

TOWN OF BETHEL
LIST OF ORDINANCE OFFENSES PUNISHABLE AS
A MISDEAMEANOR
SESSION LAW 2018-69
As of November 26, 2018

Garbage and Refuge-Any person, firm or corporation resident in the town who consents to or permits any nonresident person, firm or corporation of the town to deposit trash or garbage receptacle, garbage container or dumpster belonging to or used by said resident person, firm or corporation of the town shall be guilty of a misdemeanor punishable by a fine not to exceed \$50 or imprisonment not to exceed 30 days.

It shall be unlawful for any person to use or enter the trash disposal area without the appropriate trash permit or to deposit materials and substances other than those described in this section. (Prior Code 22-85) Ord. 5, passed 5-1-84

Urinating and Defecating in Public-It shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, except in designated water closets or toilet facilities, or on any private property. Having the written permission of the owner or person in lawful possession shall constitute an affirmative defense to the charge of urinating or defecating on private property. Violation shall be a misdemeanor punishable upon conviction by a fine not exceeding \$50, or by imprisonment not exceeding 30 days.

Disorderly Conduct-It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the State Controlled Substances Act, being G.S. 90-86 et seq. Such circumstances shall include:

1. Repeatedly beckoning to, stopping or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation;
2. Repeatedly stopping or attempting to stop motor vehicles;
3. Repeatedly interfering with the free passage of other persons;
4. Such person is a known unlawful drug user, possessor or seller;
5. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaged in an unlawful drug related activity;
6. Such person repeatedly passes to or receives from passers-by, whether on foot or in a vehicle, money or objects.
7. Such person takes flight upon the approach or appearance of a police officer;
8. Such person is at a locations frequented by persons who use, possess or sell drugs; or
9. Any vehicle involved is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug related activities.

Violation of any provision of this section shall be misdemeanor as provided by G.S. 14-4.

Prohibition on Consuming Certain Alcoholic Beverages on Public Property-No person shall consume alcoholic beverages, as defined by G.S. § 18B-101(4), as amended, on property owned or occupied by the town, including, but not limited to, public streets, boulevards, alleys, rights-of-way, Sidewalks and parks. Violation of this section shall be a misdemeanor, punishable on conviction by a fine not exceeding \$50, or by imprisonment not exceeding 30 days.

Encroachments on Streets-It shall be the duty of the Town Manager to notify all persons about to erect any building, sidewalk, wall or fence near the street or any public way or alley not to encroach upon such street or public alley, and if in the opinion of the Mayor any such obstruction is being, or has been, constructed on any street or public alley, the mayor shall cause a survey of the line of said street or alley to be made by a competent surveyor, and if such survey show that the street or alley is obstructed by any such building, sidewalk, wall or fence, the owner shall be required to pay the costs of the survey and shall be required to remove all obstructions at once, and every person who shall be found to have encroached on any street or public way or alley by any such building, ten days from the date thereof shall, upon conviction, be guilty of a misdemeanor.

' 10.19 DAMAGING ORDINANCES PROHIBITED.

No person shall tear or deface any of the town ordinances.

(Prior Code, ' 1-8) Penalty, see ' 10.99

' 10.99 GENERAL PENALTY.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. ' 14-4(a))

CHAPTER 75: GOLF CARTS

Section

- 75.01 Purpose
- 75.02 Definitions
- 75.03 Rules and regulations
- 75.04 Inspection and fees
- 75.05 Enforcement

75.99 Penalty

Appendix A: Disclaimer of Liability

' 75.01 PURPOSE.

The purpose of this chapter shall be to establish a golf cart ordinance within the town to promote the health, safety and welfare of persons operating cart(s) within the town.

(Ord. passed 2-2-2010)

' 75.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GOLF CART. A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 25 mph.

OPERATOR. Only persons over 16 years of age, who possess a valid North Carolina motor vehicle operator=s license, may operate a golf cart.

(Ord. passed 2-2-2010)

' 75.03 RULES AND REGULATIONS.

(A) Carts may be driven on roads only from official sunrise to official sunset, unless the cart is equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the cart) which are visible from a distance of 500 feet.

(B) Carts must be equipped with a rear vision mirror and rear triangle reflector of the same type required by state law.

(C) No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than 25 mph.

(D) No golf cart shall be operated on any town street with a posted speed limit of greater than 35 mph; however, carts may cross over roads that have a posted speed limit of greater than 35 mph.

(E) The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart, and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the golf cart is in motion. No passengers shall be carried on the part of a golf cart designed by carry golf bags.

(F) Children must be properly seated while golf cart is in motion and may not be transported in a negligent manner.

(G) All applicable state laws shall be adhered to, including the possession and use of alcoholic beverages and all other illegal drugs.

(H) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the state and the town which governs the operation of motor vehicles.

(I) Carts are only allowed to park in handicapped parking spaces if the driver or at least one passenger has a valid handicap parking sticker or placard.

(J) Carts will adhere to all traffic flow patterns, and will operate on the far right side of the roadway and must yield to all vehicular and pedestrian traffic.

(K) Carts shall not be operated on sidewalks.

(L) Carts shall not be operated on private property without the permission and consent of the property owner.

(Ord. passed 2-2-2010) Penalty, see ' 75.99

' 75.04 INSPECTION AND FEES.

(A) The inspection by the Chief of Police, or his or her designee, will cover the following safety requirements and every cart operating on the town streets must have the following safety equipment: permits/stickers issued to operators/owners of golf carts by the Town Police Department.

(B) In order to obtain a permit/sticker, each owner must present proof of ownership and sign a disclaimer of liability, releasing the town, its employees, and affiliates from all liability that may arise as a result of operating a cart inside the town. A current disclaimer of liability must be on file with the Town Police Department, and must be renewed annually.

(C) All carts must meet the requirements or minimum standards of safety equipment as set forth in ' 75.03.

(D) Permits/stickers will be issued annually, and are valid from January 1 to December 31 of each year. Permits/stickers must be attached to driver=s side of golf cart. The following fees shall apply.

(1) Inspection by Police Department: \$10 annually (includes permit/sticker).

(2) Re-inspection by Police Department: \$5 (if a cart fails the initial inspection).

(E) Lost or stolen permit/stickers are the responsibility of the owner. A police report must be filed in the event of a lost or stolen permit/sticker. The Chief of Police will have the discretion in determining whether a permit/sticker may be re-issued in this instance. If no record can be found of a previous application, or the receipt of a permit/sticker, the Chief of Police may direct the applicant to re-apply, and also re-submit any and all fees necessary, before a replacement permit/sticker is issued.

(F) Any person who operates a cart in the town and fails to receive and properly display a town permit/sticker will be subject to all applicable state laws, in addition to being in violation of this chapter.

(G) Cart owners must complete the attached registration form. This form will be maintained by the Town Police Department.

(H) The Town Chief of Police retains the right to refuse to issue and/or revoke any permit/sticker from any cart at any time for any reason that he or she feels in appropriate to ensure the safety and well-being of the citizens of the town.

(Ord. passed 2-2-2010) Penalty, see ' 75.99

' 75.05 ENFORCEMENT.

It shall be the policy of the Town Police Department to issue a written warning or a state citation against any person the officer has probable cause to believe has violated this chapter, whether the offending person is a juvenile or any other person.

(Ord. passed 2-2-2010)

' 75.99 PENALTY.

Any act constituting a violation of this chapter or a failure to comply with any of its requirements shall subject the offender, upon conviction, guilty of a misdemeanor, and subject to a fine not to exceed \$50. Each day that any of the provisions of this chapter is violated shall constitute a separate offense.

(Ord. passed 2-2-2010)

CHAPTER 91: ANIMAL REGULATIONS

Section

- 91.01 Domesticated animals
- 91.02 Vaccinations and tags
- 91.03 Dogs running at large
- 91.04 Nuisance animal
- 91.05 Dangerous dogs
- 91.06 Vicious animals
- 91.07 Exceptions
- 91.08 Hearings on dangerous/vicious determination
- 91.09 Impoundment and reclaiming
- 91.10 Livestock
- 91.11 Non-domesticated animals

- 91.99 Penalty

' 91.01 DOMESTICATED ANIMALS.

A *DOMESTICATED ANIMAL* shall be intended to mean any canine, feline or other domesticated animal permitted under the laws of the state, both male and female.

(Ord. passed - -)

' 91.02 VACCINATIONS AND TAGS.

(A) All dogs and cats in the town are required to be vaccinated against rabies and distemper.

(B) It shall be unlawful for any dog to appear or to be on any street, park or public place in town unless the dog is wearing a collar or harness to which is attached a current rabies vaccination tag.

