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then that use which meets the criteria enumerated in (i) and (ii) may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use, provided that the accessory use is of equal or lesser zoning classification. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multifamily development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special use permit.

(b) For purposes of interpreting subsection (a):

(1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

(2) To be "commonly associated" with a principal use means that the association of the accessory use with such principal use takes place with sufficient frequency to establish a common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b), the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

(1) Hobbies or recreational activities of a noncommercial nature; except that the repair of automobiles owned by persons who do not reside on the premises, is prohibited.

(2) The renting out of one room within a single-family residence (which one room does not in itself constitute a separate dwelling unit) to not more than one person who is not part of the family that resides in the single-family dwelling.

(3) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.

(d) Without limiting the generality of subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

(1) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the principal use of a residence (single or multi-family).

(2) Parking and storage outside a substantially enclosed structure of any motor home boat or other recreational vehicle between the front building line of the principal building and the street on which the lot fronts. The prohibited vehicles include trailers and commercial vehicles. As used herein, the term "commercial vehicles" does not include pick-up trucks.

Section 9-2-141. Permissible uses not requiring permits.

Notwithstanding any other provisions of this ordinance, no zoning, special use, or conditional use permit is necessary for the following uses (except when located in overlay districts where certain design guidelines must be met):

(1) Streets and street signs;

(2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;

(3) Neighborhood utility facilities may be located within public right-of-way with the permission of the owner (state or town) of the right-of-way.

Section 9-2-142. Change in use.

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(1) The change involves a change from one principal use category to another.

(2) If the original use is a combination use (Section 9-2-144) or planned unit development (Section 9-2-145), the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.

(3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.

(4) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out, and a different type of enterprise moves in, and is found under the same principal use or combination use category as the previous type of business. For example, if there is only one building on a lot and a florist shop that is the sole tenant of the building moves out and is replaced by a clothing store that constitutes a change in use even though both tenants fall within the scope of general retail. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center--combination use) has not changed.

(b) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 continuous days or there has been no affirmative attempt or expressed intention on the part of the property owner to rent, sell, or use the property.

(c) A mere change in ownership of a business or enterprise shall not be regarded as a change in use.

Section 9-2-143. Combination uses.

(a) When a combination use comprises two or more principal uses that require different types of permits (zoning, special use, or conditional use), then the permit authorizing the combination use shall be:

(1) A conditional use permit if any of the principal uses combined requires a conditional use permit.

(2) A special use permit if any of the principal uses combined requires a special use permit but none requires a conditional use permit.

(3) A zoning permit in all other cases.

(b) Subject to subsection (c), when a combination use consists of a residential subdivision and a multifamily development, the total density permissible on the lot shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

(c) Notwithstanding subsection 9-2-172(b) [9-2-171(b)], whenever (i) a combination use consists of a standard residential subdivision and a multifamily development, and (ii) the subdivided portion of the tract contains lots that exceed the minimum lot size requirements set forth in Section 9-2-171, but that do not exceed an average of 20,000 square feet, then the density of the portion of the tract developed for multifamily purposes may be increased beyond the permissible density calculated in accordance with subsection (b). The increase in density shall be determined as follows:

(1) The minimum lot size requirement for the applicable zoning district shall be subtracted from each lot that exceeds the minimum lot size, and the remainders totaled.

(2) The sum derived from the calculation in subdivision (1) shall be divided by the minimum lot size requirement. Fractions shall be rounded to the nearest whole number.

(3) The product of the calculation in subsection (2) shall yield the number of additional multifamily dwelling units that may be located within the portion of the tract developed for multifamily purposes.

(d) When a residential use is combined with a nonresidential use in a commercial district, the lot used for the residential use must have at least the minimum square footage required for the residential use alone.

(e) When two principal uses are combined, the total amount of parking required for the combination use shall be determined by calculating the amount of parking required for each individual principal use according to the relative amount of space occupied by that use.

Section 9-2-144. Planned unit developments.

(a) In a planned unit development, the developer may make use of the land for any purpose authorized in the particular PUD in which the land is located, subject to the provisions of this ordinance. Section 9-2-130 describes the various types of PUDs.

(b) Within any tract in a residential zoning district developed as a residential/commercial PUD, not more than ten percent of the total tract area may be developed for purposes that are permissible only in a commercial zoning district. Likewise, within any tract in a commercial zoning district developed as a commercial/industrial PUD, not more than ten percent of the total tract area may be developed for purposes that are permissible in an I-1 zoning district.

(c) The plans for the proposed planned unit development shall indicate the particular portions of the tract that the developer intends to develop for purposes permissible in a residential district (as applicable), purposes permissible in a commercial district (as applicable), and purposes permissible only in an industrial district (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the tract so designated shall then be treated as if it were a separate district, zoned to permit, respectively, residential, commercial, or industrial uses. However, only one permit (a planned unit development permit) shall be issued for the entire development. Said permit may be issued by the zoning administrator following subdivision general plan approval.

(d) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by any of the mechanisms provided in article IV to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential, development.

(e) The submission and approval of any PUD as defined and authorized in Section 9-2-130 shall follow the same submission procedures as a major subdivision as regulated in the Subdivision Regulations of the Town. The adoption of any PUD defined and authorized by Section 9-2-130 is considered an amendment to this ordinance and shall follow the requirements set forth in Article XVII.

Section 9-2-145. More specific use controls.

Whenever a development could fall within more than one use classification in the table of permissible uses (Section 9-2-136), the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130 (physicians and dentist offices and clinics occupying not more than 10,000 square feet of gross floor area) more specifically covers this use and therefore is controlling.

Section 9-2-146. General provisions for residential districts.

(a) Encroachments permitted into required yard setbacks.

(1) Interior lots. Carports, porches, decks, canopies, stairways, completely open (except for reasonable supports) may encroach into required side and rear yards by 50 percent.

(2) Corner lots. Carports, porches, decks, canopies, stairways, completely

open (except for reasonable supports) may encroach by 75 percent into any yard other than the right-of-way yard setback.

(3) Handicap ramps. Handicap ramps may encroach into the required front, side and/or rear setbacks by 50%. Where no other practical alternative is available, encroachments greater than 50% may be allowed by the zoning administrator when an existing development has insufficient land available, an unsafe condition would be created or other extenuating circumstances exist. Whenever flexibility is granted, the reasons for granting the flexibility shall be documented. In addition, the owner of the property shall provide a written statement agreeing to remove the ramp once the person with disabilities no longer needs the ramp.

In defining carports, three sides must be left open; decorative walls, planters, shrubbery, or other obstructions are permitted as part of the carport or adjacent to the carport as long as it does not exceed three feet in height and a minimum of 50 percent of the area is unobstructed.

(b) Recreational vehicles. Recreational vehicles may be stored on any lot in any residential zoning district provided they are not stored in the required setback for front yards. Recreational vehicles, while being stored in this area, cannot be used for sleeping, utility, office, material storage, etc.

(c) On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of three (3) and ten (10) feet above the centerline grades of the intersection streets; and in the area bounded by the centerlines of intersecting streets and a line joining points along said centerlines eighty (80) feet from the point of the intersection.

Section 9-2-147. Outdoor swimming pools.

In the interest of public safety and particularly the safety of children, all outdoor swimming pools in the town having a depth of water of eighteen (18) inches or greater at its deepest point shall be completely surrounded by a fence or wall not less than four (4) feet in height. Such wall shall be so constructed as not to have any openings larger than six (6) inches in height except where width is five (5) inches or less, the height may extend full height of fence or wall. If a picket fence is erected, the width between pickets shall not exceed five (5) inches. A fence or wall may be made of any material, wood, metal, wire, masonry, concrete, tile, and plastic material, or any combination of these or other suitable materials if the openings in the fences do not exceed the maximum width described above. A dwelling house or accessory building may be used as part of such enclosure. All gates or doors opening through such fence or wall shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in actual use except that the door of dwelling which furnished part of the enclosure need not be so equipped.

The zoning administrator may make modifications with respect to the height, nature or location of the fence, wall, gates or latches, in individual cases, upon a showing of good cause provided the protection as sought hereunder is not reduced thereby. The zoning administrator may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

Any pool that is not in use for more than thirty (30) days shall either be drained or covered.

Section 9-2-148. Exceptions to height regulations.

The height limitations contained in the dimensional requirements by districts do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sections 9-2-149—9-2-151. Reserved.

ARTICLE XI. SUPPLEMENTARY USE REGULATIONS

Section 9-2-152. Special events.

(a) In deciding whether a permit for a special event should be denied for any reason specified in Article IV, the zoning administrator shall ensure that, if the special event is conducted at all:

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(2) The amount of noise generated shall not disrupt the activities of adjacent land uses.

(3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the town.

(4) The zoning administrator shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(b) In cases where it is deemed necessary, the zoning administrator may require the applicant to post a bond to ensure compliance with the conditions of the zoning permit.

(c) If the permit applicant requests the town to provide extraordinary service or equipment, or if the town manager otherwise determines that extraordinary services or equipment should be provided for the public health or safety, the applicant shall be required to pay a fee sufficient to reimburse the town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

Section 9-2-153. Places of worship.

Places of worship, churches and religious institutions are permitted in any residential zoning district in the Town of Richlands unless otherwise regulated by this ordinance. However, no place of worship, church or religious institution shall be permitted to be located in any pre-existing storefront buildings located in the C-1 commercial district. Moreover, places of worship located in zoning classifications other than the town's C-1 and C-2 commercial districts shall meet the following requirements:

(1) Height limitations of the zone in which it is located shall be observed; provided, however, the spire, belfry, or other similar architectural features are exempt.

(2) The parking requirements of articles XV of this ordinance shall be observed.

(3) Open space and planting requirements shall be in accordance with Section 9-2-186 governing nonresidential developments.

(4) Required setbacks shall be: front yard, 35 feet; side yards (each), 25 feet; rear yard, 25 feet. No parking shall be located in front yards. In side and rear yards, parking shall not be in any area required for a setback unless densely planted buffer strips or other fencing is installed to protect abutting property from noise, dust, glare of lights and other nuisances; then parking may be permitted, but no closer than ten feet to the property line.

(5) Places of worship located within a residential zoning district shall be permitted a maximum sign surface area of 32 square feet. In the case of

freestanding signs in a residential zoning district, said signs shall not exceed a height of ten feet. Signs for places of worship found in a commercial zoning district shall be the same as prescribed in that particular zoning district as outlined in article XIV (Signs).

(6) Places of worship shall install a semi-opaque screen, as defined in article XVI, Section 9-2-244, along all property lines that abut residential properties.

Section 9-2-154. Public and private schools

Public and private schools (permanent facilities) are permitted in any residential zoning district in the Town of Richlands, except for mobile school facilities as regulated in the Table of Permitted Uses. However, the following requirements must be fulfilled:

(1) All height limitations on the zoning district in which it is located shall be observed, provided that flagpoles, electronic gear, and mechanical appurtenances are exempt from the height restrictions.

(2) In addition to the off-street parking requirements outlined in article XV of this ordinance, there shall be one off-street parking space of appropriate size provided for each bus to be used for the transportation of students to and from school and/or extracurricular activities.

(3) Off-street loading facilities shall be provided for the aforementioned buses.

(4) Off-street loading facilities shall be provided for private vehicles and be so designed that its use is convenient with points of ingress and egress on a major street.

(5) No school building may be closer than 150 feet to any property line, unless an opaque screen as defined in Article XVI is provided in which case said school building may be constructed no closer than 75 feet to a property line.

(6) Public or private schools located within a residential zoning district shall be permitted a maximum sign surface area of 32 square feet. Said signs shall also not exceed a height of ten feet. Public or private school signs in a commercial zoning district shall be the same as prescribed in that particular zoning district as outlined in Article XIV (Signs).

(7) That the site plan must be approved by the North Carolina board of public instruction, division of school planning in the case of public schools or in the case of private or parochial schools meet the requirements of the division of school planning.

Section 9-2-155. Parks, playgrounds, and other recreational facilities of a noncommercial nature

Such uses are permitted in any zoning district in the Town of Richlands under the following restrictions:

(1) Off-street parking adequate to meet the needs of the people who will be using the facilities shall be provided. (See Section 9-2-223(g).)

(2) Parks, playgrounds, and other recreational facilities of a noncommercial nature located within a residential zoning district shall be allowed signage, provided such signage [shall] not exceed 32 square feet and, in the case of freestanding signs, shall not exceed a height of ten feet.

Section 9-2-156. Child care homes

The following specific provisions shall be met as minimum standards prior to the approval of any child care home as a conditional use in a residential zoning district:

(1) Off-street parking adequate to meet the needs of the people who will be using the facilities shall be provided. (See Section 9-2-2-223 (g).)

(2) Child care homes located within a residential zoning district shall be allowed signage, provided such signage does not exceed a total sign surface area of 12 square feet and, in the case of freestanding signs, shall not exceed a height of ten feet.

(3) Child care homes located within a residential zoning district shall meet the requirements of the zoning district in which they are placed in terms of setback, lot coverage, density, etc.

Section 9-2-157. Children's day care facilities

The following specific provisions shall be met as minimum standards prior to the approval of any children's day care facility as a conditional use in a residentially zoned area:

(1) The minimum lot size for the facility shall be fourteen thousand (14,000) square feet.

(2) Building setback (minimum) from any public or private street shall be thirty (30) feet.

(3) Rear yard setback (minimum) shall be thirty-five (35) feet.

(4) Side yard setback (minimum) shall be twenty (20) feet.

(5) Corner lot setback (minimum) from interior lot lines shall be twenty (20) feet.

(6) Minimum distance to another children's day care facility, whether conforming or non-conforming, shall be five hundred (500) feet.

(7) The minimum number of paved off-street parking spaces shall be two (2) with one (1) additional space added for each employee.

(8) There shall be a paved off-street loading and unloading area for use at the child care facility. This space shall be in addition to the minimum paved off-street parking areas. Each facility must have sufficient paved driveway to accommodate at least two (2) autos at one time for the purpose of loading and unloading passengers.

(9) All children's outside play areas shall be enclosed with a fence. The fence must be at least six (6) feet high.

Section 9-2-158. Bed and breakfast establishments

Where permitted by this ordinance, bed and breakfast establishments shall meet the following requirements:

(1) Dwelling cannot provide more than three bedrooms for overnight guests.

(2) One parking space per guest room must be provided off the street in addition to two off street parking spaces for the principal occupants. The parking area must not encroach beyond the side, and rear set back lines of the zoning district.

(3) Bed and breakfast establishments located within a residential zoning district shall be permitted a maximum sign surface area of 32 square feet. Said signs shall also not exceed a height of ten feet.

(4) No pulsating, flashing, oscillating, or other types of attention getting devices shall be permitted.

(5) No outdoor activities other than those associated with the normal activities of a single family home are permitted.

(6) The use must annually meet the health standards of the State and County Government and proof will be presented to the Zoning Administrator.

(7) The dwelling must be the primary residence of the owner.

(8) A buffer of vegetation which will grow to a height of four feet must surround the parking area on three sides.

Section 9-2-159. Horse stables

Private horse stables shall be permitted in the A-5 and R-20 zoning districts. Public horse stables shall be permitted by conditional use in the A-5 and R-20 zoning districts. Both private and public horse stables shall meet the following minimum requirements:

(1) Storage areas for manure, feed and tack supplies shall be provided for each stable according to the following schedule:

1 to 3 horses 500 square feet;

4 to 8 horses 1,000 square feet;

9 to 12 horses 2,000 square feet;

13 to 16 horses 3,000 square feet;

17 to 20 horses 4,000 square feet;

21 plus horses 6,000 square feet

(2) The storage areas for manure shall be maintained away from the stalls and enclosed pasture area.

(3) A minimum stall size of 120 square feet must be provided for each horse on site.

(4) The minimum area requirements for both private and public stables are as follows:

The minimum lot size is 2 (2) acres.

The minimum pasture area is 2 (2) acres for one to seven horses and an additional 1.25 acre for each horse after seven.

The minimum setbacks for pasture areas are 100 feet from dwellings and 20 feet from property lines.

Stalls shall be at least 200 feet from dwellings and 50 feet from property lines.

Manure and feed storage shall be at least 400 feet from dwellings and 100 feet from property lines.

Section 9-2-160. Rules and regulations for manufactured homes located both inside and outside of manufactured home parks within the zoning jurisdiction of the town.