(Ord. passed - -) Penalty, see ' 91.99

' 91.03 DOGS RUNNING AT LARGE.

(A) *AT LARGE* means a dog off the premises of its owner, without being on a leash or restraint held by its owner or other person.

(B) It shall be unlawful for any owner/keeper of any dog to permit the animal to run at large in the town. All dogs not on their owner=s/keeper=s premises must be under control of a competent person and restrained by chain or leash or other adequate physical control.

(C) Any dog found running at large in the town may be impounded.

(D) The owner of any dog found running at large in the town, even if the animal running at large cannot be caught by the police, will be issued a civil penalty referenced in ' 91.99.

(Ord. passed - -) Penalty, see ' 91.99

' 91.04 NUISANCE ANIMAL.

(A) *Generally.* An animal shall be determined by the Police Chief or his or her designee to be a public nuisance when it commits any of the following or combination of the following, more than one time.

(1) Habitually or repeatedly chases, snaps at, attacks or barks in such a manner to disturb the reasonable use and enjoyment by neighboring residents;

(2) Without provocation, off owner=s premises inflicts serious injury;

(3) Damages personal property;

(4) Turning over garbage containers;

(5) Damages gardens or other foliage;

(6) Causes unsanitary conditions of its enclosure or surroundings; or

(6) By way of odor, noise or attraction of pests disturbs the reasonable use and enjoyment by neighboring residents.

(B) *Complaints of nuisance animals.* Complaints may be submitted to the Police Department. Upon receiving the complaint, a representative of the Police Department shall notify the owner against whom the complaint is directed and issue them a warning. Such person shall have 48 hours to abate the declared nuisance.

(C) *Second complaint of nuisance animal.* Upon the second offense, the animal shall be declared a nuisance and the animal owner is issued a citation for \$50. All subsequent offenses may be fined at \$100 each and/or animal impounded by the Police Department. The animal may be redeemed by the owner after providing proof of vaccination, paying all fines and penalties, under the condition that the animal is removed from the town limits.

(Ord. passed - -) Penalty, see ' 91.99

' 91.05 DANGEROUS DOGS.

(A) A dog may be determined dangerous by the Police Chief or his or her designee if:

(1) Without provocation has inflicted serious injury on a person;

(2) Without provocation chases or approaches a person not on the owners premises in a menacing or terrorizing manner in an apparent attitude of attack; or

(3) Kills or inflicts serious injury upon a domestic animal when not on the owner=s premises.

(B) For the animal to be declared dangerous by the Police Chief or his or her designee, he or she must notify the owner/keeper in writing, giving the reason for his or her determination.

(C) (1) All dangerous dogs shall be securely confined indoors or in an enclosed and locked pen upon the owner=s premises. All pens must be secure and provide humane treatment of the animal.

(2) The owner of a dangerous dog shall not allow the dog to go outside the structure unless the dog is muzzled and restrained on a leash by a competent person.

(3) The owner of a dangerous dog must display signs in prominent places on the owner=s premises indication there is a dangerous dog on the premises.

(4) The owner or keeper of a dog deemed dangerous shall report immediately to the Police Department if the dog gets loose or is otherwise unconfined or if it attacks a person or another animal.

(D) Any dangerous dog found at large within the town after the owner has been presented notice that such dog is dangerous may be destroyed by the police or any such person acting under the direction of the police.

(Ord. passed - -) Penalty, see ' 91.99

' 91.06 VICIOUS ANIMALS.

(A) A *VICIOUS ANIMAL* shall mean any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.

(B) Any animal may be declared vicious by the Police Chief after the owner/keeper has been notified in writing, stating the reasons for his or her determination.

(C) It shall be unlawful for any person to own, keep, possess or in any way maintain a vicious animal within the corporate limits of the town. After determination by the designated agent that a particular animal is vicious, the owner or keeper of such animal shall have it humanely destroyed or shall otherwise remove it from within the corporate limits of the town.

(D) Each vicious animal and each day=s continued violation shall constitute a separate and distinct violation.

(Ord. passed - -) Penalty, see ' 91.99

' 91.07 EXCEPTIONS.

(A) This chapter shall not apply to dogs used by a Police Department or other law enforcement agency or animals use to assist disabled persons.

(B) No dog may be declared dangerous when injury or damage is sustained by a person who was committing a willful trespass or other tort upon the premises of the dog=s owner.

(C) No animal may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing or assaulting the animal.

(D) Any animal being used for promotional or educational purposes, entertainment, exhibition or show shall be exempt from ' 91.03 provided the owner is issued clearance from the Town Manager or Police Chief.

(Ord. passed - -) Penalty, see ' 91.99

' 91.08 HEARINGS ON DANGEROUS/VICIOUS DETERMINATION.

(A) Once an owner/keeper has received written notification that their animal has been determined dangerous or vicious, they may appeal the determination by giving written notice of appeal to the Town Manager within three days of receiving their determination notice.

(B) Within ten days of receiving the notice of appeal, the Town Manager will schedule an informal hearing where evidence and witnesses may be presented. The Town Manager will make a ruling within the following five days and notify the owner of the decision in writing.

(C) If the dangerous or vicious determination is upheld, the owner must comply with all requirements and conditions listed in this chapter.

(Ord. passed - -) Penalty, see ' 91.99

' 91.09 IMPOUNDMENT AND RECLAIMING.

(A) Any animal may be impounded if:

- (1) It is found running at large in the town limits;
- (2) Its owner has failed to have the animal vaccinated for rabies and distemper;
- (3) It appears in public without a current rabies vaccination tag; or
- (4) Its owner has received two or more citations for animal being declared a nuisance.

(B) Once an animal has been impounded there will be posted a notice of impounded animal at the Police Department and the town hall, specifying the date of apprehension and the deadline by which the dog must be retrieved before it is turned over to the County Animal Control. Animals will be held at the pound for three days before contacting Animal Control to pickup the animal.

(C) Owners must pay all fines and penalties, and show proof the animal has been vaccinated and tagged before animal may be reclaimed.

(D) It shall be unlawful for any person interfering with the capture or impoundment of animal by the town, including but not limited to the prevention of an animal being trapped, the release of a trapped animal or the unlawful release of an impounded animal.

(Ord. passed - -) Penalty, see ' 91.99

' 91.10 LIVESTOCK.

(A) *Definition. LIVESTOCK* is a domestic animal normally kept for use on a farm and/or raised for sale or profit.

(B) *Generally.* It shall be unlawful for any person, firm or corporation to keep ponies, horses, mules, goats, cows, swine, sheep, poultry or other livestock in the town.

(C) *Exceptions; domesticated hens.* Up to ten hens may be kept in any single lot or tract in the town as long as the fowl do not, by reason of noise, odor, or attraction of flies, become a nuisance of health hazard, and the following conditions are met:

(1) Hens are only allowed by a single family detached home;

(2) No roosters are allowed in town;

(3) No hens will be permitted to free roan, and must be kept in a secure enclosed pen and or chicken house or coop of suitable construction and size for the number of hens maintained in it;

(4) All pens or coops, regardless of number of hens shall be cleaned and sprayed with a suitable disinfectant as often as needed. All waste material removed from the pen or coop shall be disposed of in a manner that does not cause odor or attract flies;

(5) No pen or coop shall be erected within the front or side yard, and not within 50 feet of another residence or principal building and must meet all regulation of the town zoning ordinance;

(6) Domestic hens shall only be for personal use. No resale of fowl or eggs shall be permitted in town;

(7) No backyard slaughter is allowed within the town; and

(8) A violation of any provision of this section is hereby declared to be prejudicial to the public health or safety and to constitute a public nuisance. Such nuisance animal shall be abated as set forth in ' 91.04.

(Ord. passed - -) Penalty, see ' 91.99

' 91.11 NON-DOMESTICATED ANIMALS.

(A) *Definition.* **NON-DOMESTICATED ANIMAL** is any wild animal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property. The term includes animals and birds, the keeping of which is licensed by the state or federal government. By way of example and not of limitation, the term includes: snakes, eagles, bobcats, deer and alligators.

(B) *Prohibited animals.* No person, firm or corporation shall keep, maintain or harbor within the town any of the following animals:

(1) Any animal or species prohibited by federal or state law;

(2) Any large cat of the Felidae such as lions, tigers, jaguars, cougars, except commonly domesticated house cats;

(3) Any member of the family Canidae, such as wolves, foxes, coyotes, except domesticated dogs;

(4) Any crossbreed such as crossbreeds between dogs and coyotes, or dogs and wolves;

(5) Any poisonous snake or pit viper such as a rattlesnake, coral snake, water moccasin, copperhead or cobra.

(6) Any raccoon;

(7) Any other animal which is not listed explicitly above, but which can reasonably be defined by the terms in ' 91.10, including bears, and badgers.

(C) *Exceptions.* The following non-domesticated animals shall be exempt from the provision of division (B) of this section:

(1) Non-domesticated animals brought into the town for entertainment, exhibition, show, promotional or educational purposes, provided such animals are kept within an enclosure or other secure method of storage; and

(2) Non-poisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas or lizards and similar small animals.

(D) *Existing non-domesticated animals.* Any person keeping or maintaining any non-domesticated animal in violation of this chapter at the time this chapter has been adopted will be required to remove the animal within 60 days of its passage.

(E) *Impounding of non-domesticated animals.* Any non-domesticated animal kept in violation of this chapter may be impounded by the town, and after three days or more without being reclaimed by the owner,

may be sold or destroyed. The owner may reclaim the animal by paying all fines and penalties, under the condition that the animal is removed from the town limits.

(Ord. passed - -) Penalty, see ' 91.99

' 91.99 PENALTY.

(A) Any violation of ' ' 91.01 through 91.09 shall subject the offender to a civil penalty in the amount stated in this section. Violators shall be issued a written citation which must be paid at the town hall within five days. Fines are as follows:

- (1) Animal running at large (1st violation): \$ 50;
- (2) Animal running at large (2nd and subsequent violations): \$100;
- (3) Nuisance animal (1st violation): \$ 50;
- (4) Nuisance animal (2nd and subsequent violations): \$100;
- (5) Dangerous dog: \$ 50;

(6) Vicious dog: \$ 50; and

(7) Interfering with capture or impoundment: \$50.

(B) The owner of each impounded animal will be charged a maintenance and care fee of \$10 per day. The impound fee must be paid before any animal may be reclaimed by its owner.

(C) Violation of ' ' 91.01 through 91.09 may also constitute a misdemeanor punishable upon conviction by a fine not to exceed \$100 or imprisonment for not more than 30 days as provided by G.S. ' 14-4.

CHAPTER 95: HEALTH AND SANITATION

Section

General Provisions

- 95.01 Offal or refuse thrown on streets
- 95.02 Stagnant water; drainage, oiling and the like
- 95.03 Privies prohibited
- 95.04 Septic tanks regulated

Public Nuisances

- 95.15 Enforcement
- 95.16 Nuisances declared
- 95.17 Maintenance of exterior of premises required
- 95.18 Notification of property owner
- 95.19 Right of entry to abate; appeals

95.20 Costs of abatement; lien

95.21 Chronic violators

95.99 Penalty

Statutory references:

Abatement of imminent hazard, see G.S. ' 130A-20

Abatement of public health nuisance, see G.S. ' 130A-19

Municipal abatement of public health nuisances, see G.S. ' 160A-193

GENERAL PROVISIONS

' 95.01 OFFAL OR REFUSE THROWN ON STREETS.

No house offal or refuse of any kind shall be thrown upon the streets or left exposed, and no butcher, fishmonger, huckster or vendor of merchandise of any kind shall leave any refuse on the streets or uncovered by earth on the lots of the town, and all putrid or decaying animal or vegetable matter must be removed from all cellars and outbuildings at least once in every 48 hours during the months of May, June, July, August and September, and at least once a week during the other months of the year.

(Prior Code, ' 22-1) Penalty, see ' 95.99

' 95.02 STAGNANT WATER; DRAINAGE, OILING AND THE LIKE.

It shall be unlawful for any owner, lessee, tenant or occupant of any building or premises to keep or permit thereon any standing water, matter or substance injurious to health or offensively odorous. All cellars, excavations, ditches or open spaces wherein water at any time stagnates or arises, or which are damp, and in which foul and unwholesome gases are generated, and all premises whereon water shall pond, shall upon written notification by or through the Health Officer, be provided with proper drainage by the owner thereof, or be filled with sand, gravel or some other imperishable material, but not in such manner as to obstruct proper drainage of water. All property owners when required so to do shall provide underground drainage for water passing over their premises. Cisterns, tanks, vats, fire buckets and other receptacles used to contain water, shall be screened or oiled whenever, in the opinion of the Board of Health, such screening or oiling is necessary to prevent the breeding of mosquitoes.

(Prior Code, ' 22-2) Penalty, see ' 95.99

' 95.03 PRIVIES PROHIBITED.

No person, group of persons, firm or corporation shall build or remodel any structure used for human habitation or occupancy within the town which is not provided with water-carried sewage facilities connected to a public sewerage system or septic tank constructed in accordance with the requirements of the state division of environmental health.

(Prior Code, ' 22-3) Penalty, see ' 95.99

' 95.04 SEPTIC TANKS REGULATED.

It shall be the responsibility of the property owner to maintain all septic tanks installed within the town in good repair and working order. Whenever any septic tank becomes overloaded or gets out of order or when any connections thereto become stopped up or broken or when any condition exists which creates or is likely to create a hazard detrimental to the public health, the owner shall, within 36 hours after being notified by the town, repair or replace such septic tank or connection thereto. Any property owner failing or refusing to comply with this section after having been notified by the town shall be guilty of violating this subchapter.

(Prior Code, ' 22-4) Penalty, see ' 95.99

*PUBLIC NUISANCES***' 95.15 ENFORCEMENT.**

The Town Manager shall act as or appoint an individual as the enforcement officer for this subchapter. The individual so appointed shall have the duty of full enforcement of this subchapter, and any enforcement officer shall be clothed with full power and authority imposed by this subchapter, and is hereby authorized and directed to proceed to carry out the provisions of this subchapter.

(Ord. passed 11-3-2015)

' 95.16 NUISANCES DECLARED.

(A) The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the same may exist, and the creation, maintenance or failure to abate the nuisances is hereby declared unlawful:

(1) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests;

(2) A place of heavy growth of weeds or other noxious vegetation over 12 inches in height. This shall include the area between a property line and the edge of pavement of any abutting street, and to the centerline of any abutting alleyway;

(3) An open place of collection of water where insects tend to breed;

(4) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;

(5) An open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind; or

(6) Any furniture, appliance or other metal product of any kind or nature openly kept, which has jagged edges of metal or glass, or areas of confinement.

(B) Any other condition not enumerated in division (A) above may be specifically declared to be a danger to the public health, safety, morals and general welfare of the inhabitants of the town and a public nuisance by the Town Council, which proceeding may be initiated by the enforcement officer before the Town Council after giving written notice in conformity with ' 95.18, which notice will state the condition existing, the location and that the Town Council will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the town and a public nuisance and that, after the declaration by the Town Council in the form of an ordinance, the condition will be abated as provided for in ' 95.18, provided that no appeal shall lie from a proceeding initiated by the enforcement officer before the Town Council as provided in ' 95.18.

(Ord. passed 11-3-2015) Penalty, see ' 95.99

Statutory reference:

Abatement of public health nuisance, see G.S. ' 160A-193

' 95.17 MAINTENANCE OF EXTERIOR OF PREMISES REQUIRED.

(A) It shall be unlawful for any person to keep on their front porch furniture designed for interior use, waste, lumber, junk, trash, debris, abandoned objects, bedding, packing boxes, cans, containers, accumulation of substantial quantities of loose earth, rocks, pieces of concrete or cement or pieces of metal, appliances, automotive machine parts or any collection of materials that can be considered combustible or that can harbor rats or other pests. After notice of violation of this section as per ' 95.18, it shall be unlawful to allow the items to remain on the porch of the occupant or owner for a period longer than ten days.

(B) It shall be unlawful for any person to have on their premises material that creates a littered condition, such as dilapidated furniture, discarded appliances, broken machinery, dilapidated building materials, discarded automotive parts, tires or any other similar items which are not completely enclosed within a building or dwelling. After notice of violation of this section as per ' 95.18, it shall be unlawful to allow the items to remain on the property of the occupant or owner for a period longer than ten days. This shall not apply to authorized junk dealers or establishments licensed to engage in repair, rebuilding, reconditioning or salvaging of equipment.

(Ord. passed 11-3-2015) Penalty, see ' 95.99

' 95.18 NOTIFICATION OF PROPERTY OWNER.

When any public nuisance is found to exist on any property within the town, the enforcement officer shall notify the owner of the premises where the nuisance is located that conditions exist which constitute a public nuisance and that, unless the condition is abated by the property owner by the number of days listed below from the mailing of the notice or by personal delivery, which shall be sent by certified mail, return receipt requested, the conditions constituting a nuisance will be abated by the town and the cost of abatement shall constitute a lien against the premises.