(a) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated below when used in this section:

(1) *Manufactured home.* A dwelling unit, designed for use as a permanent residence and that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation and/or assembly on the building site.

(2) *Manufactured home, Class A.* A dwelling unit that:

a. Is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended;

b. Is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site;

c. Meets or exceeds the construction standards of the US Department of Housing and Urban Development, and

d. Conforms to the following appearance criteria:

i. The manufactured home has a minimum width, as assembled on the site, of 20 feet;

ii. The pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;

iii. A continuous, permanent masonry curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home;

iv. The primary entrance has a landing which is no smaller than three feet by three feet in size; and

v. The tongue, axles, transporting lights, and towing apparatus are removed after placement on the lot and before occupancy.

Class A manufactured homes are allowed as a permitted use in manufactured home parks and the A-5, R-6, and RM-6 zoning districts. Please refer to the Table of Uses for a complete listing of permitted locations.

(3) *Manufactured home, Class B.* A manufactured home constructed after July 1, 1996 that meets or exceeds the construction standards by the US Department of Housing and Urban Development. A Class B may not satisfy all the criteria necessary to qualify as a Class A manufactured home, but a Class B manufactured home must have a continuous, permanent masonry curtain wall, unpierced except for required ventilation and access. Class B manufactured homes are only permitted in manufactured home parks and the A-5 and RM-6 zoning districts.

(4) *Manufactured home, Class C.* Any manufactured home that does not meet the definitional criteria of a Class A manufactured home, a Class B manufactured

home, a modular home, or a travel trailer. Class C manufactured homes are not allowed in any zoning district for any use.

(5) *Manufactured home park.* A residential use in which three or more Class A or B manufactured homes are located on a single lot or tract. See Section 9-2-161 for specific provisions related to manufactured home parks. Manufactured home parks are only permitted, by special use permit, in the A-5 zoning districts.

(6) *Modular home.* A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Modular homes are allowed in all zoning districts except I-2.

(7) *Travel trailer.* A mobile structure with self-contained utilities, except for electritown, designed to be used for camping purposes only rather than as a permanent abode.

(b) Unless hereinabove authorized, or hereinbelow authorized, it shall be unlawful for any person to place or maintain any Class A or Class B manufactured home used for living, sleeping, business or utility purposes on any premises in the town's zoning jurisdiction, other than in a manufactured home park duly permitted by this ordinance and maintained pursuant to the provisions of this section, except:

(1) That one travel trailer not to exceed 30 feet in length may be parked or stored in the rear yard of any lot provided that no living quarters shall be maintained, nor any business conducted therein while such trailer is so parked or stored;

(2) That manufactured homes may be parked in manufactured home sales lots for the purpose of inspection or sale within a district in which such use is permitted provided that no living quarters or offices shall be maintained in any of the manufactured homes so parked;

(3) That manufactured homes used in connection with and by owners and/or employees of circuses, fairs, carnivals, duly authorized by the town and complying with the requirements of this ordinance may be permitted by a special 14-day permit issued by the zoning administrator. Such manufactured homes, if they are located on the same lot as the circus, or carnival, or fair, may be used temporarily for living quarters of the owners and/or employees of the circuses, fairs, or carnivals. If such manufactured homes are not located on the same lot, then they must be located in a manufactured home park;

(4) Notwithstanding any other provision of this ordinance, a Class A or Class B manufactured home, as defined in this ordinance, and in G. S. 160A-360 et seq., the standards established therein, and otherwise, by state law and regulations, may be placed and maintained upon a lot in accordance with the Table of Permissible Uses, found in article X, for use as a single family dwelling, under the same terms and conditions as if it were a house being constructed thereon, subject to the following conditions:

a. The installation and set-up shall comply with NC State Building Code;

b. The primary entrance, defined as an entrance leading to a living room, foyer, vestibule, kitchen or other common area, shall face on a public improved street;

c. No manufactured home shall be used solely for storage purposes;

d. No owner or manufactured home dealer may deliver, or cause anyone, including his or its set-up contractor to deliver, a manufactured home to a site within the planning jurisdiction of the town until the manufactured home dealer, or the set-up contractor, shall have in hand all zoning/building permits required by the land use ordinance to enable the manufactured home to be legally located on the proposed site. No manufactured home shall be located in the town's planning jurisdiction as herein provided until a building permit shall have been issued by the planning and inspections department of the town. The building permit shall authorize:

i. The location of said manufactured home on the proposed site;

ii. The installation of the required masonry piers;

iii. The installation of appropriate skirting; and

iv. The construction of the specific stairs, porches, entrance platforms, ramps, or other means of entrance and exit required by this ordinance.

No such building permit shall be issued for the location of a manufactured home, as hereinabove permitted, until the planning and inspections department shall have received a written commitment from the owner of the premises and from the applicant for the building permit (if different), in a manner and form satisfactory to the town attorney, that he/they will cause said manufactured home to be set up as required herein within 30 days on the subject premises on penalty of being required to remove the said manufactured home from the premises within 48 hours if the required setup shall not be accomplished. Further, no building permit shall be issued for the location of a manufactured home, as hereinabove permitted, until the planning and inspections department shall have received a written commitment from the owner of the premises or the applicant (if different), in manner and form satisfactory to the town attorney, that he/they will remove the piers and curtain walls from the premises within 30 days of removal of the manufactured home from said lot, should said manufactured home not be replaced by another within said period.

Section 9-2-161. Requirements for approval of manufactured home parks.

In districts in which this ordinance provides for manufactured home parks, they shall be permitted provided that:

(a) Plans for the proposed manufactured home park shall be submitted to and approved by:

(1) Onslow County health department (if required);

(2) Zoning administrator;

(5) Richlands planning and zoning board;

before the zoning administrator issues a permit for the construction of the park. The zoning administrator shall certify the authenticity of each approval before the permit is issued and shall keep copies of the manufactured home park plan and certified approvals as a record.

(b) Manufactured home parks shall be located on a well-drained site which shall be properly graded to ensure rapid drainage and freedom from stagnant pools of water.

(c) Manufactured home parks shall contain at least two acres of land and shall be buffered from adjacent residential districts through the installation of a semi-opaque buffer screen as detailed in article XVI of this ordinance.

(d) The number of manufactured homes in the manufactured home park shall not exceed the density of six units per gross acre of land contained within the park.

(e) The minimum land area of any manufactured home space shall be 3,500 square feet.

(f) Each manufactured home space must be at least 40 feet wide.

(g) No manufactured home nor appurtenance thereto shall occupy land within ten feet of the boundary of the manufactured home space to which it is assigned. No permanent addition shall be constructed to any manufactured home.

(h) No manufactured home space shall be within 50 feet of any public street right-of-way nor 30 feet of any property line.

(i) No manufactured home shall have direct access to a public street but shall abut upon and have access to a private drive, built to North Carolina DOT standards, with a width of not less than 20 feet, which shall have unobstructed access to a public right-of-way.

(j) Automobile parking shall not be permitted except in the areas specified. One and one-half off-street and off-drive parking spaces shall be provided for each manufactured home the park is designed to accommodate. In locating the parking spaces, consideration shall be given to vehicular and pedestrian safety and convenience of park residents. In no instance shall there be more than one parking space permitted on any manufactured home space.

(k) Each manufactured home park shall provide the following minimum facilities on the site for the common use of all manufactured home occupants:

(1) Refuse collection as provided by local government with jurisdiction.

(2) Approved water and sewer connections must be available at each manufactured home space. Manufactured homes shall be connected to the water and sewer lines.

(3) Electrical connections (110-220 volts) shall be provided for each manufactured home space. Service connections to each manufactured home space shall be made in accordance with the National Electrical Code.

(4) All driveways and walkways within the park shall be lighted at night with electric lamps of not less than 200 watts each, spaced at intervals of not more than 100 feet, or equivalent lighting.

(5) Adequate and suitable recreation facilities shall be developed within the park consisting of at least 400 square feet of recreation area for each manufactured home space in the park. Safety, convenience of the park residents, presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.

Section 9-2-162. Satellite dish antennas

(a) A building permit is required when installing, moving, or substantially constructing or reconstructing a dish antenna over four (4) feet in diameter.

(b) A dish antenna must be installed in compliance with the manufacturer's

specifications at a minimum.

(c) In all residential districts dish antennas which exceed four feet in diameter must be permanently installed on the ground in the rear yard, and shall not exceed twelve (12) feet in diameter.

(d) In business and industrial districts, dish antennas may either be installed on the ground or on the roof of the building. If installed on the roof, the dish shall not be larger than twelve (12) feet in diameter, shall not project higher than ten (10) feet above the maximum building height of the zoning district or more than one-third (1/3) the actual height above the roof, whichever is less, shall be setback from the front and sides of the building at least eighteen (18) feet and shall not be used for any advertising purposes. A dish antenna may be installed on the top of another part of the building which is lower than the roof, and such as a balcony or parking deck only if such location is at the rear or side of the building and all other requirements are met.

(e) Digital dish antenna twenty-four (24) inches in diameter or less may be attached to the principal building in any residential district.

(f) A dish antenna may be attached to an accessory building which is permanently secured to the ground, but may not be attached to the principal building except as provided in subsection (d) above.

(g) If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, grey, or pastel grey-green. The paint must have a dull (non-glossy) finish and no patterns, lettering, or numerals shall be permitted on either side of the dish surface.

(h) No dish antenna shall be installed in any public right-of-way or in any drainage or utility easement.

(i) A dish antenna shall be installed in the rear yard only, in all districts except as provided for in subsection (j) below.

(j) In business and industrial districts, a dealer selling dish antennas may have a maximum of one (1) such antenna installed in the front or side yard for display purposes providing all other requirements are met. If a dealer displays a dish antenna in a front or side yard, his permissible sign area shall be reduced by one-half (1/2). In residential districts, a digital dish antenna twenty-four (24) inches or less in diameter may be placed in the front yard only if such placement is necessary to acquire a sufficient satellite signal.

(k) The minimum required setback for dish antennas, from the side lot line, shall be the same as the principal building setback. On corner lots, on the side abutting the street, the minimum required setback shall be the same as the required front yard setback.

(l) The minimum require setback for dish antennas, from the rear lot line, shall be six (6) feet or the same as accessory buildings, whichever is greater, but in no case shall any part of the antenna come closer than one (1) foot to the property line.

(m) In districts where there are no side or rear yard requirements, a minimum setback of six (6) feet from the side and rear lot lines shall be required of dish antennas, but in no case shall any part of the antenna come closer than one (1) foot to the property line.

(n) In all cases no dish antenna shall be located within fifteen (15) feet of any street right-of-way.

(o) In all residential districts the maximum height of dish antennas shall be fifteen (15) feet or the height of the principal building, whichever is less.

(p) In business and industrial districts, the maximum height of dish antennas installed on the ground shall be twenty (20) feet. Dish antennas mounted on the roof of a building shall not project higher than ten (10) feet above the maximum building height of the district or more than one-third (1/3) the actual building height above the ground, whichever is less.

Section 9-2-163. Condominiums.

(a) Condominiums established in accordance with the provisions of G.S. 47C may be erected in the Town of Richlands' planning jurisdiction within any residential zoning classification so long as the use to be made of each individual unit in a particular condominium is permitted within that zoning classification in which the site lies.

(b) Although condominium ownership does not involve ownership in fee simple of any portion of the land on which the condominium is located, area and dimensional requirements, including front, rear and side yards, if any are required by the zoning classification in which the site lies, shall apply. The development shall be platted so that it might be determined by the zoning administrator whether the structure housing one or more condominium units complies with the area and other dimensional requirements of the particular zoning classification in which the site lies.

Section 9-2-164. Sale of townhouses.

(a) Notwithstanding any other provision of this ordinance, the individual dwelling units of two-family and multifamily units which are, or have been, constructed in compliance with the terms of this ordinance, which qualify as townhouses as the same are defined in this ordinance, or the individual business, office, institutional, or commercial units which are, or have been, constructed in compliance with the terms of this ordinance and the state building code which qualify as townhouses, as the same are defined in this ordinance, may be conveyed as separate units so that the same might be individually owned. Each such conveyance shall consist of the unit, including the portion of the lot on which it is constructed, and a portion of the lot which lies between the unit and the front and back line of the lot on which the townhouses are constructed. In the case of end units, the conveyance shall include the remainder of said lot to the side lot line. There shall be no further division of such townhouse lots by conveyance of a portion of same, or otherwise, and no additional construction shall be permitted on any lot, which, had it (conveyance or construction) occurred prior to division into townhouses, would have caused the structure of which said townhouse is a part to be a violation of the dimensional requirements of this ordinance. Provided, however, nothing herein contained shall obviate the requirements that the subdivision of land as defined in the Subdivision Regulations, be submitted to the town for approval as set forth in this ordinance. Provided further, however, 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 town, shall not constitute the subdivision of land, and such division into not more than three lots for the purpose of conveying townhouses, as herein permitted, shall constitute compliance with the provisions of this ordinance.

(b) The dimensional requirements, if any, including area, front, side and rear yard, shall be determined by the zoning classification applicable to the particular site. Said dimensional requirements shall be applied to the overall structure, as opposed to the individual townhouse units, as if the individual units were going to be owner-occupied or rented, as opposed to being sold as townhouses.

Section 9-2-165. Adult establishments.

(a) Studies have shown that lowered property values and increased crime rates tend to accompany and are brought about by the concentration of adult establishments as defined herein. Regulation of these uses is necessary to insure that these effects do not contribute to the blighting of surrounding neighborhoods and to protect the integrity of the town's schools, churches, child care centers, parks and playgrounds which are typically areas in which juveniles congregate. It is the intent of this provision to establish reasonable regulations to prevent a concentration of adult establishments within the Town of Richlands and to separate adult establishments from those sensitive uses listed below.

(b) Adult establishments shall include an adult bookstore, adult motion picture theater, adult mini motion picture theater, adult live entertainment business or massage business as they are defined in G.S. 14-202.10. This definition shall be construed consistent with G.S. 14-202.10 et seq., but shall not include art studios which use nude models for the purpose of drawing, painting or sculpting.

(c) Adult establishments. No adult establishment shall be located in the following areas:

(1) Within a minimum distance of 1,000 feet from any residentially-zoned district;

(2) Within a minimum distance of 2,500 feet from any child day care center, park, playground, public or private school, and/or church;

(3) Within a minimum distance of 1,000 feet from any other adult establishment.

All measurements shall be made by drawing a straight line from the nearest point of the lot line where the proposed adult establishment is to be located to the nearest point of the lot line or boundary of the closest residentially zoned district, adult establishment, child day care center, park, playground, public or private school and/or church.

(d) This ordinance does not conflict with North Carolina state laws regulating pornographic materials and activities; but rather it regulates the locations of adult establishments whose materials or activities are legal.

Section 9-2-166. Telecommunications towers.

(a) *[Where allowed.]* Telecommunications towers, when located on privately-owned property are permitted by special use permit in A-5, I-1, and I-2 districts. Such tower antenna, when located on existing facilities and structures, are allowed by zoning permit.

(b) *Submission requirements.* An application for a special use permit for a telecommunications tower and facilities shall include:

(1) The names, addresses, and telephone numbers of the owner and lessee of the parcel of land upon which the tower is proposed to be situated. If the applicant is not the owner of the parcel of land upon which the tower is proposed to be situated, the written consent of the owner shall be evidenced in the application.

(2) A statement documenting the need for and purpose of the proposed tower. The town reserves the right to verify the validity of the statement by third party certification.

(3) The legal description, property tax parcel identification number, and address of the parcel of land upon which the tower is proposed to be situated.

(4) The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one mile radius of the proposed new tower site, including town-owned property.

(5) A description of the design plan proposed by the applicant. The applicant must identify the utilization of the most recent technological design as part of the design plan. The applicant must demonstrate the need for a tower and why design alternatives cannot be utilized to accomplish the provision of the applicant's telecommunications services.

(6) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the applicant's telecommunications facilities on existing government owned towers or usable antenna support structures located within a one mile radius of the proposed tower site.

(7) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures within a one mile radius of the proposed tower site.

(8) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another tower or usable antenna support structure located within a one mile radius of the proposed tower site.

(9) A written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by surrounding properties.

(10) Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in subsection (E), structural requirements.

(11) Written, technical evidence from a qualified engineer(s) acceptable to the fire chief and the zoning administrator that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.

(12) In order to assist the town staff and the board of adjustment in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent streets.

(13) The Telecommunications Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the board of adjustment to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.