(A) Ten days: A place of heavy growth of weeds or other noxious vegetation over 12 inches in height. This shall include the area between a property line and the edge of pavement of any abutting street, and to the centerline of any abutting alleyway;

(B) Fifteen days: all other nuisances listed in this chapter.

(Ord. passed 11-3-2015)

' 95.19 RIGHT OF ENTRY TO ABATE; APPEALS.

(A) The enforcement officer is hereby given full power and authority to enter upon the premises involved for the purpose of abating any nuisance found to exist as set out in this chapter and such nuisance will be abated by town forces or an outside contractor.

(B) Within the period mentioned in ' 95.18, the owner of the property where the nuisance exists may appeal the findings of the enforcement officer made pursuant to ' 95.16 to the Town Council by giving written notice of appeal to the enforcement officer, the appeal to stay the abatement of the nuisances by the enforcement officer until a final determination by the Town Council. In the event no appeal is taken, the enforcement officer may proceed to abate the nuisance.

(C) The Town Council, in the event an appeal is taken as provided in division (B) above, may, after hearing all interested persons and reviewing the findings of the enforcement officer, reverse the finding made pursuant to ' 95.16 but if the Town Council shall determine that the findings of the enforcement officer made

pursuant to the section are correct and proper, it shall adopt an ordinance specifically declaring the condition existing on the property to be a danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and a public nuisance, and directing the enforcement officer to cause the conditions to be abated.

(Ord. passed 11-3-2015)

' 95.20 COSTS OF ABATEMENT; LIEN.

After the abatement of any nuisance as provided in this subchapter, the cost of the abatement shall be a charge against the owner and a lien on the premises upon confirmation of the cost thereof by the Town Council, which confirmation shall take place only after ten days= written notice to the owner of the premises where the nuisance existed of the proposed confirmation. Upon confirmation, the cost of abatement shall be a lien against the premises from which the nuisance was abated, the same to be recorded as provided in G.S. ' ' 160A-193 et seq., and to be collected as unpaid taxes.

(Ord. passed 11-3-2015)

' 95.21 CHRONIC VIOLATORS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CHRONIC VIOLATOR. A person or entity who owns property whereupon in the previous calendar year, the town gave notice to abate at least three times under any provision of this subchapter, and the owner failed to abate the property and where the town came in and abated the property. A notice of being classified as a *CHRONIC VIOLATOR* will be sent via certified mail to the owner on or about the beginning of the new calendar year.

(B) *Action taken.* Upon determination of a chronic violator and where a property is found to be in violation of this subchapter, the town may, without further notice in the calendar year in which the notice to abate is given, take action to remedy the violation, and the expense of such action shall become a lien upon the property and shall be collected as unpaid taxes. The owner would receive an annual notice via certified mail.

(Ord. passed 11-3-2015)

' 95.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person, firm or corporation violating any of the provisions of this chapter for which no other penalty is provided, or failing, neglecting or refusing to comply with the same shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this chapter are violated shall constitute a separate offense.

CHAPTER 96: NOISE REGULATIONS

Section

- 96.01 Definitions
- 96.02 Standards
- 96.03 Maximum permitted sound levels
- 96.04 Prohibited noise
- 96.05 Exceptions
- 96.06 Motor vehicle noise
- 96.07 Mufflers
- 96.08 Animal noises prohibited
- 96.09 Permits

- 96.99 Penalty

' 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated Db(A).

DECIBEL (Db). A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

HOLIDAY. For the purposes of this chapter, the following days will be recognized as holidays for the purpose of granting permits to exceed maximum sound levels: St. Patrick's Day, Memorial Day, Independence Day, Labor Day, Halloween and December 31.

MUFFLER. An apparatus consisting of a series of chambers of baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

NOISE. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

OUTDOOR AMPLIFIED SOUND. Any sound using amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other opening in the building.

PERSON. Any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

PLAINLY AUDIBLE. Any sound produced by a sound amplification system which can be clearly heard at a distance of 75 feet or more. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberations are included.

SLOW RESPONSE. A measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four Db or more. By way of illustration only, a sound-level meter set on *SLOW*

RESPONSE would record a sound level between two and six decibels less than the reading for a steady signal of the same frequency and amplitude when a tone of 1,000 Hz and for a duration of 0.5 seconds is applied.

SOUND. An oscillation in pressure particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of *SOUND* may include any characteristic of such sound, including duration, intensity and frequency.

SOUND AMPLIFICATION SYSTEM. Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

SOUND LEVEL. The weighted sound pressure level obtained by the use of a sound-level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971 or the latest approved version of thereof). If the frequency weighting employed is not indicated, the A-weighting shall also apply.

SOUND LEVEL METER. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting network used to measure sound pressure levels.

SOUND PRESSURE LEVEL . Twenty times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of 20 micronewtons per square meter.

(Ord. passed 10-8-2002)

' 96.02 STANDARDS.

(A) Standards, instrumentation, personnel, measurement procedures and reporting procedures to be used in the measurement of sound shall be as specified in this section and in administrative directives issued by the Town Manager.

(B) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on A-slow response@.

(C) Sound level meters shall be at least Type II meeting American National Standards Institute (ANSI) S1.4-1971 requirements.

(Ord. passed 10-8-2002)

' 96.03 MAXIMUM PERMITTED SOUND LEVELS.

(A) The use of sound amplifying equipment is limited to the conditions specified in this section.

(B) Outdoor amplified sound, including a live musical group or individual using sound amplifying equipment, may be produced only if an authorized agent of the sponsoring business, organization or group has been granted an outdoor amplified sound permit. This permit must be signed by a representative of the business, organization or group holding or sponsoring the event at which the outdoor amplified sound will be produced.

(C) Except as allowed in division (D) below, no person shall operate or cause to be operated by any source of sound in such a manner as to create a sound level, which at its peak exceeds the limits set forth for the use occupancy categories in Table 1 when measured at or beyond the property line of the property from which the sound originates. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases, the maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates, and not by the use occupancy of any surrounding property. Sound which originates from a dwelling unit in a duplex or other multi-family housing unit shall be measured from any point which is at least 25 lineal feet, whether inside or outside a building, from the nearest point of the enclosed or habitable space of the dwelling unit from which the sound originates.

<i>Table 1: Sound Levels by Use Occupancy</i>		
<i>Use Occupancy Category</i>	<i>Time</i>	<i>Sound Level Limit (Db(A))</i>
Manufacturing, industrial or agricultural	At all times	75
Public space, commercial or business	7:00a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	60

Residential	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	55

(D) Sound levels in excess of the limits established in Table 1 will be permitted in public space, commercial or business space, manufacturing, industrial or agricultural space, but not in residential space, as follows:

<i>Table 2</i>		
	<i>Without Permit (Db(A))</i>	<i>With Permit to Exceed (Db(A))</i>
Friday and Saturday evenings (5:00 p.m. to 11:00 p.m.)	70	80
Holidays (as defined) (noon to 11:00 p.m.)	70	80

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.04 PROHIBITED NOISE.

(A) The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but such enumeration shall not be deemed exclusive:

(1) *Loud and boisterous individuals.* The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort of repose of any person in the vicinity;

(2) *Noises near schools, churches, courts, hospitals and the like.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library or court while the same is in session, or adjacent to any church during church services, which interferes with work or worship in any such place or

institution, provided conspicuous signs are displayed on such street indicating that the same is school, church, library, court or hospital;

(3) *Loading and unloading operations.* The creation of loud and excessive noises in connection with loading or unloading any vehicle, or repairing any vehicle, or opening and destroying bales, boxes, crates, and containers this includes the collection of garbage, recycling materials and yard waste. Activity is permitted between the hours of 7:00 a.m. and 7:00 p.m.;

(4) *Hawking, peddling, soliciting.* Shouting, loud talking, crying or soliciting by peddlers, hawkers, taxi drivers, solicitors and vendors, which disturbs the quiet and peace of the neighborhood or any person therein; and

(5) *Business noise at night near residences.* The operation of any garage, filling station, auto repair business, plant, store, factory, night club, restaurant or any other place of business, between the hours of 7:00 p.m. and 7:00 a.m., in such a manner as to create loud and disturbing noises of such frequency or such volume as to annoy or disturb the quiet and comfort of any citizen, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence.

(B) (1) It shall be unlawful for any person or persons to play, use or permit to be played any loud sound amplification system if it is located in any of the following:

(a) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare;

(b) Any motor vehicle on a public street, highway, public space or commercial space; or

(c) Any commercial space or place of business;

(2) And if the sound generated registers a sound level which exceeds the limits in Table 1 when measured at a distance of 25 feet from the device producing sound, unless authorized or exempted by any other section of this chapter.

(C) Possession by a person or persons of any machines or devices which may be classified as a loud sound amplification system enumerated in division (A) above shall be prima facie evidence that such person or those persons operated the machine or device.

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.05 EXCEPTIONS.

The following are exempt from the provisions of Table 1 and Table 2 in ' 96.03:

(A) Sound emanating from scheduled outdoors athletic events;

(B) Building operations. The erection, including excavating, demolition, alteration or repair of any building in a residential district other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, except as said hours may be modified during the summer (May through September) and except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Manager, which permit may be renewed for a period of three days or less while the emergency continues. All equipment must be operated in accord with the manufacturer=s specifications and are maintained in proper operating condition;

(C) Noise of safety signals, warning devices, emergency pressure relief valves and all church bells;

(D) Noise resulting from any authorized emergency vehicle;

(E) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, or for which a local permit has been granted by the town, provided such activity is of a temporary duration lasting no longer than two hours during any 24-hour period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this chapter and according to any additional conditions stated on the permit;

(F) Unamplified and amplified sound at street fairs conducted, sponsored or sanctioned by the town;

(G) All noises coming from the normal operations of properly equipped aircraft (not including scale-model aircraft);

(H) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to G.S. ' ' 14-410 et seq.;

(J) Lawn mowers and agricultural equipment used between daylight hours 7:00 a.m. and 9:00 p.m. when operated with all manufacturer=s standard mufflers and noise-reducing equipment in use and in proper operating condition;

(J) Unamplified and amplified sound at community concerts conducted, sponsored or sanctioned by the town;

(K) Practice sessions or a performance by marching bands;

(L) Noise from trains and associated railroad rolling stock when operated in proper repair and manner; and

(M) Emergency work, as defined in ' 96.01.

(Ord. passed 10-8-2002)

' 96.06 MOTOR VEHICLE NOISE.

It shall be unlawful for any person or persons to play, use or permit to be played any loud sound amplification system in a motor vehicle on any public street, highway, public space or commercial space where the sound generated is plainly audible at a distance of 75 feet from the device producing sound, unless authorized or exempted by any other section of this chapter. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberation are included.

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.07 MUFFLERS.

(A) It shall be unlawful for any person to operate or cause to be operated a motor vehicle unless the exhaust system is free from defects, which affect sound reduction.

(B) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle.

(C) It shall be unlawful for any person to modify the exhaust system of a motor vehicle by the installation of a muffler cut-out or bypass, and no person shall operate a motor vehicle which has been modified.

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.08 ANIMAL NOISES PROHIBITED.

It shall be a violation of this chapter for any person to keep or maintain, or permit the keeping of, on premises owned, leased, occupied or controlled by such person, any animal or fowl, the keeping of which is otherwise lawful, which by habitual or frequent sound, cry, howling, barking, squawking or other noise, shall disturb the quiet, comfort or repose of any person.

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.09 PERMITS.

(A) *Who may apply.* A person or group of persons may produce or cause to be produced sound in excess of the limits set in Table 1 only if a permit to exceed has been obtained. With a permit granted pursuant to this section, maximum sound levels shall be as set out in Table 2.

(B) *Application for permit.* Any person or group of persons desiring an outdoor amplified sound permit or A permit to exceed@ shall apply as provided in this section, and shall provide information concerning the nature of the scheduled event; failure to comply with this requirement shall be grounds for denying the permit.

(C) *Action by Town Manager.* The Town Manager or his or her designee shall act upon all requests for permits. In considering and acting on all requests for permits pursuant to this chapter, the Town Manager shall

consider, but shall not be limited to, the following in issuing or denying such permit: the vicinity of the location proposed; the frequency of applications by the applicant; the cultural or social benefits of the proposed activity; the effect of the activity on and residential area of the town; and previous violations, if any, of the applicant.

(D) *Fee for permit.* Every application for permit shall require a \$15 administrative fee.

(E) *Conditions on permits.*

(1) Permits to exceed and outdoor amplified sound permits shall specify the duration for which noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood.

(2) The Town Manager or his or her designee may require, but shall not be limited to the following.

(a) No sound speakers may be set up more than ten feet off the ground.

(b) The permit holder change the arrangement of amplifying equipment or sound instruments upon the request of any police officer so as to minimize the disturbance to others resulting from the positioning or orientation of the amplifying equipment or from atmospherically or geographically caused dispersal of sound beyond the property lines.

(c) Adjoining property owners surrounding the location proposed as the site of the permitted event be notified by the applicant at least 72 hours prior to the scheduled event, and also advised of the time by which cleanup of the area will be accomplished. Notice to the adjoining property owners shall include a statement indicating that comments or concerns regarding the issuance of a permit at the proposed location may be made to the Town Manager.

(d) No permitted event may last more than four hours in duration. This is a mandatory condition.

(e) No event may extend beyond 12:00 a.m. This is a mandatory condition.

(f) The site of the event, and the area surrounding the site of the event, will be cleaned by the applicant, of all the trash, litter and debris by 10:00 a.m. the following day, or by sunset of the day of the event if the event ends at least four hours before sunset.

(g) The signer for the permit must be available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the signer of a permit to be present or to assist the police in complying with this chapter will be cause for immediate revocation of the permit.

(Ord. passed 10-8-2002) Penalty, see ' 96.99

' 96.99 PENALTY.

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount of \$50, which may provide for a \$15 delinquency charge if said penalty is not paid within 20 days of issuance, and which penalty and delinquency charge may be recovered by the town in a civil action. The violation is payable to the Town Clerk at the Town Hall.

(B) Each day=s continuing violation shall be a separate and distinct offense.

(C) Notwithstanding division (A) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent

(D) In addition to or in lieu of remedies authorized in divisions (A) and (C) above, violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. ' ' 14-4 and 160A-175. The penalty for a misdemeanor offense shall be \$150, and may be made upon issuance of a citation or if the violator fails to pay the civil penalty.

(Ord. passed 10-8-2002)

CHAPTER 110: ITINERANT MERCHANTS, PEDDLERS,
TRANSIENT VENDORS AND SOLICITORS

Section

- 110.01 Definitions
- 110.02 General provisions
- 110.03 Application; permit; standards for issuance
- 110.04 Fees; rules
- 110.05 Exhibition of identification
- 110.06 Standards for revocation
- 110.07 Appeal process

- 110.99 Penalty

' 110.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ITINERANT MERCHANT. Any merchant, other than a merchant with an established retail store in the town who transports an inventory of goods to a building, vacant lot or other locations in the town and who, at that location, displays the goods for sale and sells the goods at retail. A merchant who sells goods, other than farm products, in the town for less than six consecutive months is considered an *ITINERANT MERCHANT*, unless he or she stopped selling goods in the town because of death or disablement, the insolvency of his or her business, or the destruction of his or her inventory by fire or other catastrophe.

PEDDLER. Any person who carries from place to place any goods, wares or merchandise, subscriptions, services and/or discount coupons (hereinafter referred to as *Awares@*), or without traveling from place to place, selling or offering for sale any goods from any vehicle or device, and offers to sell or barter the same or actually sells or barter the same, except such person who is a wholesale dealer selling only to merchants for resale.

SOLICITOR. Any person traveling from place to place, taking or offering to take orders for the sale of goods for future delivery, or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance; and using or occupying any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery, or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

TRANSIENT VENDOR. Any person engaging in a temporary business of selling and delivering goods, and for this purpose, using or occupying any building or premises; provided that merely associating a transient business with a permanently established business does not exclude it from this definition.

(Ord. passed 11-3-2015)

' 110.02 GENERAL PROVISIONS.

(A) A person deemed an itinerant merchant, peddler, solicitor or transient vendor shall apply and procure from the Police Department via the Chief of Police, or his or her designee, a town permit for the privilege of transacting such business, and shall pay the required permit fee as hereinafter set forth.

(B) It shall be unlawful for any person to sell or offer for sale or peddle wares upon the public streets or public parking lots of the town, or to engage in business as an itinerant merchant, peddler, solicitor or transient vendor anywhere in the town, without first having applied for and obtained a permit to do so from the Chief of Police or his or her designee. For the purposes of this chapter, *ANY PERSON* or *EACH PERSON* means an individual and shall be considered in the singular. Each person working for or acting as an agent or in any capacity for an individual, a partnership, a corporation, a company or a business of whatever nature or kind, must apply for and obtain a permit as set out in this chapter.

(C) Any person who sells or offers to sell any wares from his or her possession, a cart, truck, automobile or other vehicle operated over and upon the streets and highways within the town, shall be deemed an itinerant merchant, peddler, solicitor or transient vendor within the meaning of this chapter. Nothing in this section shall apply to the sale of farm products raised on the premises owned or occupied by the person, or his or her bona fide agent or employee selling the same.