(14) The zoning administrator may require an applicant to supplement any information that the zoning administrator considers inadequate or that the

applicant has failed to supply. The zoning administrator may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection.

(c) *Height.* Towers shall be permitted to a height of 250 feet in accordance with subsection (p), criteria for site plan development modifications. Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than 20 feet over the top of the tower structure itself. Tower height shall be measured from the existing, undisturbed grade.

(d) *Setbacks.*

(1) All towers up to 100 feet in height shall be set back on all sides a distance equal to the underlying building setback requirement in the applicable zoning district. Towers in excess of 100 feet in height shall be set back one additional foot per each foot of tower height in excess of 100 feet.

(2) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.

(3) Setback requirements may be modified, as provided in subsection (P)(2)(a), when placement of a tower in a location, which will reduce the visual impact, can be accomplished. For example, adjacent to trees which may visually hide the tower.

(e) *Structural requirements.* No new tower shall be built, constructed, or erected unless the tower is capable of supporting at least three operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six months of the completion of the tower construction.

All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the state building code, and any other standards outlined in this ordinance.

(f) *Separation requirements.* For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially-zoned lands shall be measured from the base of a tower to the closest point of residentially-zoned property. The minimum tower separation distances from residentially-zoned land and from other towers shall be calculated and applied irrespective of town jurisdictional boundaries.

(1) Towers shall be separated from all residentially-zoned lands by a minimum of 200 feet or 200 percent of the height of the proposed tower, whichever is greater.

(2) Proposed towers must meet the following minimum separation requirements from existing tower or towers which have a special use permit but are not yet constructed at the time a special use permit is granted pursuant to this section:

a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.

b. Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of 1,500 feet.

c. Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of 750 feet.

(g) *Illumination.* Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is 300 percent of the height of the tower from the tower and when required by federal law, dual mode lighting shall be requested from the FAA.

(h) *Exterior finish.* Towers not requiring FAA painting or marking shall have an exterior finish, which enhances compatibility with, adjacent land uses, as approved by the board of adjustment.

(i) *Landscaping.* All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with article XIX. The board of adjustment may require landscaping in excess of the requirements of article XIX in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

(j) *Access/parking.* A parcel of land upon which a tower is located must provide access to at least one maintained vehicular parking space on site.

(k) *Stealth design.* All towers which must be approved as a special use shall be of stealth design or reasonably similar, i.e., designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of un-camouflaged lattice, guyed, or monopole tower designs.

(l) *Telecommunication facilities on antenna support structures.* Any telecommunications facilities which are not attached to a tower may be permitted on any antenna support structure at least 50 feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit:

(1) That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than 20 feet;

(2) That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the board of adjustment. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof but, which do not protrude more than 18 inches from the side of such an antenna support structure.

(m) *Modification of towers.* A tower existing prior to the effective date of this amendment may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this section, except for subsections (F), separation requirements, (N), certification and inspections, and (O), maintenance, provided:

(1) The tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.

(2) An application for a zoning permit is made to the zoning administrator who shall have the authority to issue a zoning permit without further approval. The grant of a zoning permit pursuant to this subsection allowing the modification or demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.

(3) The height of the modified or rebuilt tower and telecommunications facilities attached thereto do not exceed the maximum height allowed under this section.

(4) Except as provided in this subsection, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than 180 days. This section shall not be interpreted to legalize any structure or use existing at the time the amendment authorizing this section is adopted which structure or use is in violation of the town's land use ordinance prior to enactment of the amendment authorizing this section.

(n) *Certifications and inspections.*

(1) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the state building code and all other construction standards set forth by town, federal, and state law. For new monopole towers, such certification shall be submitted with an application pursuant to subsection (B) of this section and every five years thereafter. For existing monopole towers, certification shall be submitted within 60 days of the effective date of this section and then every five years thereafter. For new lattice or guyed towers, such certification shall be submitted with an application pursuant to subsection (B) of this section and every two years thereafter. The tower owner may be required by the zoning administrator to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

(2) The town or its agents shall have authority to enter on the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the state building code and all other construction standards provided by town, federal, and state law.

(3) The town reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner.

(o) *Maintenance.*

(1) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(2) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in compliance with the requirements of the national electric safety code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(3) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(4) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by insured certified or licensed maintenance and construction personnel.

(5) All towers shall maintain compliance with current RF emission standards of the FCC.

(6) In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the zoning administrator of its intent to discontinue use and the date when the use shall be discontinued.

(p) *Criteria for site plan development modifications.*

(1) Notwithstanding the tower requirements provided in this section, a modification to the requirements may be approved by the board of adjustment as a special use in accordance with the following:

a. In addition to the requirement for a tower application, the application for modification shall include the following:

i. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.

ii. A description of off-site or on-site factors which mitigate any adverse impacts that might occur as a result of the modification.

iii. A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.

iv. For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts. Documentation of undertaking these actions shall be provided by the applicant.

v. The zoning administrator may require the application to be reviewed by an independent engineer under contract to the town to determine the basis for the modification requested. The cost of

review by the town's engineer shall be reimbursed to the town by the applicant.

(2) The board of adjustment shall consider the application for modification based on the following criteria:

a. That the tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.

b. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.

c. In addition, the board of adjustment may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

(3) In addition to the requirements of subparagraph (1) of this subsection, in the following cases, the applicant must also demonstrate, with written evidence, the following:

a. In the case of a requested modification to the setback requirements, subsection (D) that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the lower at another site which is closer in proximity to a residentially-zoned land.

b. In the case of a request for modification to the separation requirements from other towers of subsection (F), separation requirements that the proposed site is zoned for industrial use and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in subsection (F).

c. In the case of a request for modification of the separation requirements from residentially-zoned land of subsection (F), if the person provides written technical evidence from an engineer(s) that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially-zoned property.

d. In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to: (i) facilitate collocation of telecommunications facilities in order to avoid construction of a new tower, or (ii) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

(q) *Abandonment.*

(1) If any tower shall cease to be used for a period of 365 consecutive days, the zoning administrator shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the zoning administrator that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the zoning administrator shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the tower.

(2) To secure the obligation set forth in this section, the applicant (and/or owner) shall post a bond in an amount to be determined by the zoning administrator based on the anticipated cost of removal of the tower.

Section 9-2-167. Fences.

(a) Fences not exceeding a height of four (4) feet shall be exempt from the yard and building setback line requirements of this ordinance. Fences not exceeding a height of six (6) feet to be erected only in side or rear yards shall be exempt from yard and building setback line requirements of this ordinance, provided that no fence exceeding a height of four (4) feet will be constructed within fifteen (15) feet to any street. In all cases, the corner visibility provisions of this ordinance shall be observed.

Non-opaque fences up to six (6) feet above lot grade level provided that no fence shall be located within fifteen (15) feet of any street. (Chain link or rail fences not more than three (3) rails no closer than eighteen (18) inches apart are hereby determined to be non-opaque fences).

Opaque fences and retaining walls of any height and non-opaque fences more than six (6) feet above lot grade level upon approval of the planning board.

Public works uses and public utility substations such as tanks, pumping stations, treatment stations, electric substations, oil pipelines and telephone substations shall provide that all dangerous apparatus shall be enclosed by a chain link fence at least six (6) feet in height; no vehicles or materials shall be stored on the premise and no offices shall be permitted; and the landscape is screened with shrubs and other vegetation so as to blend with the surrounding area.

(b) All dangerous apparatus shall be enclosed by a chain link fence at least six (6) feet in height; no vehicles or materials shall be stored on the premise and no offices shall be permitted; and the landscape is screened with shrubs and other vegetation so as to blend with the surrounding area.

(c) Swimming pools

Section 9-2-168. Electronic gaming operations.

Electronic gaming operations may be permitted as a special use in designated districts, provided that the operation complies with the following minimum requirements:

(a) All electronic gaming operations shall be located at least 1,500 feet from any church or other religious institution, day care center, public or private school, public park or playground, library, theatre, arcade, tattoo parlor, adult establishment or other electronic gaming establishment and must be located at least 300 feet from any residential zoning district.

(b) No more than ten electronic gaming machines shall be operated at any location, the machines must not be prohibited by state or federal law and must have all applicable permits and licenses required under law.

(c) No electronic gaming establishment will be permitted to operate until all appropriate business license fees have been paid and it shall be the responsibility of all interested parties that the license required by this chapter be prominently displayed within the business.

(c) No alcoholic beverages shall be served or consumed on the premises.

(d) The electronic gaming establishment does not operate outside the hours of 8:00 AM to 10:00 PM.

(e) There shall be 1.5 parking spaces for every two electronic gaming machines, plus one space for every employee on the maximum shift.

(f) No electronic gaming establishment shall allow, permit or condone any person under the age of 18 to engage in electronic gaming operations or supervise operation of machines.

(g) Electronic gaming establishments shall prominently post the rules of the sweepstakes games.

Section 9-2-169. Reserved.

ARTICLE XII. DENSITY AND DIMENSIONAL REGULATIONS

Section 9-2-170. Minimum lot size requirements.

Subject to the provisions of Section 9-2-180 (Cluster subdivisions), all lots in the following zones shall have at least the amount of square footage indicated in the following table:

TABLE INSET:

Zone	Minimum Square Feet
A-5	5 acres
R-20	20,000
R-15	15,000
R-10, RM-10	10,000
R-8, RM-8	8,000
R-6, RM-6	6,000
C-1	3,000 (if used for residential purposes, otherwise no minimum)
C-2	10,000 (3,000 if used for residential purposes)
C-3	5,000 (if used for residential purposes, R-6 standards apply)
C-4	5,000 (if used for residential purposes, R-6 standards apply)
C-5	5,000 (if used for residential purposes, R-6 standards apply)
I-1	No minimum
I-2	No minimum

Section 9-2-171. Residential density.

(a) Subject to the provisions of Section 9-2-180 (Cluster subdivisions), every lot used for single-family residential purposes shall have at least the number of square feet indicated as the minimum permissible in the zone where the use is located, according to Section 9-2-180 (Minimum lot size requirements).

(b) Subject to Section 9-2-172 (Residential density bonuses), every lot developed for duplex or multifamily residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

TABLE INSET:

Zone	Minimum Square Feet per Dwelling Unit, Multifamily and Duplex
A-5	5 acres first unit; 20,000 each additional unit
R-20	20,000 first unit; 10,000 each additional unit
R-10	10,000 first unit
RM-10*	10,000 first unit; 5,000 each additional unit
R-8	8,000 first unit; 4,000 each additional unit
RM-8	8,000 first unit; 4,000 each additional unit
R-6	6,000 first unit; 2,000 each additional unit
RM-6	6,000 first unit; 2,000 each additional unit
C-1	No minimum, maximum 75% lot coverage
C-2	No minimum, maximum 60% lot coverage
C-3	5,000 first unit; 2,000 each additional unit

*7,500 square feet minimum per unit if lot is subdivided and units sold as townhouses.

(c) Notwithstanding subsection (b) of this section, the total ground area covered by the principal building and all accessory buildings shall not exceed 30 percent of the total lot area.

Section 9-2-172. Residential density bonuses.

(a) A major housing goal of the town is to obtain in the community a sufficient number of housing units by type, style, and price to afford residents a suitable dwelling of their choice. The town finds that it is in the best interest of the community to support opportunities for persons of varying economic levels to reside in the town and that the provision of affordable housing opportunities is important to achieve this community goal.

(b) The affordable housing density bonus is intended to assist materially the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for low- and moderate-income persons throughout the town.

(c) The board of adjustment, through the issuance of a special use permit, may grant a density bonus for any residential development. Such residential development shall be subject to a site plan review process as required in this ordinance. The board of adjustment, through the issuance of a special use permit, may grant a density bonus for any residential development where the total number of units, including the maximum allowable density bonus, is less than the thresholds established through calculations outlined in Sections 9-2-174 and 9-2-175.

Section 9-2-173. Procedures for obtaining density bonuses.

(a) The applicant shall submit an application to the board of adjustment. The application shall contain two plats:

(1) A subdivision plat or site plan complying with the town's rules and regulations for subdivision plats or site plans and containing the maximum allowable number of units permitted in the zoning district in which the development is to be located; and

(2) A plat or plan representing the same with the density bonus included.

(b) Upon receipt of such application the planning staff shall transmit to the planning and zoning board notice of such application. The planning and zoning board shall review the site plan using the procedures specified as follows and submit a written advisory report to the board of adjustment:

(1) An applicant for site plan review shall file with the planning staff six copies of the site plan documents drawn to a scale not to exceed one inch equals 100 feet on standard 24-inch by 36-inch sheets. The planning staff shall acknowledge receipt of these plans by endorsing them with a signature and a date. The planning staff, along with other departmental staff, shall review the documents for compliance with the submission data requirements and provide its recommendations with the submitted documents to the Board of Aldermen, board of adjustment, or zoning administrator in the case of conditional use, special use, or zoning permit projects respectively.

(2) The permit-issuing authority shall review the proposed site plan and take final action on the proposal. The date of consideration of site plan proposals shall be based upon the submission schedule established by the permit-issuing authority. The Board of Aldermen, board of adjustment, or zoning administrator shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed in subsection (a) of this section. The final action, rendered in writing, shall consist of either:

a. Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this article; or

b. Approval of the site plan subject to any conditions, modifications, and restrictions as required by the Board of Aldermen, board of adjustment, or zoning administrator which will ensure that the project meets the listed principal areas of interest; or

c. Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this ordinance.

Section 9-2-174. Review criteria [for density bonuses].

In considering an application for an affordable housing density bonus, the board of adjustment shall determine if the proposed density bonus shall result in:

(1) The construction of an appropriate number of single-family owner-occupied units which (i) are affordable to low- and moderate-income households as defined by the guidelines of the North Carolina housing finance agency, and (ii) have appropriate resale controls to assure affordability; or

(2) The construction of an appropriate number of rental units which (i) are affordable to low- and moderate-income households as determined by the U.S. Department of Housing and Urban Development's fair market rents, and (ii) have appropriate provisions to assure continued affordability; or

(3) In lieu of construction of low- and moderate-income housing, the offer of payment by the applicant to the Town of Richlands' community development block grant fund. The payment shall be equal to 15 percent of the density bonus's present market value as certified by an independent certified appraiser acceptable to the town. All such payments are to be allocated only for the provision of low- and moderate-income housing units in the Town of Richlands;

(4) An appropriate number of low- and moderate-income units shall be deemed to be 50 percent of the density bonus. However, this percentage may be adjusted where an overriding public benefit is demonstrated.

Section 9-2-175. Maximum density bonuses.

(a) Upon receipt of a written advisory opinion as required in Section 9-2-173 and upon making a determination that the application addresses the goals specified in Section 9-2-172, the board of adjustment may grant a density bonus up to 30 percent above the maximum density allowance set forth in Section 9-2-174.

(b) The computation of the density bonus allowed by this section shall be rounded off to the nearest whole number.

Section 9-2-176. Minimum lot widths.

(a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(1) Could be used for purposes that are permissible in that zoning district; and

(2) Could satisfy any applicable setback requirements for that district.

(b) Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a) of this section. The lot width shall be measured at the building setback line (in no case less than the requirements set forth in Section 9-2-177) and shall be calculated by running a straight line connecting the points at which the said setback line intersects with lot boundary lines at opposite sides of the lot.

TABLE INSET:

Zone	Lot Width
A-5	200'
R-20	100'
R-15	80'
R-10	80' first unit
RM-10	80' first unit; 10' each additional unit

R-8, RM-8	60' first unit; 10' each additional unit
R-6, RM-6	50' first unit; 10' each additional unit
C-1	None
C-2	60’
C-3	100' first unit; 20' each additional unit
C-4	75' first unit; 20' each additional unit
I-1	100'
I-2	100'

Section 9-2-177. Building setback requirements.

(a) No portion of any building may be located on any lot closer to any lot line or to the street right-of-way line than is authorized in the table set forth below. If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the property owner shall submit proof of his property line. The term "property line" refers to those lines that form the boundaries of a recorded lot.

TABLE INSET:

Zone*	Front Setback Line (feet)	Side Setback Line (feet)	Rear Setback Line (feet)
A-5	35	20	20
R-20	30	15	25
R-15	30	15	25
R-10	30	8	15
RM-10	30	8	15
R-8	30	8	15
R-6	25	8	10
C-1	None	None	None

C-2	25	10	20
C-3	25	10	10
C-4	30	20	20
C-5	25	15	25
I-1	50	25	35
I-2	50	25**	25**

*Zones located within the town's established overlay districts are governed by the additional provisions of the ordinances governing those overlay districts.