(D) This chapter shall not apply to solicitation for charitable, civic, religious or patriotic purposes by persons who serve without compensation or remuneration; nor shall it apply to persons engaging in door-to-door advocacy of a religious, political or other cause where money or other valuable consideration is not being solicited; nor shall it apply to the distribution of religious or political handbills or pamphlets. Further, this chapter shall not apply to any person under the age of 18 years old who desires to offer a service only and who does so solely as a means of earning money for his or her own personal or family use on a short-term, temporary basis, such as and by example only, mowing lawns and raking leaves.

(E) This chapter shall not apply where town merchants and/or proprietors of stores display goods adjacent to their businesses for sale in front of their stores; nor shall this chapter apply to any individual, business or organization displaying goods for sale as part of a duly town-authorized festival or public event for which such goods are authorized to be sold.

(Ord. passed 11-3-2015) Penalty, see ' 110.99

' 110.03 APPLICATION; PERMIT; STANDARDS FOR ISSUANCE.

(A) Each person desiring a permit to engage in business as an itinerant merchant, peddler, solicitor or transient vendor within the town shall make written application to the Chief of Police, at least five working days before that person seeks to sell that person=s wares.

(B) The application shall contain the following:

(1) The name, address, date of birth and Social Security number of the applicant, and a vehicle description and tag number of the vehicle to be used by the applicant (if applicable);

(2) The name and address of the person and/or company, if any, that the applicant represents;

(3) An accurate and detailed description of the kind of wares offered for sale. No wares reasonably deemed dangerous or likely to cause damage by releasing projectiles or substances shall be permitted;

(4) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;

(5) The period of time the applicant wishes to engage in the business within the town;

(6) Police Department employees, who are certified operators of the Division of Criminal Information Network (ADO@) and certified by the State Bureau of Investigation (ASBI@), will run the applicant=s criminal record for local or state criminal records checks. This will provide acceptable evidence that the applicant has no state criminal record that would prohibit the issuance of a permit. If the applicant is found to have an out-of-state criminal history, the applicant will be responsible for providing a certified copy to the Chief of Police. The following will constitute valid reasons for disapproval of an application:

(a) Has been convicted of a crime of moral turpitude;

(b) Has made willful misstatements in the application;

(c) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;

(d) Has committed prior fraudulent acts;

(e) Has a record of continual breaches of contracts; or

(f) Has an unsatisfactory moral character.

(7) Information concerning whether the applicant is on, or has been on, parole or probation in the state, any other state, or the federal government;

(8) A list of any criminal offenses, other than minor traffic offenses, for which the applicant has been charged within the past five years. For purposes of this division, a *MINOR TRAFFIC OFFENSE* is an offense that is a violation of G.S. Ch. 20, and that is punishable as, or would be punishable as, an infraction in the state.

(Ord. passed 11-3-2015)

' 110.04 FEES; RULES.

(A) *Fee.* A non-refundable fee of \$25 must be paid before an application can be processed, provided that payment of this fee is not a guarantee or promise that the application will be approved.

(B) *Rules.* Each individual person desiring to engage in the activity of an itinerant merchant, peddler, solicitor or transient vendor, as defined herein, must obtain a permit. A permit is not transferable and cannot be used for the activity of another person working or acting on behalf of an applicant for a permit.

(C) *Falsification.* Falsification of any matter on or provided as part of the application for a permit shall be grounds for immediate denial of the permit.

(D) *Issuance.* No permit shall be issued under the provisions of this chapter until the applicant has complied with all the provisions and requirements of this chapter.

(E) *Denial.* A permit can be denied for the same reasons that it can be revoked as set out in this chapter.

(F) *Permitted hours.* A person issued a permit pursuant to this section shall not engage in the activity of an itinerant merchant, peddler, solicitor or transient vendor between the hours of 9:00 p.m. through 9:00 a.m. in residential areas; except in ballparks during recreational events, but no later than 15 minutes after the event, except in town parks, venues and facilities during town-sponsored or approved events.

(G) *Duration.* A permit shall be issued for the period requested in the application or for as long as the information on the face of the application is unchanged, provided, however, no permit shall be issued for a period exceeding 90 days or three calendar months. Upon expiration of the permit due to time or to change in information, the applicant may apply for a renewal of the permit, upon a form designated by the Chief of Police, which shall indicate what changes, if any, have occurred since the date the original application was

completed. The Police Department may renew and extend the permit for an additional term not to exceed three calendar months. Each renewal or change in the application shall carry the same application fee of \$25.

(H) *Contents.* Each permit issued under the provisions of this chapter shall be signed by the Chief of Police, or his or her designee, shall be dated as of the date of its issuance, and shall state its duration or term on its face. Any permit not dated and signed as required in this section, or which was issued in violation of this section, shall be void.

(Ord. passed 11-3-2015) Penalty, see ' 110.99

' 110.05 EXHIBITION OF IDENTIFICATION.

(A) *Display.* Every itinerant merchant, peddler, solicitor or transient vendor issued a permit under the provisions of this chapter, and doing business within the town, shall wear and display a town-approved permit in a manner clearly visible to anyone that person is approaching for the purpose of selling or attempting to sell the wares of that itinerant merchant, peddler, solicitor or transient vendor.

(B) *Possession and display of identification.* Any person, while engaged in the activity of an itinerant merchant, peddler, solicitor or transient vendor as set out in this chapter, shall, in addition to displaying a valid permit, possess a current, verifiable form of photographic identification, and must present that identification, upon either the request of a law enforcement officer or upon the request of any person approached by the itinerant merchant, peddler, solicitor or transient vendor attempting to sell or selling his or her wares to the person requesting the identification. For purposes of this division, a *VERIFIABLE FORM OF PHOTOGRAPHIC IDENTIFICATION* shall include, but not be limited to, a valid driver=s license, passport, state-issued identification card or student identification card containing a recent photograph of the person identified.

(Ord. passed 11-3-2015)

' 110.06 STANDARDS FOR REVOCATION.

(A) *Revocation.* Any permit issued under the provisions of this chapter may be revoked by the Chief of Police, or his or her designee, for the violation by the itinerant merchant, peddler, solicitor or transient vendor permit holder of any applicable provision of this chapter, state law or town ordinance, rule or regulation applicable to peddlers, or for the violation of any state or federal law as denoted below.

(B) *Grounds for issuance or denial of a permit.* A permit shall be issued or renewed if the applicant satisfies the following requirements and the application shall be denied otherwise:

(1) The applicant=s criminal record shall be free of any convictions of criminal offenses involving crimes of violence, the possession, use or sale of weapons, sexual offenses, prostitution, offenses involving the transportation, sale or possession of alcohol or controlled substances for sale, indecent exposure, contributing to the delinquency of a minor and fraud;

(2) The applicant shall not be a registered sexual offender;

(3) The application must be free of any fraud, misrepresentation or any false statement;

(4) The applicant (or employer) must pay any privilege tax or business license fee;

(5) The applicant (or employer) must pay all fees associated with the application; and

(6) The applicant (or employer) must satisfy all zoning requirements if activities take place on privately owned land.

(C) Prior to denial of any permit based on a criminal record check obtained by the Police Department, the Town Manager or designee will verify that record by either obtaining a certified public record, or by requiring the applicant to submit to the Police Department a fingerprint card of the applicant or individual to the SBI for verification.

(Ord. passed 11-3-2015)

' 110.07 APPEAL PROCESS.

An applicant may appeal the denial or revocation of a permit by submitting a written notice of appeal to the Town Manager or designee, specifying with particularity the grounds upon which the appeal is based. An appeal shall be submitted no later than ten days from the date of the denial or revocation of the permit in question. The Town Manager or designee shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties and shall render a decision within a reasonable time. The Town Manager=s or designee=s decision shall be the town=s final decision.

(Ord. passed 11-3-2015)

' 110.99 PENALTY.

(A) *Misdemeanor*. A violation of this chapter shall be punishable as a Class 3 misdemeanor by a fine of \$250 for the first offense, and a fine of \$500 for the second and subsequent offenses.

' 150.080 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of an ordinance authorizing and directing him or her to do so, as provided by G.S. ' 160A-443(5) and ' 150.078(C), the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this subchapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: AThis building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.@ Occupation of a building so posted shall constitute a misdemeanor.

' 150.085 VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to ' 150.078, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(C) The violation of any provision of this subchapter shall constitute a misdemeanor, as provided by G.S. ' 14-4.