**A 50-foot side yard and rear yard setback shall be required when said I-2 lot abuts a residential zoning district or a public street or watercourse separating the said industrial lot from a residential zoning district.

(b) Setback distances shall be measured from the property line or street right-of-way, perpendicularly thereto, to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself, excluding the outermost three feet of any uncovered porches, steps, eaves, gutters, and similar fixtures.

(c) Whenever an existing private road or private driveway that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:

(1) If the lot is not also bordered by a public street, buildings shall be set back from the right-of-way of the private road just as if such road were a public street.

(2) If the lot is also bordered by a public street, then the setback line on that side abutting the public street must meet the minimum front yard setback requirements for that residential district.

Section 9-2-178. Exceptions and modifications.

(a) A lot of record at the time of the adoption of this ordinance may be used as a building site for a structure to be used for a purpose permitted in the district in which the said lot is situated, although its size does not permit its owner to comply with minimum area and yard requirements; provided, however, front, side, and rear yards, if required in said district, shall be provided on said lot in no less than the same proportion to those required, as the area of the lot of record compares to the area requirement in the said zoning district. However, in the case of manufactured homes in an RM-6 residential zoning district, a minimum lot area of 5,000 square feet shall be necessary in order to place said manufactured home on a lot.

(b) In residential zones where at least 50 percent of the structures on a block do not meet the minimum required front yard depth, a new structure may be constructed using the average front yard setback depth for that block. In such cases no building hereafter erected, moved, or structurally altered shall project beyond the average front yard depth so established, provided this regulation shall not be construed as to require a front yard

greater in depth than the minimum front yard specified for the said district in subsection (a) of this section. Where double-frontage lots occur, the required front yard shall be provided on both streets.

(c) Cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not porches, may project not more than three feet into any required yard.

(d) Planned unit developments (PUDs) may be constructed without complying with the dimensional regulations as specified in this article; provided, however, planned unit developments do not exceed the density thresholds established for the zoning districts in which they are located and are constructed in accordance with the provisions specified in article IX and other provisions of this ordinance.

Section 9-2-179. Building height limitations.

(a) For purposes of this section:

(1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building, not to include chimneys, antennae, or other rooftop appurtenances.

(2) The highest point of a building shall be the top of any parapet wall or the highest point of the roof's surface, whichever is greater. Roofs with slopes greater than 75 degrees are regarded as walls.

(b) Except as provided in subsection (c) of this section, no building or structure located in one of the town's residential and commercial zoning districts shall exceed a height of 35 feet, measured from ground level to its cornice line, unless authorized by the issuance of a special use or conditional use permit. Any building or structure exceeding a height of 35 feet but not exceeding a height of 50 feet shall require a special use permit for authorization to construct said building or structure. Any building or structure in excess of 50 feet shall require a conditional use permit for authorization to construct said building or structure. In such cases, the depth of the front and total width of side yards required shall be increased one foot for each two feet, or fraction thereof, of building height in excess of 35 feet.

Section 9-2-180. Cluster subdivisions.

(a) In any single-family residential subdivision in the zones indicated below, a developer may create lots that are smaller than those required by Section 9-2-170 (Minimum lot size requirements) if such developer complies with the provisions of this section and if the lots so created are not smaller than the minimums set forth in the following table:

TABLE INSET:

Zone	Minimum Square Feet
A-5	10,000
R-20	8,000
R-15	7,000

R-10	5,000
RM-10	5,000
R-8, RM-8	5,000
R-6, RM-6	4,000

(b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved" by so doing as usable open space, thereby lowering development costs without increasing the density beyond what would be permissible if the land were subdivided into the size lots required by Section 9-2-170 (Minimum lot size requirements).

(c) The amount of usable open space that must be set aside shall be determined by:

(1) Subtracting from the standard square footage requirement set forth in Section 9-2-170 the amount of square footage of each lot that is smaller than that standard;

(2) Adding together the results obtained in (1) for each lot.

(d) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space that satisfies the definition and provisions of usable open space set forth in article XIII (Open Space).

(e) The setback requirements of Section 9-2-177 (Building setback requirements) shall not apply in cluster subdivisions. However, front, side, and rear lot setbacks shall be provided on said lot in no less than the same proportion to those required in the said zoning district in which the cluster subdivision is located.

Section 9-2-181. Location of accessory buildings.

No accessory building shall be erected in any required front or side yard or within three feet of any lot line not a street line. An unattached accessory building or use may be located in a rear yard provided it is located a distance of not less than eight feet from the principal building, and three feet from the rear yard line; and provided further, that not more than 30 percent of the total lot area is covered by buildings. On reversed corner or double-frontage lots, no accessory building shall extend beyond the front yard line of the lot to its rear.

Sections 9-2-182--15-185. Reserved.

ARTICLE XIII. OPEN SPACE

Section 9-2-186. Usable open space.

(a) Except as provided in subsection (c), all residential subdivisions containing 31 or more single-family or duplex houses, or multifamily developments containing ten or more dwelling units, or planned unit developments shall be developed so that a minimum of five percent of the total area of the development remains as usable open space. For purposes of this article, the term "development" refers to the entire development developed out of a single tract or contiguous multiple tracts under common ownership regardless of whether the development is constructed in phases or stages.

(b) For purposes of this section, usable open space means an area that:

(1) Is not encumbered with any substantial structure;

(2) Is not devoted to use as a street (including right-of-way), parking area, or sidewalk;

(3) Is left in its natural or undisturbed state if wooded (as of the date development began), or is properly planted and landscaped with the objective of creating a wooded area or other area that is consistent with the objectives set forth in subparagraph (4) of this section;

(4) Is protected with a conservation easement to ensure the preservation and maintenance of such open space in perpetuity;

(5) Is capable of being used and enjoyed for purposes of recreation and relaxation; and

(6) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to Section 9-2-189 (Dedication of open space).

(c) With respect to multifamily developments, any common open space that meets the criteria established in subsection (b) of this section may be used to satisfy the five percent requirement of this section. With respect to single-family or duplex subdivisions, any common open space meeting the criteria established in subsection (b) of this section that results from resort to the provisions of Section 9-2-180 (Cluster subdivisions) may be used to satisfy the five percent requirement of this section.

(d) Residential subdivisions that are not required to provide usable open space may provide said open space if (i) the town, a homeowners' association, or similar organization that satisfies the criteria set forth in Section 9-2-190 agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made, and (ii) the town, the homeowners' association, or similar organization that satisfies the criteria set forth in Section 9-2-190 agrees to become the holder of the required conservation easement, in which case it will execute a legally binding agreement governing the preservation and maintenance of the open space and be responsible for upholding the terms of that easement.

Section 9-2-187. Mini-parks optional.

(a) Notwithstanding Section 9-2-186(b), the development of recreational facilities in the form of mini-parks may be used to satisfy the five percent open space requirements of this article. The purpose of mini-parks is to provide recreational facilities to serve the immediate surrounding neighborhood and, most especially, to provide a convenient and attractive area in which to observe and supervise the play of young children during

daytime hours. Mini-parks are intended for active use. Larger mini-parks may have multipurpose hardcourts. Smaller mini-parks may be equipped with play apparatus and minimum seating accommodations. All mini-parks shall be attractively landscaped and shall be provided with sufficient natural or manmade semi-opaque screening (as defined in article XVI) to minimize any negative impacts of the mini-park upon adjacent residences.

(b) Tennis courts and swimming pools shall be counted as mini-parks for purposes of satisfying the requirements of this article, except that not more than 75 percent of this requirement can be met by the square footage devoted to swimming pools and tennis courts. Community buildings shall not be regarded as mini-parks.

(c) Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. The approximate population that each mini-park is designed to serve can be determined by dividing the number of square feet in the park by 110.

Section 9-2-188. Ownership and maintenance of required open space.

(a) Except as provided in Section 9-2-189 (Dedication of open space), usable open space required to be provided by the developer in accordance with this article shall not be dedicated to the public, but shall remain under the ownership and control of the developer (or his successor) or a homeowners' association or similar organization that satisfies the criteria established in Section 9-2-190 (Homeowners' associations).

(b) The person or entity identified in subsection (a) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

Section 9-2-189. Dedication of open space.

(a) If any portion of any tract proposed for residential development lies within an area designated in an officially adopted town park plan as a neighborhood park or part of any proposed greenway system or bikeway system, the area so designated (not exceeding five percent of the total tract area) shall be included as part of the area set aside to satisfy the requirement of Section 9-2-186 (Usable open space). This area shall be dedicated to public use.

(b) If more than five percent of a lot proposed for residential development lies within an area designated as provided in subsection (a), the town may attempt to acquire the additional land in the following manner:

(1) The developer may be encouraged to resort to the procedures authorized in Section 9-2-180 (Cluster subdivisions) and to dedicate the common open space thereby created; or

(2) The town may purchase or condemn the land.

(c) The town reserves the right to accept a dedication of property that is not a part of an official town park plan if it sees fit to do so to meet the recreational needs of the development.

Section 9-2-190. Homeowners' associations.

(a) Homeowners' associations or similar legal entities that, pursuant to Section 9-2-188 (Ownership and maintenance of required open space), are responsible for the maintenance and control of common areas, including open space and recreational facilities, shall be established in such a manner that:

(1) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;

(2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;

(3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

Section 9-2-191. Flexibility in administration authorized.

(a) The requirements set forth in this article concerning the amount, size, location, and nature of usable open space to be provided in connection with residential developments are established by the town as standards that presumptively will result in the provision of the amount of open space that is consistent with officially adopted town plans. The town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the zoning administrator, with the concurrence of the director of parks and recreation and the director of planning and inspections, is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them, and (ii) because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

(b) Whenever the zoning administrator authorizes some deviation from the standards set forth in this article pursuant to subsection (a), the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

Section 9-2-192. Fees in lieu of usable open space.

(a) Whenever the zoning administrator determines that the open space and recreational needs of the development required by this article could also be adequately met by facilities constructed on town property that is located close enough to such development to reasonably serve the residents, the zoning administrator may authorize the developer to pay a fee to the town’s open space, parks and recreation fund in lieu of providing on-site facilities.

(b) The developer shall pay a fee to the town’s open space, parks and recreation fund in lieu of providing usable open space when the residential development is exempt from the requirements of Section 9-2-186.

(c) The minimum amount of fee paid under this section in lieu of usable open space shall be $100.00 per person of those expected to reside in the development (using the established 2.4 persons per household standard).

(d) With respect to any development that is authorized or required by this section to pay a fee in lieu of providing usable open space, no use may be commenced, lot sold, or building occupied unless the fee has been paid. If a development is intended to be sold or occupied on a phase-by-phase basis, payment of the fee relating to each phase must first be made.

Sections 9-2-193—9-2-199. Reserved.

ARTICLE XIV. SIGNS

Section 9-2-200. Definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated below when used in this article:

(1) ***Sign**:* Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboard or poster panel) designed to carry the above visual information.

(2) ***Advertising sign**:* A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered (i) only elsewhere than upon the premises where the sign is displayed, or (ii) is [as] a minor and incidental activity upon the premises where the sign is displayed.

(3) ***Business sign**:* A sign which directs attention to a business, profession, or industry located upon the premises where the sign is displayed, to type of products sold, manufactured, or assembled, and/or to service or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

(4) ***Freestanding sign**:* A sign that (i) is permanent, and (ii) is attached to, erected on, or supported by some structure such as a pole, mast, or frame that is not itself an integral part of a building or other structure having a principal function other than the support of a sign.

(5) ***Off-premises sign**:* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located. The structure on which an advertising sign is displayed of type commonly known as a "billboard" is also an advertising sign.

(6) ***Temporary sign**:* A sign that (i) 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 (ii) is intended to remain on the location where it is erected or placed for a period of generally not more than 15 days, or (iii) is displayed on a premises only during normal operating hours and then removed from that location. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

(7) ***Wall sign**:* A sign attached or erected against the wall of a building or structure, only one side of which is visible.

(8) ***Shingle sign**:* A small signboard hanging or protruding so that both sides are visible, which has no dimension more than two feet, which is no larger in area than three square feet. A shingle sign may be mounted as a wall sign so that only one side is visible.

Section 9-2-201. Permit required for signs.

(a) Except as otherwise provided in Sections 9-2-202 (Signs exempt from regulation) and 9-2-203 (Certain temporary signs: permit exceptions and additional regulations), no

sign may be erected, moved, enlarged, or substantially altered except in accordance with the provisions of this section.

(b) Signs not exempted under the provisions referenced in subsection (a) may be erected, moved, enlarged, or substantially altered only in accordance with a sign permit issued by the zoning administrator or his designee and a building permit issued by the chief building inspector or his designee.

(1) Sign permit applications and sign permits shall be governed by the same provisions of this ordinance applicable to zoning permits.

(2) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center):

a. Sign permits shall be issued in the name of the property owner rather than in the name of the individual business, and it shall be the responsibility of such owner to allocate among the tenants the permissible maximum sign surface area that has been approved by the zoning administrator.

b. Upon application by such owner, the zoning administrator must approve a master sign plan that allocates permissible sign surface area to the various buildings or businesses within the development according to an agreed-upon formula, and thereafter sign permits may be issued to individual tenants by the zoning administrator or his designee only in accordance with the allocation contained in the master sign plan. In the event an owner is unwilling or unable to devise a master sign plan, such plan shall be developed by the zoning administrator using building frontage as a calculation for total sign surface area.

Section 9-2-202. Signs exempt from regulation.

The following signs are exempt from regulation under this article except for the regulations embodied in Section 9-2-212(b) through (e):

(1) Signs not exceeding two square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(2) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(3) Official signs of an informational nature erected by public utilities.

(4) Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.

(5) Signs directing and guiding traffic on private property that do not exceed two square feet each and that bear no advertising information.

(6) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

(7) Temporary help wanted signs, not to exceed six square feet in area, that do not contain the company's name or logo, unless located in a multi-tenant

property, in which case no more than 30 percent of the sign area may be occupied by the company name or logo.

Section 9-2-203. Certain temporary signs: permit exemptions and additional regulations.

(a) The following temporary signs are permitted without a zoning, special use, conditional use, or sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this ordinance except those contained in Sections 9-2-206 (Total sign surface area) and 9-2-208 (Number of freestanding signs).

(1) Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Real estate signs advertising residential properties shall not exceed four square feet in area. Real estate signs advertising commercial or industrial property shall not exceed 32 square feet in area. All real estate signs shall be removed within ten days of sale, lease, or rental. For lots of five acres or more in area and abutting more than one public street, a single sign on each street frontage may be erected. Each sign shall not exceed the above-mentioned sign area.

(2) Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor, and subcontractors, [and] funding sources, and may contain related information. Not more than one such sign shall be erected per site, and it may not exceed 32 square feet in area. Such signs may be erected no more than 30 days prior to the issuance of a building permit and shall be removed within ten days after the issuance of the final occupancy permit.

(3) Signs proclaiming religious or other noncommercial messages that do not exceed 16 square feet in area and that are not internally illuminated. Such signs shall be limited to one per abutting street.

(4) Displays of a noncommercial nature, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within ten days following the holiday or established holiday season.

(5) Signs erected in connection with elections or political campaigns. Such signs may only be posted on private property only after the official campaign period has begun and shall be removed within three days following the election or conclusion of the campaign. No such sign may exceed 12 square feet in area.

(6) Signs indicating that a special event such as a fair, carnival, circus, festival, or similar happening is to take place on the lot where the sign is located. Such signs may be erected no sooner than two weeks before the event and must be removed no later than three days after the event.

(b) Temporary signs cannot be located within street rights-of-way or public property unless approved by the Board of Aldermen or its designee. Such signs include, but are not limited to, the following:

(1) All signs listed in subsection (a) of this same section.

(2) Signs made of paper, cloth, polyethylene film or other similar material, whether or not they include wood as a part of the structure.

(3) Signs that are not permanently affixed to the ground or a building surface in a manner approved by the building inspector.

(4) Trailer signs (includes such signs without trailer).

(5) Portable signs.

(c) Although temporary signs generally do not require a zoning permit, the following exceptions do apply:

(1) *Trailer signs.* Trailer signs may only be used by new businesses. They cannot remain on a site in excess of 30 days nor be modified and used as permanent signage.

(2) *Portable sidewalk signs.* Said signs cannot exceed a total sign surface area of six square feet, may be displayed only during normal operating hours of the business being advertised, and must be located within five feet of such commercial building. They must meet wind safety standards set by the town, and their placement upon a street right-of-way or public property must be approved by the Board of Aldermen or its designee.

(3) *Miscellaneous.* Banners, banner type signs, pennants, streamers, festoons of lights, flags, strings of twirlers or propellers, flares, balloons, and similar devices of a carnival nature may not be used in any one-year period for more than a total of 30 days. Said devices such as banners and banner type signs shall not exceed 32 square feet of sign surface area. In the event any of the aforementioned devices are used to announce the opening of a new business, such devices may remain on a site for an additional 30 days upon the opening of such business. In addition, balloons, blimps, and similar devices displayed at a height greater than 20 feet shall not exceed 36 square feet of surface area as seen at one time by a person from any vantage point. Surface area shall be computed based on the diameter of such advertising balloon or the length and width of such blimp. Said devices shall not exceed a display height of 50 feet and shall be limited to no more than one such device per development.

Section 9-2-204. Determining the number of signs.

(a) For the purposes of determining the number of signs, a sign shall be considered to be any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboard or poster panel) designed to carry the above visual information. A sign contains an organized relationship of elements designed to convey information.

(b) Without limiting the generality of subsection (a), a multisided sign shall be regarded as one sign as long as:

(1) With respect to V-type signs, the two sides are at no point separated by a distance that exceeds five feet.

(2) With respect to double-faced (back-to-back) signs, the distance between the backs of each face does not exceed two feet.

Section 9-2-205. Computation of sign area.

(a) The surface area of a sign shall be computed by including the entire area that forms the extreme limits of the writing, representation, emblem, or other display, forming a square, rectangle, triangle, or circle as appropriate, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any supporting framework or bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(c) Unless otherwise provided for in Section 9-2-204(b), the surface area of two-sided, multisided, or three-dimensional signs shall be computed by including the total of all sides designed either to attract attention or communicate information that can be seen at one time by a person from any vantage point. For example, with respect to a typical two-sided sign where a message is printed on both sides of a flat surface, the sign surface area of only one side (rather than the sum total of both sides) shall be regarded as the total sign surface area of that sign, since one can see only one side of the sign from any vantage point.

Section 9-2-206. Total sign surface area.

(a) Unless otherwise provided in this article, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section. Temporary signs shall not be included in this calculation. Freestanding signs, while included in this calculation, are subject to maximum sizes as contained in Section 9-2-207 (Freestanding sign surface area).

(b) Unless otherwise provided in this article or in article XI (Supplementary Use Regulations), the maximum sign surface area permitted on any lot in a residential zoning district is two square feet.

(c) Subject to the other provisions of this section, the maximum sign surface area permitted on any lot in an agricultural, residential, commercial, office and institutional, or industrial district as set forth in Section 9-2-126, 9-2-127, 9-2-128, or 9-2-129 shall be determined as follows:

(1) There may not be more than 1 square foot of sign surface area per linear foot of street frontage up to 200 feet of frontage.

(2) There may be up to 0.25 square foot of additional sign surface area per linear foot of lot frontage in excess of 200 feet.

(d) If a lot has frontage on more than one street, then the owner shall designate which street frontage constitutes the primary street frontage of the property and shall receive 100 percent of the allowable sign surface area for that street. For that street frontage that is deemed to be secondary, the owner shall receive up to 50 percent of the total sign surface area for that street frontage.

(e) Whenever a lot is situated such that it has indirect street frontage by means of a private driveway providing public access to said lot from a public street, then the owner/developer of the lot shall be entitled to signage on said street frontage as if the lot directly abutted that public street. Frontage for such lots shall be determined by using the lot boundary line where the private driveway providing principal access is located, as well as any additional direct lot frontage that may exist. Indirect street frontage shall not be included as part of the total sign surface area calculation for lots that have direct frontage on the public street where the private driveway intersects.

(f) In a commercial shopping center consisting of three or more units that share common party walls or of a building, the developer or owner of the said shopping center or building may determine the sign surface area requirements by following the provisions outlined above in subsections (c) and (e) of this section concerning lot frontage or by using a building frontage calculation in which one square foot of signage is allowed for each square foot of tenant space or retail frontage.

(g) The sign surface area of any sign located on a wall of a structure shall not exceed 25 percent of the total surface area of the wall of a building from end to end.

Section 9-2-207. Freestanding sign surface area.

(a) For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 9-2-205. For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back), although four-sided and other multisided signs are also common.

(b) A single side of a freestanding sign may not exceed 0.75 square foot in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of a freestanding sign exceed 70 square feet in surface area if the lot on which the sign is located has less than 200 feet of frontage on the street toward which that sign is primarily oriented, 75 square feet on lots with 200 or more but less than 400 feet of frontage, and 100 square feet on lots with 400 or more feet of frontage.

(c) With respect to freestanding signs that have no discernible "sides," such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed 0.5 square foot in total surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may such sign exceed 100 square feet in surface area.

(d) Notwithstanding Section 9-2-212, the owner/developer of a nonresidential development located on a lot that has indirect street frontage by means of a private driveway providing public access to such lot from a public street shall be entitled to a freestanding sign bearing the name of the development and/or its tenants on said street frontage. Said sign shall be located either in the driveway access area or in a designated sign easement area immediately adjacent to the driveway. The freestanding sign shall not exceed a sign surface area of 50 square feet and shall be counted as part of the overall signage allotment for the development. (A sign easement area shall not be included as part of the lot frontage calculation, but shall remain a part of the lot frontage of the parcel out of which the sign easement area was created.) In no case shall the freestanding sign size exceed the total sign surface area permitted for that lot based on the calculations prescribed in Section 9-2-206.

(e) A ground sign is a freestanding sign attached to a permanently affixed, solid structural base or planter box designed consistent with the architectural features of the primary business, which base or box shall be no more narrow than the message portion of the sign. Ground signs do not include freestanding signs supported by poles. Total sign surface area (perimeter of message portion of sign) shall not exceed the limitations set forth in Section 9-2-206. Provided, however, that in no case may the total sign surface area of a ground sign and its structural base exceed 65 square feet, or six feet in height if the lot on which the sign is located has less than 200 feet of frontage on the street toward which the sign is primarily oriented, 100 square feet, or eight feet in height on lots with at least 200 feet but less than 400 feet of frontage, and 125 square feet, or ten feet in height on lots of 400 feet or more of frontage. In no event shall the height of a ground sign exceed ten feet.

(f) In a commercial shopping center consisting of three or more units that share common party walls the developer or owner of the said shopping center or building may determine the sign surface area requirements by following the provisions outlined above in subsections (c) and (e) of this section concerning lot frontage or by using a building

frontage calculation in which one square foot of signage is allowed for each square foot of tenant space or retail frontage.

(g) The sign surface area of any sign located on a wall of a structure shall not exceed 25 percent of the total surface area of the wall of a building from end to end.

Section 9-2-208. Number of freestanding signs.

(a) Except as authorized by this section, no development may have more than one freestanding sign.

(b) If a development is located on a corner lot that has at least 200 feet of frontage on each of the two intersecting public streets, then the development may have not more than one freestanding sign on each side of the development bordered by such streets.

(c) If a development is located on a lot that is bordered by two public streets that do not intersect at the lot's boundaries (double front lot), then the development may not have more than one freestanding sign on each side of the development bordered by such streets.

(d) If a development has more than 300 linear feet of frontage along a single right-of-way boundary, a second freestanding sign may be permitted. Multiple freestanding signs established in the same development must be separated by a minimum of 100 linear feet.

Section 9-2-209. Subdivision and multifamily development entrance signs.

(a) At any primary entrance to a subdivision or multifamily development that is approved for less than 400 dwelling units and/or home sites, there may be installed no more than one sign, not to exceed 50 square feet, identifying such subdivision or development. Secondary entrances to said subdivisions or multifamily developments may each have an identifying sign not to exceed 25 square feet.

(b) Within any master planned development or multifamily development that is approved for between 400 and 749 dwelling units and/or home sites, there may be installed within the development two types of identification signs:

(1) Development identification signs, and

(2) Neighborhood identification signs.

The development identification signs may identify the entire development by name and/or symbol, and are limited to one at the primary entrance, not to exceed 75 square feet, and one at each secondary entrance, not to exceed 32 square feet each. Neighborhood identification signs, not to exceed ten square feet each, may identify a named neighborhood within the development, and are limited in total number to the number of intersections between streets within the named neighborhood and streets not within the named neighborhood.

(c) Within any master planned development or multifamily development that is approved for more than 750 dwelling units and/or home sites, there may be installed within the development two types of identification signs:

(1) Development identification signs, and

(2) Neighborhood identification signs.

The development identification signs may identify the entire development by name and/or symbol, and are limited to one at the primary entrance, not to exceed 100 square feet, and one at each secondary entrance not to exceed 32 square feet each. Neighborhood identification signs, not to exceed ten square feet each, may identify a named neighborhood

within the development, and are limited in total number to the number of intersections between streets within the named neighborhood and streets not within the named neighborhood.

(d) All signs regulated by this section shall be installed in a professionally designed and maintained planting bed. A proposed planting plan shall be submitted for approval as part of the required sign permit application documents.

Section 9-2-210. Location and height requirements.

(a) No sign may extend above any parapet or be placed upon any roof surface, except that, for purposes of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observance of holidays on the roofs of residential structures.

(b) No sign or supporting structure may be located in the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the town (and from the state, if necessary).

(c) No part of a freestanding sign may exceed a height of 30 feet, measured from the grade of the street from which access to the property is provided.

(d) Unless otherwise permitted by this ordinance, all freestanding signs must be placed at least 5 feet from any public right-of-way.

Section 9-2-211. Sign illumination and signs containing lights.

(a) Unless otherwise prohibited by this ordinance, signs may be illuminated if such illumination is in accordance with this section.

(b) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises. The reflection from such signs shall not exceed 25 percent of the lumens directed toward the sign measured from the property line of the lot upon which the sign is located.

(c) Internally illuminated freestanding signs may not be illuminated in excess of one hour prior to or following the normal operating hours of the business or enterprise.

(d) Subject to subsection (f), festoons of lights that outline property lines, sales areas, rooflines, doors, windows, or similar areas are prohibited.

(e) Subject to subsection (f), no sign may contain, or be illuminated by flashing lights or lights of changing degrees of intensity, except:

(1) Signs indicating the time, date, and weather conditions.

(2) Electronically illuminated signs that contain a fixed message or screen that changes no more than once every fifteen (15) minutes. In addition, no more than fifty (50) percent of the maximum allowable sign area of any free-standing or wall sign may be designated as an electronic illuminated sign, up to a maximum sign area of fifty (50) square feet. All such signs shall be reviewed and approved by the zoning administrator prior to installation consistent with the requirements of this article.

(f) Subsections (d) and (e) do not apply to temporary signs erected in connection with the observance of holidays.

Section 9-2-212. Miscellaneous requirements.

(a) No off-premises signs may be located within 1,000 feet of any residential district; provided, however, said off-premises sign that is directional in nature may be allowed within 500 feet of any residential district when associated with a nonresidential development that (i) is situated such that the development has no street frontage on an arterial street and (ii) is located within 1,000 feet of the location of the off-premises sign. Said nonresidential development shall be limited to one off-premises sign that shall not exceed a sign surface area of 24 square feet and a height of 20 feet. Said off-premises sign shall be calculated as part of the overall sign surface area for the development. The property on which the off-premises sign is located shall not be used in determining the overall lot frontage. In addition, no off-premises sign may be located within 1,000 feet of any other off-premises sign.

In the case where a nonresidential development has street frontage on a local street and desires off-premises signage on an arterial street that is within 500 feet of the development, said off-premises sign may be erected off-premises under the restrictions enumerated in this paragraph. In such cases, however, the overall signage for the development as determined by the lot frontage calculation detailed in Section 9-2-206 shall be reduced by 30 percent.

(b) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(c) All signs must be constructed and erected in accordance with the Southern Building Code and its related North Carolina building code amendments.

(d) No sign may be erected on town-maintained or private rights-of-way so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(e) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(f) Outdoor advertising signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electrical Code; provided that in no case shall an outdoor advertising sign be erected closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

(g) Whenever an outdoor advertising sign or structure becomes structurally unsafe, the building inspector shall give written notice to the owner of the sign, or the owner of the premises on which the sign is located, that such sign shall be made safe or removed within ten days of said notification. Further, whenever an outdoor advertising structure has outlived any useful purpose for which it was intended, it shall be removed forthwith.

Sections 9-2-213—9-2-220. Reserved.

ARTICLE XV. PARKING

Section 9-2-221. Board findings concerning the need for vehicle accommodation areas.

The Board of Aldermen finds the development of vehicle accommodation areas to be of public benefit and recognizes the importance of their design in achieving the following objectives:

(1) To conserve energy, reduce glare and pollution, and provide for heat abatement during summer months;

(2) To contribute to the preservation of open space and to provide maximum pervious areas to retard stormwater runoff;

(3) To promote the safe and efficient flow of vehicular and pedestrian traffic; and

(4) To contribute to the visual enhancement of a development.

Section 9-2-222. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phases defined below shall have the meaning indicated when used in this ordinance:

(1) ***Circulation area****:* That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

(2) ***Driveway****:* That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

(3) ***Gross floor area****:* The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

(4) ***Loading and unloading area****:* That portion of the vehicle accommodation area used to satisfy the requirements of Section 9-2-232 (Loading and unloading areas).

(5) ***Vehicle accommodation area****:* That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

(6) ***Parking area aisles****:* That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

(7) ***Parking space****:* A portion of the vehicle accommodation area set [aside] for the parking of one vehicle.

Section 9-2-223. Number of parking spaces required.

(a) All developments shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the facility in question.

(b) The presumptions established by this article are that: (i) a development must comply with the parking standards set forth in subsection (g) of this section to satisfy the requirement stated in subsection (a), and (ii) any development that does meet these standards is in compliance. However, the table of parking standards is only intended to

establish a presumption and should be flexibly administered, as provided in Section 9-2-224 (Flexibility in administration required).

(c) Uses in the table of parking requirements (subsection (g)) are indicated by a numerical reference keyed to the table of permissible uses (Section 9-2-136). When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(d) With respect to any parking lot that is required to be paved (see Section 9-2-228 (Vehicle accommodation area surfaces)), the number of parking spaces required by this article may be reduced by one if the developer provides a bike rack or similar device that offers a secure parking area for at least five bicycles.

(e) The Board of Aldermen recognizes that the table of parking requirements set forth in subsection (g) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.

(f) Table of parking requirements.