' 150.107 IN REM ACTION BY TOWN MANAGER, CHIEF OF POLICE OR DESIGNATED TOWN OFFICIAL; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Town Manager, Chief of Police or designated town official issued pursuant to the provisions of this subchapter, and upon adoption of the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. ' 160A-443(s) and ' 150.104, the town official shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

CHAPTER 153: ZONING CODE

Section

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Cross-reference:

Planning, see Chapter 151

GENERAL PROVISIONS

' 153.01 PURPOSE.

In order to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the corporate area, there is hereby adopted and established an official zoning plan of the town. This zoning plan is adopted pursuant to the authority vested in the town by its Charter and by state law.

(Prior Code, ' 62-1) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All words used in the present tense shall include the future tense; all words in the singular number shall include the plural number; and all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise; the words "used for" shall include the meaning "designed for"; the word "structure" shall include the word "building"; the word "lot" shall include the words "plot" and "tract" and the word "shall" is mandatory.

ACCESSORY BUILDING. A subordinate use building customarily incidental to and located upon the same lot occupied by the main use building. No **ACCESSORY BUILDING** shall be used for human habitation, exceed one story in height, or be erected closer than three feet to the property line when measured from the nearest line of the accessory building to the nearest property line of the lot.

ALLEY. A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

AMUSEMENT CENTERS. Establishments that are designed for amusements, either indoor or outdoor, including but not limited to, amusements such as game rooms, bingo parlors, pool and billiard rooms, bowling, miniature golf, video games, skating rinks and similar uses.

ANIMAL FEEDER/BREEDER OPERATIONS. Establishments consisting of any lot, building, or combination of lots or buildings designed or used for the feeding, breeding, raising, or holding of hogs, chickens, or turkeys in a confined area; but excluding livestock raised for and used by the owner of said land for personal consumption.

APARTMENT. A room or suite of one or more rooms in a multiple dwelling intended for use as a residence by a single family.

APARTMENT HOUSE. See *DWELLING, MULTIPLE FAMILY*.

AUTOMOBILE REPAIR GARAGE. An establishment where the following services may be carried out: major repair, engine rebuilding, rebuilding and reconditioning of motor vehicles, collision service such as body, frame, or fender repairs, painting and undercoating of vehicles.

AUTOMOBILE SERVICE CENTER. An establishment where the retail sale of accessories and services for automobiles are provided as a primary use, including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including space for facilities for major storage, repair, painting and refinishing.

AUTOMOBILE SERVICE STATION. An establishment where gasoline or other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of automobiles) are related directly to the public on the premises, including sale of minor accessories and services for automobiles, which are limited to lubrication, changing oil and filters, changing and repair of tires and tubes, engine tune-up, hand washing and polishing, replacement of light bulbs, windshield wiper blades and other small parts, but does not include steam cleaning, body repairs, chassis or engine repair, except as listed above.

BOARDINGHOUSE. A building other than a hotel or motel where meals are served for compensation and one or more rooms are rented for boarders.

BUILDING. See *STRUCTURE*.

BUILDING, HEIGHT OF. The vertical distance from the average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

CAMPING TRAILER. A partially folding or collapsible structure, mounted on wheels, and designed for use as a temporary dwelling for travel, recreational and vacation use.

CHURCH, CLUB, or PRIVATE LODGE OR CLUBS. An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreation, or like activities operated on a nonprofit basis for the primary benefit of its members.

COMMERCIAL ANTENNA. Any combination of antenna support, accessory structures and buildings, and antennas designed in whole or in part for the reception and/or transmission of radio frequency energy as a part of a licensed radio, TV or microwave facility employed for commercial use. *COMMERCIAL ANTENNAS* shall include such services as are employed by nonprofit or religious stations not licensed under the amateur or CB regulations of the Federal Communications Commission.

COMMUNICATION TOWER. A tower, pole, or similar structure, which supports a telecommunication antenna operated for governmental/commercial purposes, above ground, in a fixed location, free standing, guyed, or on a building.

CONDITIONAL USE. A use that would not be appropriate generally as a use by right without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, general welfare, morals, order, comfort, convenience, appearance or prosperity. *CONDITIONAL USES* that may be applied for shall be listed under each respective district. A *CONDITIONAL USE* may be permitted upon recommendation by the Planning Board, a public hearing and approval of the Town Council.

CONVENIENCE STORE. Any retail facility less than 3,500 square feet offering for sale prepackaged food products, household items, newspapers, sandwiches, and other freshly prepared foods, for off site consumption.

DEVELOPER. The legal or beneficial owners of a parcel or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, or any mining, excavation, landfill or land disturbance; and any use or extension of use of land.

DISTRIBUTION CENTER. A complex comprised of warehousing, office, maintenance, and security facilities, engaged in the receipt, storage, inventorying, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air or motor vehicle.

DUPLEX-TWO FAMILY. An individual freestanding building with two dwelling units to be occupied by not more than two families. The building has common walls between units, or zero-based lot line, and conforming parking. Each lot to contain one-half of the required minimum lot width. The building may be one or two stories and must meet or exceed North Carolina Building Code Standards. There shall be no detached accessory building permitted on these lots.

DWELLING, MULTIPLE FAMILY. A building or portion thereof used or designed as a residence for three or more families living independently of each other.

DWELLING, SINGLE-FAMILY. A building or portion thereof designed for living or sleeping purposes, occupied exclusively by one family, excluding manufactured homes.

DWELLING, TWO-FAMILY (DUPLEX). A building or portion thereof designed for living or sleeping purposes occupied by two families.

EXTRATERRITORIAL JURISDICTION (ETJ). Inclusive of Aextraterritorial district,@ Aextraterritorial planning area,@ and Aextraterritorial planning district,@ meaning the properties or land beyond the corporate limits of the town extending for a distance of one mile in all directions as delineated on the official zoning map for the town, adopted in accordance with the G.S. ' 160A-360.

FAÇADE. The exterior walls of a building or structure visible to the public from adjoining streets, sidewalks or parking areas.

FAMILY. Any number of individuals living together as a single housekeeping unit.

FAST-FOOD RESTAURANT. A facility where rapidly prepared food and/or beverage are sold in a form ready for consumption, in disposable wrappers, containers, or plates where all or a significant portion of the consumption takes place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

FILLING STATION. See *SERVICE STATION*.

FRONTAGE. All the property abutting on one side of a street between two intersecting streets, measured along the street line.

GARAGE, PRIVATE. A building or space used as an accessory to or a part of the main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

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

GARAGE, STORAGE. Any building or premises, other than a private or public garage, used exclusively for the parking or storage of motor vehicles.

GUEST HOUSE (TOURIST HOME). Any dwelling occupied by owner or operator in which rooms are rented for guests and for lodging or transients and travelers for compensation.

HOME OCCUPATION. Any profession or occupation carried on by a member of a family or a member of a recognized profession residing on the premises provided that no merchandise or commodity is sold on the premises and that no mechanical equipment is installed or used except such that is normally used for domestic or professional purposes, and provided further that not over 25% of the total floor area of any structure is used for home occupations or professional purposes.

HOTEL (MOTEL). A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and having or not having one or more dining rooms, restaurants, or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms, restaurants, or cafes, if existing, being conducted in the same building or buildings in connection therewith.

INDUSTRIAL USE. Any parcel or parcels of land containing an industrial use or any building containing such use, as defined in this chapter.

INDUSTRY. Those fields of economic activity which include mining, construction, manufacturing, transportation, communication, electric, gas and sanitary service, and wholesale trade.

INDUSTRY, HEAVY. Manufacturing facility, which produces, refines or otherwise processes basic materials including but not limited to ores and metals, oil, petrol chemicals, plastics, cement and similar materials. It is the intent of this district to provide an environment for industries that is unaffected by nearby residential or commercial development.

INDUSTRY, LIGHT. Manufacturing facility, which assembles finished or partly finished products from materials or components prepared on-site or obtained from other facilities. Standards of this district are designed to minimize impacts on the environment and to assure reasonable compatibility with the surrounding area. It is the intent of this district to offer sites for those industries whose operations, exposure, location or traffic has minimal impact on adjacent properties.

JUNK. Any scrap, waste, reclaimable material, or debris, whether or not stored for sale, in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed or other disposition.

JUNKYARD. Any area, lot, land, tract, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk, including motor vehicles, and machinery not in running condition, waste paper, rags and scrap metal.

LOFT. A large, usually un-partitioned floor over a factory, warehouse, or other commercial or industrial space, which is converted into an apartment or artist studio.

LOT. A parcel of land in single ownership occupied or intended for occupancy by a building together with its accessory buildings including the open space required under this chapter. For the purposes of this chapter, the word *LOT* shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are to be erected.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, DEPTH. The depth of a lot, for the purpose of this chapter, is the distance measured in the mean direction of the side lines of the lot from the mid-point of the front lot line to the mid-point of the opposite main rear line of the lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINES. The lines bounding a lot.