TABLE INSET:

Use	**Parking Requirement**
Single-family residence	2 spaces plus one per room rented (see Accessory uses, Section 9-2-140).
Duplex	2 spaces for each dwelling unit, except that one-bedroom units require only one space.
Multi-family residence	1 space for each one-bedroom unit, 2 spaces for each two-bedroom unit, 2 1/2 spaces for each unit with three or more bedrooms, plus 1 additional space for every 4 units in the development.
Adult day care	1 space per 8 participants
Child daycare	1 space per 8 participants
Dormitory, private	1 space per resident plus 1 space per supervisor and staff person
Family care home	1 space per 4 beds and 1 space per supervisor and staff person
Fraternity or sorority houses	1 space per resident plus 1 space per supervisor and staff person
Group day facilities	1 space per supervisor and staff person
Group home residential	1 space per 4 beds and 1 space per supervisor and staff person
Group home supportive, medium	1 space per 4 beds and 1 space per supervisor
Group home supportive, large	1 space per 4 beds and 1 space per supervisor
Group home supportive, small	1 space per 4 beds and 1 space per supervisor
Nursing and personal care facilities	1 space per 4 beds and 1 space per supervisor and staff person
Religious institutions	1 space per 4 seats

Amusement and recreation services, indoor	1 per 400 sq ft
Artists, commercial including silk screening	1 space per 500 sq ft of gross floor area
Assembly Hall	1 per 400 sq ft min or 1 per every 4 seats, whichever is greater
Automobile and truck dealers	1 space per 500 sq ft of gross floor area
Automobile renting and leasing	1 space per 100 sq ft of gross floor area
Automobile repair shop	1 per 600 sq ft of gross floor area and 1 per 2,000 sq ft of display area
Automotive services, except repair and towing	per 600 sq ft of gross floor area and 1 per 2,000 sq ft of display area
Banking services	1 per 400 sq ft
Bowling alleys and pool halls	1 space per alley plus requirements for any other use associated with the establishment, such as a restaurant
Building material dealers	1 per 400 sq ft
Business services	1 per 400 sq ft
Carpet and upholstery cleaners	1 per 600 sq ft of gross floor area and 1 per 2,000 sq ft of display area
Catalog stores	1 per 600 sq ft of gross floor area and 1 per 2,000 sq ft of display area
Communications facilities	1 per 400 sq ft
Contractor's equipment and supply dealers	1 per 300 sq ft
Contractor's office	1 per 300 sq ft
Contractor's storage yard	1 per 300 sq ft
Cultural arts center	1 per 400 sq ft
Drive-in theater	1 per 1,500 sq ft or 1 per 1.5 employees
Electric motor repair shop	1 per 400 sq ft
Farmer's market, seasonal only	1 per 400 sq ft
Golf course, private or public	50 spaces per 18 holes
Guest lodging	1 space per guest room and 1 space per supervisor and staff person
Guns sales, including repair	1 per 600 sq ft of gross floor area and 1per 2,000 sq ft of display area
Hospitals, except animal hospitals	1 space per each 2 licensed beds intended for patient use, plus 1 space per each staff person, including medical and support staff based on the largest employee shift
Industrial	1 per 1,500 sq ft
Kennels (breeders and boarders)	1 per 400 sq ft
Laboratories, testing	1 per 600 sq ft of gross floor area
Launders, industrial	1 space per 500 sq ft of gross floor area
Libraries	1 per 300 sq ft
Mini-warehousing	1 space per 1000 sq ft of gross floor area
Manufactured housing dealers	1 space per 100 sq ft of gross floor area
Medical, offices	1 space per 250 sq ft

Mini-warehousing	1 space per 1,000 sq ft of gross floor area
Motels and hotels	1 space per guest room plus 50% of the required space for any accessory uses
Motorcycle dealers	1 space per 500 sq ft of gross floor area
Motor freight companies	1 space per 1000 sq ft of non-office floor area plus 1 space per 300 sq ft office floor area
Movers, van lines and storage	1 space per 1000 sq ft of gross floor area
Movie theaters, except drive-in	1 space per 4 seats
Night clubs, not contained in restaurant, motels or similar business	1 per 4 seats
Offices, medical	1 space per 250 sq ft
Offices, professional	1 per 300 sq ft
Package delivery services, commercial	1 space per 500 sq ft of gross floor area
Parks and recreation areas, municipal	1 per 400 sq ft
Personal services	1 per 400 sq ft
Recreation facility, private	1 per 400 sq ft
Repair shops, not elsewhere classified	1 per 400 sq ft
Research and development laboratories	1 per 400 sq ft
Restaurant: standard & fast food carry-out	1 per 4 seats or 1 per 80 sq ft of gross floor area exclusive of kitchen and restroom facilities
Retail sales establishment	1 per 400 sq ft
Sales office, off-premises	1 per 1500 sq ft or 1 per 1.5 employees
Schools: colleges and universities	1 space per 5 students, or 1 space for each 3 seats in auditoriums and other places of assembly or facilities available to the public, which ever is greater
Schools: correspondence and vocational	1 space per 5 students, or 1 space for each 3 seats in auditoriums and other places of assembly or facilities available to the public, which ever is greater
Schools: elementary and junior high	1 space per teacher and staff person
Schools: secondary schools	1 space per 5 students, or 1 space for each 3 seats in auditoriums and other places of assembly or facilities available to the public, which ever is greater
Schools: specialty training	1 space per 5 students, or 1 space for each 3 seats in auditoriums and other places of assembly or facilities available to the public, which ever is greater
Service stations	1 per 400 sq ft
Skating rink, roller or ice	1 per 400 sq ft

Small engine repair, except automotive	1 per 400 sq ft
Social services, not elsewhere classified	1 per 300 sq ft
Swimming pool, private	1 per 400 sq ft
Tattoo and body piercing	1 per 400 sq ft
Telecommunication facility unattended	1 per 1,500 sq ft
Tire dealers and service	1 space per 500 sq ft of gross floor area
Towing services, automobile and truck	1 per 600 sq ft of gross floor area
Used merchandise stores, except automotive goods	1 per 400 sq ft min
Utility stations and plants outside public rights-of-way	1 per 1,500 sq ft minimum or 1 per 1.5 employees
Veterinary services	1 per 250 sq ft
Warehousing general	1 space per 1,000 sq ft of gross floor area
Water transportation	1 per 1,500 sq ft minimum or 1 per 1.5 employees
Welding, repair	1 per 400 sq ft
Wholesale trade, durable goods	1 space per 1,000 sq ft of gross floor area
Wholesale trade, non-durable goods, except liquefied bilk storage	1 space per 1,000 sq ft of gross floor area
Wholesale trade, non-durable goods	1 space per 1,000 sq ft of gross floor area

Section 9-2-224. Flexibility in administration required.

(a) The Board of Aldermen recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Section 9-2-223(f) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation results in a waste of money as well as a waste of space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Section 9-2-223(e), the permit-issuing authority may permit deviations from the presumptive requirements of Section 9-2-223(f) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in Section 9-2-223(a).

(b) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in Section 9-2-223(f) when it finds that:

(1) A residential development is irrevocably oriented toward the elderly;

(2) A residential development is located in close proximity to the central business district and is committed to a policy of placing restrictions on the vehicle ownership of its tenants;

(3) A business is primarily oriented to walk-in trade; or

(4) A residential or nonresidential development is located within one of the town's designated National Register historic districts.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in Section 9-2-223(f), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Section 9-2-223(f) for a particular use classification is erroneous, it shall initiate a request for an amendment to the table of parking requirements in accordance with the procedures set forth in article XVII (Amendments).

Section 9-2-225. Parking space dimensions.

(a) Subject to subsections (b) and (c) of this section, each parking space shall consist of a rectangular area 18 feet long by nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisle, so long as the parking spaces so created contain within them the rectangular area required by this section.

(b) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by nine feet.

(c) Handicapped parking spaces shall comply with the dimensional requirements found in the Southern Building Code with North Carolina amendments.

Section 9-2-226. Required widths of parking area aisles and driveways.

(a) [*Aisle widths.*] Parking area aisle widths shall conform to the following table which varies the width requirement according to the angle of parking:

TABLE INSET:

		Parking Angle				
		0 Degrees	30 Degrees	45 Degrees	60 Degrees	90 Degrees
Aisle width in feet:						
	One-way traffic	13	11	13	18	24
	Two-way traffic	19	20	21	23	24

(b) *Driveways for business or commercial installation.*

(1) No driveway shall exceed 30 feet in width at the outer edge of the driveway; however, driveways for business or commercial installations on state highway

system streets may be as much as 36 feet in width at the street edge of the driveway, if such width is first approved by the appropriate representative of the North Carolina department of transportation, division of highways, and if that agency requests town concurrence in the greater width.

(2) All radii and/or angle of turnout of the driveway where it meets the curb shall be as shown on the North Carolina department of transportation, division of highways standard being used.

(3) Not more than two driveways shall be permitted to serve one business at the same location from one street. In such situations the two driveways shall be at least 30 feet apart.

(4) Any business or commercial establishment located at the intersection of two or more streets, which desires a driveway into both streets, shall construct the driveways so as not to be in conflict with provisions of this or any other articles of this ordinance or any other section of the town Code pertaining to the regulation of vehicle traffic.

(5) No driveway apron shall extend out into the street further than the face of the curb.

(6) If, in the opinion of the zoning administrator and the director of public works, strict adherence to all dimensions herein set forth would create a traffic management or safety problem in connection with a specific driveway installation, a modification may be authorized by the director if he is of the opinion that the change would benefit the public and, further, be consistent with the department of transportation's recommendations and requirements.

(c) *Driveways for residences.*

(1) No driveway for a residence shall exceed 18 feet in width nor be less than 12 feet in width at the outer or street edge of the driveway.

(2) Residences shall not have more than two driveways; however, one shared driveway up to, but not exceeding, 32 feet in width may be permitted.

(3) No driveway apron shall extend out into the street further than the face of the curb.

(4) All radii and/or angle of turnout of the driveways where the same meets the curb shall be as shown on the North Carolina department of transportation, division of highways standard being used.

Section 9-2-227. General design requirements.

(a) Vehicle accommodation areas shall generally be designed with maximum 60-foot-wide bays, 90-degree parking stalls, and two-way traffic aisles unless such a design standard cannot be practicably accommodated on the site.

(b) Vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units.

(c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that a minimum two and one-half-inch separation is maintained between the vehicle accommodation area and any sidewalk or

pedestrian access that is provided on site. (Note: This separation may be achieved by providing a planting strip between the curbline and the sidewalk or by extending the width of the sidewalk.) Sidewalks in nonresidential developments shall have a minimum width of four feet which shall remain clear and unobstructed for the purposes of pedestrian access and safety. Adequate clearance shall also be provided so as to prevent vehicles from bumping against or damaging any wall, vegetation, or other obstruction.

(d) Vehicle accommodation areas shall not exceed 360 square feet of paving for each parking space.

(e) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(f) In vehicle accommodation areas where curbing is located at the perimeter of a parking area, wheel stops shall not be provided in addition to the curbing on said perimeter. In said areas, the curb shall function as the wheel stop.

(g) Vehicle accommodation areas in multi-family developments shall be located a minimum of 15 feet from residential buildings within the development.

Section 9-2-228. Vehicle accommodation area surfaces.

(a) Vehicle accommodation areas that: (i) include lanes for drive-in windows, or (ii) contain parking areas that are required to have more than ten parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standard set forth in this subsection are contained in appendix D.

(b) Vehicle accommodation areas that are not provided with the type of surface specified in subsection (a) shall be graded and surfaced with crushed stone, gravel, or other suitable material (as provided in the specifications set forth in appendix D) to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in subsection (a) for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family residences, duplexes, multifamily residences consisting of two dwelling units, homes for the handicapped or infirm, or other uses that are required to have only one or two parking spaces.

(c) Parking spaces in areas surfaced in accordance with subsection (a) shall be appropriately marked with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (b) shall be marked whenever practicable.

(d) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (e.g., free from potholes) and parking space lines or markings shall be kept clearly visible and distinct.

(e) All vehicle accommodation areas shall meet the planting and screening requirements set forth in article XVI and any other applicable article of this ordinance.

Section 9-2-229. Joint use of required parking spaces.

(a) One parking area may contain required spaces for several different uses, but, except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building Monday through Friday but is generally 90 percent vacant on weekends, another development that operates only on weekends could be credited with 90 percent of the space on that lot. Or, if a church parking lot is generally occupied only to 50 percent of capatown on days other than Sunday, another development could make use of 50 percent of the church lot's spaces on those other days.

(c) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 9-2-230 (Satellite parking) are also applicable.

Section 9-2-230. Satellite parking.

(a) If the number of off-street parking spaces required by this article cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite" parking spaces.

(b) All such satellite parking spaces (except spaces intended for employee use) must be located within 600 feet of a public entrance of a principal use associated with such parking, provided such land is in the same ownership as the principal use, or the owner of the principal use shall have a lease, license, or easement to him as lessee, licensee, or grantee, subjecting such land to parking use in connection with the principal use for which it is made available, for a period equal to, or in excess of, the reasonable physical depreciable life of the structure or structures to be served by such parking, as determined by the zoning administrator. Said land shall be used for no other purpose so long as no other adequate provisions of parking space meeting the requirements of this ordinance have been made for the principal use. In such cases, the applicant for a zoning permit for the principal use shall submit with his application for a zoning permit an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use for which it is made available. Said instrument shall be submitted to the town attorney and shall not be accepted by the zoning administrator as satisfactory until the town attorney has endorsed his approval on same in writing. The applicant shall deposit the necessary recording fee, and, upon the issuance of a zoning permit, the zoning administrator shall cause said instrument to be registered in the office of the register of deeds of Onslow County, unless said instrument shall have been recorded.

(c) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article.

Section 9-2-231. Special provisions for lots with existing buildings.

Notwithstanding any other provisions of this ordinance, whenever: (i) there exists a lot with one or more structures on it constructed before the effective date of this ordinance, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking requirements of Section 9-2-223 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available

on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 9-2-223 to the extent that (i) parking space is practicably available on the lot where the development is located, and (ii) satellite parking space is reasonably available as provided in Section 9-2-230.

Section 9-2-232. Loading and unloading areas.

(a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

TABLE INSET:

Gross Leasable Area of Building [(square feet)]	Number of Spaces*
1,000--19,999	1
20,000--79,999	2
80,000--127,999	3
128,000--191,000	4
192,000--255,999	5
256,000--319,999	6
320,000--391,999	7
Plus 1 for each additional 72,000 square feet or fraction thereof.	

*Minimum dimensions of 12 feet by 55 feet with 14 feet height clearance from street grade required.

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

Section 9-2-233. No parking [to be] indicated near fire hydrants.

Whenever a fire hydrant is located adjacent to any portion of a vehicle accommodation area required to be paved under Section 9-2-228(a), the pavement shall be clearly marked to indicate that parking within 15 feet of such hydrant is prohibited.

Sections 9-2-234—9-2-240. Reserved.

ARTICLE XVI. SCREENING, TREES, AND PLANTING*

PART I. SCREENING

Section 9-2-241. Board findings concerning the need for screening requirements.

The Board of Aldermen finds that:

(a) Screening between two lots lessens the transmission from one lot to another of noise, litter, dust, and glare of lights.

(b) Screening can lessen the visual impact of competing incompatible land uses that are found in an urbanized area. Screening can provide an impression of a separation of spaces and can be used to provide transitional zones between industrial, commercial, and residential developments.

(c) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening.

(d) Screening can be used as an effective element of site plan development by shielding visually disturbing site features such as vehicle accommodation areas, loading and unloading areas, mechanical systems, and trash receptacles.

(e) The provisions of this part are necessary to safeguard the public health, safety and welfare.

Section 9-2-242. General screening standard.

Every development shall provide sufficient screening so that:

(a) Neighboring properties are shielded from any adverse external effects of that development; and

(b) The development is shielded from the negative impacts of adjacent, incompatible land uses.

Section 9-2-243. Compliance with screening standard.

(a) The table set forth in Section 9-2-245, in conjunction with the explanations in Section 9-2-244 concerning the types of screens, establishes screening requirements that, presumptively, satisfy the general objectives listed in Section 9-2-241 and the standards established in Section 9-2-242.

(b) The table of screening requirements set forth in Section 9-2-245 indicates the type of screening that may be required between two land uses. The table lists the site features in a typical development that require screening and bases the screening type required on the location of the site feature on the lot and its distance from the property line. The table provides letter designations that are keyed to the screening types that are described in Section 9-2-244 and gives the minimum width requirements and, in certain cases, the required location for the screening.

Section 9-2-244. Descriptions of screens.

The following three basic types of screens are hereby established and are used as the basis for the table of screening requirements as set forth in Section 9-2-245.

(a) Opaque screen, type A. A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude completely all visual contact

between uses and to create a strong impression of spacial separation. The opaque screen may be composed of a wall, fence, planted earth berm, planted vegetation, existing vegetation, or any combination thereof. For every linear 100 feet, or fraction thereof, the screen shall consist of an average of three canopy type trees, each with a minimum caliper of two inches. Said trees in five years shall reach a height of at least 20 feet and shall have an average canopy spread of 15 feet. The opaque portion of the screen must be opaque in all seasons of the year. If shrubbery is used, said shrubbery shall be evergreen plant materials and be spaced to provide a solid screen in two years. If fences or walls are used, said fences or walls shall be masonry, wood, metal or other suitable materials (not to include chainlink fencing) and shall have architectural character and be of substantial materials. A graphic illustration of the sample planting pattern is included in appendix E [following this article].

(b) Semi-opaque screen, type B. A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, planted earth berm, planted vegetation, existing vegetation, or any combination thereof. For every linear 100 feet, or fraction thereof, the screen shall consist of an average of two canopy type trees, each with a minimum caliper of two inches. Said trees in five years shall reach a height of at least 20 feet and shall have an average canopy spread of 15 feet. The opaque portion of the screen must be opaque in all seasons of the year. If shrubbery is used, said shrubbery shall be evergreen plant materials and be spaced to provide a solid screen in two years. If fences or walls are used, said fences or walls shall be masonry, wood, metal, or other suitable materials (not to include chainlink fencing) and shall have architectural character and be of substantial materials. A graphic illustration of a sample planting pattern is included in appendix E [following this article].

(c) Broken screen, type C. A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, planted earth berm, planted vegetation, existing vegetation, or any combination thereof. For every linear 100 feet, or fraction thereof, the screen may consist of a combination of at least two canopy or ornamental type trees, each having a minimum caliper of at least two inches, and shrubbery three feet in height that covers an average of 20 percent of the screen area, or five canopy or ornamental type trees, each having a minimum caliper of two inches. A graphic illustration of a sample planting pattern is included in appendix E [following this article].

Section 9-2-245. Table of screening requirements.

There is hereby established a table of screening requirements as follows:

TABLE INSET:

Site Feature to be Screened	Screen Type*	Screen Width	Location
Industrial building/parking area/service area greater than 50 feet from property line	B, C	10 feet minimum	Property line with building/Optional with other site features
Industrial building/parking area/service area 25 feet to 50	B, C	10 feet minimum	Property line with

feet from property line			building/Optional with other site features
Industrial building/parking area/service area less than 25 feet from property line	A, C	10 feet minimum	Property line with building/Optional with other site features
Commercial building/parking area/service area greater than 50 feet from property line	B, C	10 feet minimum	Property line with building/Optional with other site features
Commercial building/parking area/service area 25 feet to 50 feet from property line	B, C	10 feet minimum	Property line with building/Optional with other site features
Commercial building/parking area/service area less than 25 feet from property line	A, C	10 feet minimum	Property line with building/Optional with other site features
Multifamily building/parking area/service area greater than 50 feet from property line	B, C	10 feet minimum/Length to equal building length plus 50 feet when dealing with building	Property line with building/Optional with other site features
Multifamily building/parking area/service area 25 feet to 50 feet from the property line	B, C	10 feet minimum/Length to equal building length plus 50 feet when dealing with building	Property line with building/Optional with other features
Multifamily building/parking area/service area less than 25 feet from property line	A, C	10 feet minimum/Length to equal building length plus 50 feet when dealing with building	Property line with building/Optional with other features
Separation zone between industrial and/or commercial developments located along 50 feet of property line perpendicular to street right-of-way line	B	10 feet minimum	Property line
Separation zone between nonresidential developments and street right-of-way	C	10 feet minimum	Property line

*Screen type: A--Opaque screen, B--Semi-opaque screen, C--Broken screen. "A, C" means that a type A opaque screen must be used when the land use abuts a residential land use and a type C broken screen must be used when the land use abuts any other land use (i.e., another industrial, commercial, or multifamily land use). "B, C" means that a type B screen must be used when the land use abuts a residential land use and a type C screen must be used when the land use abuts any other land use. Note: In the case of multifamily, only a type B screen may be used when adjacent to commercial or industrial uses. Graphic illustrations of screening placement are provided in appendix E [following this article].

Section 9-2-246. Flexibility in administration required.

The board recognizes that because of the wide variety of types of developments and the relationships between them, it is neither possible nor prudent to establish inflexible screening requirements. Therefore, the permit-issuing authority may permit deviations from the presumptive requirements of Section 9-2-245.

Section 9-2-247. Special screening considerations.

(a) Notwithstanding Section 9-2-245 of this article, any new development or substantial improvement to a property which occurs within one of the town's established office and institutional districts shall require the installation of a semi-opaque screen on the property when said use abuts a residential use and a broken screen when said use abuts any other land use to provide a visual separation between the new development and adjacent developments. For purposes of this ordinance, "substantial improvement" shall be defined as any repair, reconstruction, or improvement of a structure within any 12-month period, where the cost equals or exceeds 50 percent of the market value of the structure. A "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions.

(b) For purposes of this ordinance, zoning setback requirements take precedence over screening requirements.

Sections 9-2-248—9-2-254. Reserved.

PART II. TREE PRESERVATION

Section 9-2-255. Part II statement of purpose.

The purpose of Part II of this article is to regulate and control the planting and removal of trees.

Section 9-2-256. Board findings and declaration of policy on tree preservation.

(a) The Board of Aldermen finds the preservation of trees to be of public interest and recognizes the importance of these resources in achieving the following objectives:

(1) To conserve energy and retard stormwater runoff while aiding in noise, glare, and heat abatement;

(2) To safeguard and enhance property values and to protect public and private investment;

(3) To contribute to the preservation of an area or site's unique sense of place;

(4) To provide visual buffering and enhance town beautification efforts which contribute to the quality of life of a given area; and

(5) To prevent the indiscriminate removal of significant trees and facilitate their replacement in certain developments and areas within the town.

Section 9-2-257. Definition.

For purposes of this article, the term "regulated tree" shall mean:

(a) The subsurface roots, crown, and trunk of any self-supporting woody plant such as a large shade tree or pine tree, which usually has one main stem or trunk, and has a measured caliper as follows:

(1) A hardwood tree: eight inches, such as an oak, maple, etc.;

(2) A pine tree: 12 inches, such as loblolly pine;

(b) Any small flowering tree, such as dogwood, with a measured caliper of at least four inches; and

(c) Any tree having several stems or trunks, such as crepe myrtle, and at least one defined stem or trunk with a measured caliper of at least two inches.

Section 9-2-258. Tree preservation and replacement in new nonresidential developments and residential subdivisions.

(a) For purposes of achieving the objectives outlined in Section 9-2-256, the Town of Richlands shall require all nonresidential developments or residential subdivisions in excess of one acre, approved and/or developed after the effective date of this ordinance, to provide for the preservation or replacement of regulated trees on the subject site. The following minimum standards shall be applied in determining the required extent of tree preservation or replacement:

1. The total number of regulated trees to be retained should be at least 15 trees per acre.

2. If there are less than 15 regulated trees per acre on the site, then the difference shall be replaced with new or existing smaller trees, to a total of 15 trees per acre equalling at least two caliper inches per tree planted or retained.

3. If there are no regulated trees on the site, then at least 15 new or existing trees per acre equalling at least two caliper inches per tree shall be planted or retained.

4. In the event a developer clearcuts a lot or tract and has failed to provide a site plan to the permit-issuing authority in accordance with subsection (b) of this section, he shall be required to plant 23 trees per acre, each with a minimum caliper of two inches.

5. A developer shall be eligible for a waiver of the 15 trees per acre standard if he retains at least ten regulated trees per acre.

Regulated trees that are retained may be used to fulfill some of the planting requirements of street yard, parking facilities, or screening, provided they are not damaged by construction activities or the intended use of the property.

(b) All nonresidential developments shall be required to submit to the permit-issuing authority a site plan as part of the development approval process. In the case of developments involving major nonresidential subdivisions, the site plan shall be submitted as part of the general plan. Said site plan shall include the following information:

1. Name, address, and telephone number of the owner of the site; address of development site; name, address, and telephone number of the applicant if contractor or agent of the property owner;

2. If required, site plan showing existing site conditions and location of trees to be removed;

3. The dimensions of the parcel to be developed, together with the existing and/or proposed locations of structures and improvements, existing and/or proposed utility services, roadways, bikeways, walkways, and parking areas;

4. The location, caliper, and species of all regulated trees to be retained, or new trees to be planted in accordance with the provisions of this article; and

5. Any proposed grade changes which might adversely affect or endanger any regulated tree to be retained with a statement of how the tree is to be protected

and maintained in accordance with Section 9-2-260 of this article and appendix E [following this article].

(c) No certificate of occupancy for any nonresidential development shall be issued and no final plat approval for any residential subdivision in excess of one acre shall be granted until the property owner or developer has complied with the minimum standards set forth in subsection (a) of this section.

(d) If any new, retained, or regulated tree shown on the approved site plan dies or is removed by the developer within one year after the issuance of the certificate of occupancy or the granting of final plat approval, it shall be replaced by planting a new tree having a minimum caliper of two inches. In residential subdivisions, replacement of dead trees within the established one-year period shall be the responsibility of the developer, regardless of whether or not the new, retained, or regulated trees are on public or private property. However, the planting of said replacement trees by the developer shall be restricted to those areas in the development reserved for usable open space, as detailed in article XIII. In the event the property in a residential subdivision is sold and a subsequent owner removes a regulated or required tree or said tree dies, the developer who initially planted said tree shall not be required to replace said tree.

(e) The retention or protection of regulated trees unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer. In said cases, the zoning administrator may permit deviations from the presumptive requirements of subsection (a)(1) of this section.

Section 9-2-259. Procedural requirements for removal of trees in certain areas.

(a) No person, directly or indirectly, shall remove any regulated tree from public or private property within one of the town's established National Register and locally designated historic districts, or within any existing nonresidential development (regardless of whether it extends beyond the one-year period established in Section 9-2-258), without first obtaining a tree removal permit.

(b) All persons seeking a permit for removal of a regulated tree shall submit an application in writing to the zoning administrator.

(c) Applications for tree removal shall include the following information:

1. Name and address of the owner of the site; address of development site; name, address, and telephone number of applicant if contractor or agent of the property owner.

2. Description of regulated tree(s), including species, size, and reason for removal.

3. If required, a site plan showing existing site conditions and location of tree(s) to be removed.

(d) No tree removal permit shall be issued unless one or more of the following criteria are met:

1. The regulated tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures;

2. The regulated tree is causing disruption to existing utility service or causing drainage or passage problems upon the right-of-way;

3. The regulated tree is posing an identifiable threat to pedestrian or vehicular safety;

4. The regulated tree violates state or local safety standards;

5. Removal of the regulated tree is necessary to enhance or benefit the health or condition of adjacent trees or property; and

6. The regulated tree restricts the allowable use of the property.

A tree removal permit shall be issued for a qualified application as cited above and shall apply to the specifics of that request.

(e) The zoning administrator shall review all properly submitted applications for tree removal permits and shall grant or deny a permit in accordance with the provisions of this article.

(f) No person shall engage in the partial or total harvesting of timber by the practices known respectively as "thinning" or "clearcutting" of any site within the planning jurisdiction of the town without first obtaining a zoning permit from the zoning administrator. For the purposes of this ordinance, "thinning" shall be defined as "an intermediate harvest in a forest stand that reduces tree density and competition for the benefit of remaining trees intended to be harvested at a later date." "Thinning" shall also be defined as "the removal of selected trees from a site for the purpose of nonforestry-related site development, excluding tree cutting necessary for maintenance of existing utilities or the control of diseases and pests." "Clearcutting" shall be defined as "any activity that involves the total removal of trees from a tract of land for the purpose of harvesting and regeneration or nonforestry-related site development." Zoning permits for "thinning" and "clearcutting" shall be subjected to the following requirements, supplementing the provisions of Section 9-2-258 of this ordinance:

(1) For tracts of land that are greater than one acre but not more than five acres in size, the owner/developer shall retain a minimum 25-foot tree/vegetation buffer along all property lines, except those adjoining other lands devoted to recognized timber-harvesting operations (i.e., activities that follow a forestry management plan and exercise established agricultural Best Management Practices (BMP's)) at the time of thinning or clearcutting. The 25-foot buffer shall consist of a combination of regulated trees and understory (underbrush) vegetation. For purposes of this section, regulated trees shall be defined as "any tree that meets or exceeds the average caliper size calculated for the forest stand under consideration for timber harvesting." (Note: In situations where the number of regulated trees in a given buffer is less than the retention standard found in the chart below, trees that come closest to meeting the dbh standard for the given tract shall be considered "regulated trees" for the purpose of satisfying this requirement.) Average tree size shall be determined by measuring trees at four and one-half feet above ground (commonly referred to as diameter breast height (dbh)). The minimum number of regulated trees retained per linear 100 feet of a 25-foot wide buffer shall be in accordance with the following graduated scale based on the forest stand's average dbh:

TABLE INSET:

Average DBH in Forest Stand (In Inches)	Minimum # of Regulated Trees Retained in Buffer
4	40
5	26
6	18
7	13
8	10
9	8
10	7
11	5
12 and over	5

Retained regulated trees shall be evenly distributed throughout the buffer area. The buffer shall also consist of naturally growing understory (underbrush) vegetation that has the effect of providing additional screening. Such understory (underbrush) vegetation shall remain in an undisturbed state, to the extent practicable to allow for the removal of selected trees in the designated buffer area. Further timber harvesting in the buffer will be authorized at such time as the understory trees reach the average dbh standards listed on the above scale or following receipt by the permit-issuing authority of a site development plan that meets the requirements of this ordinance. The intent of requirement #1 is to: 1) lessen the impact of timber harvesting activities on surrounding properties, 2) provide for ongoing reforestation of the buffer in a manner that ensures the health of the trees, and 3) provide an opportunity to incorporate existing vegetation into a future site development scheme. Requirement #1 shall not apply to a lot on which a single-family residential structure has been or is to be constructed.

(2) For tracts of land that are greater than five acres in size, the owner/developer shall retain a minimum 50-foot tree/vegetation buffer along all property lines that abut a residential use or residential zoning district. A 25-foot tree/vegetation buffer shall be retained along all other property lines, except those adjoining other lands devoted to recognized timber-harvesting operations at the time of thinning or clearcutting. The 50-foot buffer shall consist of a combination of regulated trees and understory (underbrush) vegetation. For purposes of this section, regulated trees shall be defined as "any tree that meets or exceeds the average caliper size calculated for the forest stand under consideration for timber harvesting." (Note: In situations where the number of regulated trees in a given buffer is less than the retention standard found in the chart below, trees that come closest to meeting the dbh standard for the given tract shall be considered "regulated trees" for the purpose of satisfying this requirement.) Average tree

size shall be determined by measuring trees at four and one-half feet above ground (commonly referred to as diameter breast height (dbh)). The minimum number of regulated trees retained per linear 100 feet of a 50-foot wide buffer shall be in accordance with the following graduated scale based on the forest stand's average dbh:

TABLE INSET:

Average DBH in Forest Stand (In Inches)	Minimum # of Regulated Trees Retained in Buffer
4	79
5	51
6	35
7	26
8	20
9	16
10	13
11	10
12 and over	9

Retained regulated trees shall be evenly distributed throughout the buffer area. The buffer shall also consist of naturally growing understory (underbrush) vegetation that has the effect of providing additional screening. Such understory (underbrush) vegetation shall remain in an undisturbed state, to the extent practicable to allow for the removal of selected trees in the designated buffer area. Further timber harvesting in the buffer will be authorized at such time as the understory trees reach the average dbh standards listed on the above scale or following receipt by the permit-issuing authority of a site development plan that meets the requirements of this ordinance. The intent of requirement #2 is to: 1) lessen the impact of timber harvesting activities on surrounding properties, 2) provide for ongoing reforestation of the buffer in a manner that ensures the health of the trees, and 3) provide an opportunity to incorporate existing vegetation into a future site development scheme.

(3) In lieu of the retention of existing trees and understory (underbrush) vegetation in the case of clearcutting activities as outlined under requirement #'s 1 and 2 above, the owner/developer shall have the option of removing all said trees and understory vegetation from the site and installing a newly planted buffer. The owner/developer shall install a type "A", opaque screen, as defined in Section 9-2-244 of this ordinance, along all property lines that abut a residential use or residential zoning district. A type "C", broken screen, as defined in Section 9-2-244 of this ordinance, shall be installed along all other property lines where a buffer is required under subparagraphs (f)(1) and (f)(2). Said screen shall be installed within three months of the completion of clearcutting activities in the

designated buffer zone area. Said plant buffer shall be planted within ten feet of the property line, unless site conditions dictate otherwise in which case the buffer shall be installed at the closest possible point to the property line. In the case of ongoing timber harvesting operations where replanting is to occur, seedlings planted for the purpose of harvest shall not be planted within the 25-foot and 50-foot buffer zones.

(4) In the event a tract of land proposed for clearcutting is located adjacent to a developed tract of land that already has a buffer in place that meets the standards for screening set forth in Section 9-2-244 of this ordinance, the zoning administrator may waive all or part of the buffering requirement along the property line abutting said development if he finds that: 1) the adjoining property buffer is established to such a degree that it completely excludes all visual contact between uses and creates a strong impression of spacial separation, and 2) adequate legal mechanisms are in place to ensure the preservation of the buffer for the life of the development. If, however, an owner of timberland which abuts a developed tract of land decides to develop his property after clearcutting the same, but before new growth forms a suitable buffer between the two tracts of land, the forest owner/developer must provide an acceptable opaque screen, as prescribed by Section 9-2-244 of this ordinance, along the line of his property adjoining the developed tract of land.

(5) If no site plan for development or forestry management/tree replanting plan is submitted in conjunction with the application of a zoning permit for total harvesting of a site, the owner/developer of said property shall replant a minimum of 23 trees per acre, each with a minimum caliper of two inches, at the time the site is developed. This requirement shall run with the land until the property is initially developed, regardless of any change in ownership. The intent of this replanting requirement is to discourage the wholesale removal of trees from the site in an effort solely to market or make the property available for development without providing an opportunity to incorporate existing vegetation in the development scheme. Requirement #5 shall not apply to recognized timber-harvesting operations where more intensive tree replanting is to occur.

(6) The owner/developer shall be responsible for leaving the site in a clean condition with all major limbs, stumps, and excess debris removed. (Note: Stump and limb removal will not be required if retention of such timber debris is a necessary part of the forest regeneration process in accordance with an established forestry management plan or BMP.) The intent of this provision is to discourage the retention of timbering debris on-site which could pose a fire hazard in developed areas.

Section 9-2-260. Protection of regulated trees.

(a) The Board of Aldermen recognizes the importance of adequately protecting trees during the construction phase of developments. To this end, no excavation or other subsurface disturbances may be undertaken within the critical root zone of a tree. The critical root zone is defined as the ground area around a tree trunk with a radius (in feet) that is twice the diameter of the tree (in inches) measured at breast height (e.g., a ten-inch diameter tree requires a 20-foot radius of protection). Said critical root [zone] shall be marked by means of a barrier fence that meets the design construction standards contained in appendix E of the land use ordinance [following this article].

In cases where, because of utility extension, sidewalk installation, or other site improvements, it is neither prudent nor possible to avoid land disturbance activity in the critical root zone area, the developer shall, upon consultation with the zoning administrator and town groundskeeper, be responsible for providing the town with a root disturbance mitigation plan which shall outline a specific course of action for minimizing damage to a tree's root system.

(b) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsection (a) and, as a result, the parking requirements set forth in article XVIII (Parking) cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" up to a maximum of 15 percent of the required spaces.

Section 9-2-261. Shade trees in parking areas.

(a) Vehicle accommodation areas that are required to be paved by Section 9-2-347 must be shaded by canopy type trees (either retained or planted by developer). When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in appendix E [following this article].

(b) For purposes of achieving the objectives of this section, parking lots shall be designed so that one tree planting area is provided for every ten parking spaces (as further outlined in Section 9-2-389(f) [15-389(d)] of this same article).

(c) Trees planted or retained shall be located in an area of at least 162 square feet of unpaved pervious area (the equivalent of one standard nine feet by 18 feet parking space).

(d) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet six inches.

Section 9-2-262. Required trees along dedicated residential streets.

Along both sides of all newly created residential streets with respect to which an offer of dedication is required to be made by this ordinance, the developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 30 feet of street frontage at least an average of one canopy tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that have a minimum two-inch caliper at planting and meet the standards set forth in appendix E [following this article].

Sections 9-2-263—2-9-266. Reserved.

PART III. PLANTING

Section 9-2-267. Definition.

For purposes of this article, the term "planting" shall mean any live plant material such as trees, shrubs, ground cover, and grass used in spaces void of any impervious material or building structure, areas left in their natural state, or areas where mulch is used as ground cover.

Section 9-2-268. Board findings concerning the need for planting requirements.

The Board of Aldermen finds that:

(a) Planting has an important impact on better control of flood problems, soil erosion, air and noise pollution, and making the town a healthier, safer, and more aesthetically pleasing place in which to live and work;

(b) Planting is an invaluable physical, aesthetic, and psychological element of the urban setting, making urban life more comfortable by providing shade and cooling;

(c) Planting can serve as screening which can provide an impression of separation of spaces and a greater sense of privacy from visual or physical intrusion;

(d) Planting has an important role in filtering wastewater passing through the ground from the surface to groundwater tables and lower aquifers;

(e) For the reasons indicated in subsection (2), planting has an important impact on the desirability of land and consequently on property values; and

(f) The provisions of this part are necessary to safeguard the public health, safety, and welfare.

Section 9-2-269. Compliance with planting requirements.

(a) A planting plan on all commercial, office and institutional, industrial, multifamily, planned unit developments, and nonresidential uses in a residential district shall be required according to the following minimum specifications:

(1) Of developments less than one acre, 20 percent of the total lot area shall be planted;

(2) Of developments of one acre or more, 25 percent of the total lot area shall be planted;

(3) Of developments of two acres or more, 20 percent of the total lot area shall be planted;

(4) Of developments of three acres or more, 15 percent of the total lot area shall be planted.

(b) Planting plans shall be prepared by a landscape architect licensed in the State of North Carolina or persons with a minimum of three years' experience in the preparation of planting plans for commercial developments. Planting plans shall be drawn at the same scale as the site plan or larger. Said planting plan may be found on the site plan.

(c) All areas that call for grass planting on a planting plan shall be planted in accordance with generally accepted practices.

(d) Parking areas in all commercial, office and institutional, industrial, multifamily, nonresidential uses in a residential district, and planned unit developments which have ten or more parking spaces shall be planted as follows:

(1) For every ten spaces provided, one planting area of not less than nine by 18 feet shall be required. This area shall either be spaced between each ten parking spaces or otherwise randomly combined or spaced within the parking area to provide a planting area which shall be planted consistent with good design standards as provided in this article.

The intent of this paragraph is to provide uniform planting of trees and other plant material within a parking area, rather than have all required planting space combined into one area or along the perimeter of the parking lot.

(2) Subject to Section 9-2-261 of this article, there shall be one tree no less than two inches in caliper for each nine by 18 [foot] planting area. The type of tree and

the planting must be consistent with good design standards as provided in this article and appendix E [following this article].

(3) Each planting area provided in accordance with paragraph (1), above, may be counted as one parking space when computing the number of parking spaces required by article XV of the ordinance.

(4) Shrubbery, hedges, and other live plant material may be used to complement the tree planting, but shall not be substituted for the tree.

(5) Landscape plantings used in parking areas as required in this subsection and Section 9-2-261 of this article may be used in satisfying the planting requirements of paragraph (a) of this subsection.

(e) The owners, their heirs, and assigns shall be responsible for protecting and maintaining all planting in a healthy growing condition, replacing it when necessary, and keeping it free of refuse and debris.

(f) All planting plans shall provide the following general information:

(1) Approximate locations of all required plant material to be planted on the site.

(2) Information on the quantity and caliper of all trees to be planted or retained on the site.

(g) The chief building inspector may not issue a permanent certificate of occupancy for an approved site-specific development plan or part thereof, until all required seeding, trees, and plant material have been placed in accordance with the approved planting plan. A temporary certificate of occupancy may be issued for a period of up to 180 days under extenuating circumstances that would affect the seeding or planting of the site or until the proper planting season is reached to complete the planting requirements. The zoning administrator may require the developer to provide an irrevocable letter of credit to the town to cover the costs of planting prior to the building inspector's issuance of a temporary certificate of occupancy.

Sections 9-2-270—2-9-275. Reserved.

APPENDIX E. GUIDE FOR LANDSCAPING

Section E-1. Guide for protecting existing trees.

Section 9-2-258 provides for the retention and protection of regulated trees when land is developed. To improve the chances of survival of existing trees the following guidelines have been established:

(1) Protect trees with fencing and armoring during the entire construction period in accordance with section E-9.

(2) Avoid compaction of the soil around existing trees due to heavy equipment. Do not pile dirt or other building materials and equipment in the critical root zone of the tree.

(3) Keep fires or other sources of extreme heat well clear of existing trees.

(4) Injured trees must be thoroughly watered during the ensuing growing year.

Section E-2. Standards for street and parking lot trees.

Trees planted in compliance with the requirements of Sections 9-2-260 and 9-2-261 shall have most or all of the following qualities. The trees recommended in section E-8 represent the best combinations of these characteristics.

(a) Hardiness.

(b) Resistance to extreme temperatures.

(c) Resistance to drought.

(d) Resistance to storm damage.

(e) Resistance to air pollution.

(f) Resistance to insects and disease.

(g) Ability to survive physical damage from human activity.

(h) Foliage and branching.

(i) Wide-spreading habit.

(j) Relatively dense foliage for maximum shading.

Section E-3. Typical parking lot planting islands.

ADD FIGURE

Section E-4. Guide for planting trees.

The trees recommended in section E-8 have minimal maintenance requirements. However, all trees must receive a certain degree of care, especially during and immediately after planting. To protect an investment in new trees, the developer should ensure that the following guidelines are followed when planting:

(1) The best times for planting are early spring and early fall. Trees planted in the summer run the risk of dehydration.

(2) Plant all trees at least 3 1/2 feet from the end of head-in parking spaces to prevent damage from car overhangs.

(3) Provide a no work zone around the tree to prevent damage to the plant and compaction of the soil.

(4) In digging a tree pit, excavate to a depth that approximates the height of the root ball. The top of the root ball should be level with or slightly above grade.

(5) The width of the tree pit should be no less than twice the diameter of the root ball.

(6) The bottom of the tree pit should be undisturbed soil.

(7) Spread at least three inches of mulch over the entire excavation in order to retain moisture and keep down weeds. This layer of mulch should be pulled away from the trunk of the tree to prevent rot.

Section E-6. Sample screening requirement placement.

RESIDENTIAL SITES

ADD FIGURE

Section E-7. Guide for planting shrubs.

Shrubs planted for screening purposes should be given a proper culture and sufficient room in which to grow. Many of the guidelines for tree planting listed in section E-4 also apply to shrubs. However, because specific requirements vary considerably between shrub types, this appendix does not attempt to generalize the needs of all shrubs. For detailed information on individual plant species refer to:

Dirr, Michael A. Manual of Woody Landscape Plants: Their Identification, Ornamental Characteristics, Culture, Propagation, and Use. Champaign, Illinois: Stipes Publishing Company, 1990 (revised edition).

Whitcomb, Carl E., Ph.D. Know It and Grow It: A Guide to the Identification and Use of Landscape Plants in the Southern States. Tulsa, Oklahoma: Oil Capital Printing Company, 1978.

Section E-8. List of recommended trees and shrubs.

The following lists indicate plantings which will meet the screening and shading requirements of article XIX of the land use ordinance. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria: (i) general suitability for the climate and soil conditions of this area, (ii) ease of maintenance, (iii) tolerance of town conditions, and (iv) availability from area nurseries. When selecting new plants for a particular site, a developer should first consider the types of plants which are thriving on or near the site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

(a) Small trees for partial screening.

(1) Trident maple.

(2) Flowering dogwood.

(3) Saucer magnolia.

(4) Camellia sasanqua.

(5) Carolina cherry-laurel.

(6) Assorted holly species.

(7) Eastern redbud.

(8) Crepe-myrtle.

(9) River birch.

(10) Yaupon.

(11) Pistache.

(12) Sweet bay magnolia.

(13) Vitex.

(b) Shade trees for evergreen screening.

(1) Southern magnolia.

(2) Loblolly pine.

(3) Live oak.

(4) Deodara cedar.

(c) Shade trees for deciduous screening.

(1) Assorted maple species.

(2) Assorted oak species.

(3) Zelkova.

(4) Honey locust.

(5) Sweet gum.

(6) Sycamore.

(7) Bald cypress.

(8) Pecan.

(9) Beech.

(10) Ginko (male).

(d) Small shrubs for evergreen screening.

(1) Azalea.

(2) Dwarf holly.

(3) Assorted camellia.

(4) Eleagnus.

(6) Dwarf yaupon.

(7) Boxwood.

(8) Juniper.

(9) Nandina.

(e) Large shrubs for evergreen screening.

(1) Red tip photinia.

(2) Wax-myrtle.

(3) Yaupon.

(4) Privet.

(5) Formosa azalea.

(6) Euonymus.

(7) Eleagnus.

(8) Osmanthus.

(9) Assorted holly species.

ARTICLE XVII. AMENDMENTS

Section 9-2-276. Amendments in general.

(a) Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this article.

(b) The term "zoning amendment" shall refer to an amendment that addresses a zoning district classification change.

Section 9-2-277. Initiation of amendments.

(a) Whenever a request to amend this ordinance is initiated by the Board of Aldermen, the planning staff shall review the request and forward it to the planning and zoning board for its review and recommendations. Such recommendations, along with a draft of an appropriate ordinance prepared by the town attorney in consultation with the planning staff, shall then be forwarded to the Board of Aldermen and considered by that board in a public hearing on a date established in accordance with the Board of Aldermen's submission consideration schedule.

(b) Whenever a request to amend this ordinance is initiated by a town department head, board, or commission, other than the Board of Aldermen, the planning staff shall review the request and forward it to the Board of Aldermen for their review and consideration in accordance with the procedures outlined in subsection (a) of this section.

(c) Any other person may also petition the Board of Aldermen to amend this ordinance. The petition shall be filed with the zoning administrator and shall include, among the information deemed relevant by the planning and inspections department:

(1) The name, address, and phone number of the applicant;

(2) The name, address, and phone number of the property owner, if different from applicant, along with written confirmation of owner consent to the rezoning request;

(3) A metes and bounds description of the land affected by the amendment if a change in zoning district classification is proposed;

(4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this ordinance; and

(5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.

The applicant shall pay a fee as established in the annual Schedule of Fees to the zoning administrator or his designee at the time the application is submitted to town staff.

(d) Upon receipt of a petition as provided in subsection (c), the zoning administrator or his designee shall ensure that the application is complete and shall proceed with the notification of the property owners within 100 feet and the scheduling of the zoning amendment request with the planning and zoning board. In cases involving planning and zoning board review, the completed application must be received by the zoning administrator no less than 14 days prior to the scheduled meeting of the planning and zoning board.

Section 9-2-278. Planning and zoning board consideration of proposed amendments.

(a) Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning and zoning board for review and comment. If no written report is received from the planning and zoning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. The Board of Aldermen is not bound by the recommendations, if any, of the planning and zoning board.

(b) The planning and zoning board shall advise and comment on whether the proposed amendment 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 Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning and zoning board, but a comment by the planning and zoning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Section 9-2-279. Hearing required; notice.

(a) The town clerk shall publish a notice of the public hearing on any ordinance that amends the provisions of this ordinance once a week for two successive weeks in a local newspaper having the greatest general circulation. The notice shall be published for the first time not less than ten calendar days nor more than 25 calendar days before the date fixed for the hearing as provided by the North Carolina General Statutes. In determining the time period for publication of such notice, the date of publication is not counted, but the date of the hearing is.

(b) With respect to zoning map amendments, the owners of those parcels of land as shown on the county tax listing whose zoning classification is changed by the proposed amendment, and the owners of all parcels of land situated within 100 feet of that parcel as shown on the county tax listing shall be mailed a notice of the public hearing on the proposed amendment by first class mail at the last address listed for such owners on the county tax abstracts. The notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Aldermen that fact, and such certificate shall be deemed conclusive in the absence of fraud. All notices required under this subsection shall comply with North Carolina General Statutes.

(c) The department of public works shall also post notices of the public hearing in the vicinity of the property to be rezoned by the proposed amendment and take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(d) The notice required or authorized by this section shall:

(1) State the date, time, and place of the public hearing; and

(2) Summarize the nature and character of the proposed change.

Section 9-2-280. Board of Aldermen action on amendments.

(a) At the conclusion of the public hearing on a proposed amendment, the Board of Aldermen may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The Board of Aldermen is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as

practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest.

(d) Voting on amendments to this ordinance shall proceed in the same manner as other ordinances, subject to Section 9-2-282.

Section 9-2-281. Ultimate issue before Board of Aldermen on amendments.

In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the Board of Aldermen is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

(1) The Board of Aldermen shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board of Aldermen shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(2) The Board of Aldermen shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 9-2-282. Protests to zoning district changes.

(a) If a petition opposing a change in the zoning classification is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of all the members of the Board of Aldermen as provided in G.S 160A-385.

(b) To trigger the three-fourths vote requirement, the petition must:

(1) Be signed by the owners of 20 percent or more, either of the area of the lots included in the proposed change, or those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending 100 feet therefrom, or those directly opposite thereto extending 100 feet from the street frontage of the opposite lots.

(2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.

(3) Be received by the town clerk in sufficient time to allow at least two full working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition, as provided in G.S 160A-386.

(4) Be on a form provided by the town clerk and contain all the information requested on this form, as provided in G.S. 160A-386.

Sections 9-2-283—2-9-300. Reserved.