LOT OF RECORD. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds or a lot described by meets and bounds, the description of which has been reported in the office of the County Register of Deeds.

LOT, THROUGH. An interior lot having frontage on two streets.

MANUFACTURED/MOBILE HOME. A residential dwelling unit built to the most recent standards of the U.S. Department of Housing and Urban Development as amended and supplemented, composed of one or more components, each of which was substantially assembled in a manufacturing plant not more than 15 years from the date of the town=s issuance of a zoning compliance certificate, and designed to be transported to the home site on its own chassis. Travel trailers and campers shall not be classified as manufactured homes.

MANUFACTURED HOME PARK. Land used or intended to be used, leased or rented for occupancy by manufactured homes to be used for living or commercial quarters of any kind, designed and operated in accordance with applicable provisions of this chapter. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for purposes of inspection and sale.

MANUFACTURED HOME, CLASS A. A manufactured home constructed after July 1, 1976, that meets or exceeds the most recent construction standards promulgated by the U.S. Department of Housing and Urban Development and that satisfies the following criteria:

- (1) Length of the manufactured home does not exceed the width by more than four times;
- (2) The manufactured home is at least 20 feet wide;

(3) The pitch of the manufactured home=s roof has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run (2.2 feet in 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(4) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity gloss of white paint), wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

(5) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the manufactured home;

(6) The tongue, axles, transporting lights, and removable towing apparatus are removed subsequent to final placement; and

(7) The manufactured home is placed on land owned by the owner of the manufactured home, which will be listed and taxed as real property.

MANUFACTURED HOME, CLASS B. A manufactured home constructed after July 1, 1976, that meets or exceeds the most recent construction standards promulgated by the U.S. Department of Housing and Urban Development but that does not satisfy one or more of the criteria necessary to qualify as a Class A manufactured home. A *CLASS B MANUFACTURED HOME* must meet the following minimum criteria:

(1) Skirting or a curtain wall, unpierced except for required ventilation and access, consisting of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation is installed under the manufactured home; and

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

MANUFACTURED HOME, CLASS C. Any manufactured home that does not meet the definition of a Class A or Class B manufactured home.

MANUFACTURING FACILITY. Establishment engaged in the mechanical, chemical and/or physical transformation of a substance including creation of new products.

MINI-STORAGE/SELF STORAGE FACILITY. A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

MIXED-USE. A parcel, tract of land, building or structure with a variety of complementary and integrated uses, such as but not limited to, residential, office, manufacturing and retail.

MODULAR HOME. A factory-fabricated, transportable building constructed to meet North Carolina Building Code standards and designed to be used by itself or, in the case of a sectional home, to be joined with similar units into a modular whole, placed on a permanent foundation and used for residential purposes.

MOTORIZED HOME. A portable dwelling designed and constructed as an integral part of a self propelled vehicle modified for use as a dwelling.

MULTI-FAMILY DWELLING. A building containing three or more dwelling units including units that are located over each other, including apartments.

NONCONFORMING USE. A building or land occupied by a use that does not conform with the regulations of the use zone in which it is situated.

NONCONFORMING LOT. A tract of land that was lawfully established in accordance with all regulations in effect at the time of its establishment but which no longer complies with applicable lot area, lot width or frontage standards because of public acquisition of a portion of the lot, an amendment to the zoning map or other applicable standards.

PARKING LOT. An area or plot of land used for the storage or parking of vehicles.

PICK-UP COACH. A structure designed primarily to be mounted on a pick-up or truck or similar chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use (see *STRUCTURE*).

PROCESSING FACILITY. Facility in which materials may be broken down, or aggregated for transportation, sale, or storage.

PUBLIC SERVICE FACILITY. The use of land, buildings or structures by a public utility, railroad or governmental agency, including water treatment plants or pumping stations, sewage treatment plants or pumping stations, non-nuclear power plants, transmission lines and transformer stations, telephone exchanges and other similar public service structures, but not including land, buildings or structures devoted solely to the storage and maintenance of equipment and materials.

RESTAURANT, TRADITIONAL. A facility where food and drink are prepared, served and consumed primarily within the principal building.

SELF-CONTAINED TRAVEL TRAILER. A travel trailer which may operate independently of connections to electricity, water and sewer for a limited period of time having its own battery or LP gas system, or both, to operate lights, refrigerator, stove and heater, and having a water tank with a pressure system, and having a holding tank with a toilet.

SHOPPING CENTER. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size and type of shops to the trade area served by the shopping center.

SIGN. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboards or poster panels, designed to carry visual information.

SIGN, BUSINESS IDENTIFICATION. A sign which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold or offered on the same property on which the sign is located.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM FARM. A facility that uses photovoltaic solar energy systems to convert solar energy into electrical power for interconnection with the power grid for primarily off-site energy consumption. Also referred to as a solar energy generation facility, solar power plant or solar photovoltaic farm.

STABLE, PRIVATE. A stable with a capacity of not more than one horse for each 3,500 square feet of lot area whereon such stable is located and where such horses are owned by the owners or occupants of the premises and are not kept for remuneration, hire or sale.

STABLE, PUBLIC. A stable other than a private stable.

STORY. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. In computing the height of building, the height of basement or cellar, if below grade, shall not be included.

STREET. A thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road and any other thoroughfare except an alley.

STREET LINE. The line between the street and abutting property.

STRUCTURAL ALTERATIONS. Any change, except for repair or replacement in the supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE. Anything constructed or erected, the use of which requires location on the land or attachment to something having a permanent location on the land.

TOURIST HOME. See *GUEST HOUSE*.

TOWN HOME, TOWNHOUSE. A single-family dwelling on its own individual lot, but connected on two sides, by means of a common wall for a length of at least ten feet to two other single-family dwellings or an end unit of a row of such dwellings. Each unit shall have its own front and rear access to the outside.

TOWNHOUSE TYPE DEVELOPMENT. The division of land containing attached units within one or several structures and may include the reservation of common area and which may be restricted to internal access through the original lot(s), common area(s) or shared easements.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation use, having a body width not exceeding eight feet, and a body length not exceeding 32 feet.

VARIANCE. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. In this chapter, a *VARIANCE* is authorized only for height, area, and size of structure or size of yards and open space. The establishment or expansion of the use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

WAREHOUSE FACILITY. Facility in which materials or products are stored for future transportation.

YARD. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, excluding steps and unenclosed porches, but including covered porches.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

YARD, SIDE. An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or to the rear line of the lot where no rear yard is required.

ZONING ADMINISTRATOR. The person, officer, or official and his/her authorized representative who the town has designated as its agent for the administration of this chapter. The Administrator may provide for the enforcement of this chapter by means of withholding zoning compliance certificates/permits, and by instituting injunctions, mandamus, or other appropriate action or proceeding to prevent unlawful erection, improvement, construction, reconstruction, alteration, conversion, maintenance, or use; to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

ZONING COMPLIANCE CERTIFICATE. A certificate signed by the Zoning Administrator, or his/her designee, specifying zoning requirements and listing any other municipal regulations that may govern the use of the subject property.

(Prior Code, ' 62-2) (Ord. passed 6-13-1972; Ord. passed 7-2-1980; Ord. 7, passed 6-4-1985; Ord. passed 10-4-1988; Ord. passed 12-5-1989; Ord. passed 2-21-1989; Ord. passed 8-4-2010; Ord. passed - -)

' 153.03 ZONES AND BOUNDARIES THEREOF.

(A) In order to regulate and limit the height and size of buildings; to regulate and limit the intensity of the use of lot areas; to regulate and determine the areas of open spaces surrounding buildings; to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses of the town, the town is hereby divided into zones known as:

- (1) RA-20 Residential/Agricultural Zone;
- (2) R-15 Residential Zone;
- (3) R-75 Residential Zone;
- (4) R-6 Residential Zone;
- (5) MR Multi-family Residential Zone;
- (6) Manufactured Home Zone;
- (7) Neighborhood Business Zone;
- (8) Central Business Zone;
- (9) Highway Business Zone; and

(10) Industrial Zone.

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

(C) (1) Except as hereinafter provided, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all the zone regulations established by this chapter for the zone in which the building or land is located.

(2) The minimum yards and other open spaces including the intensity of use provisions contained in this chapter for each and every building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements or intensity of use requirements for any other building.

(3) Every building hereafter erected or structurally altered shall be located on a lot and in no case shall there be more than one main building and the customary accessory buildings on the lot.

(4) Every lot to be built upon shall abut a public street or other public way and no dwelling shall be built upon a lot which does not abut upon a public street or other public way.

(Prior Code, ' 62-3) (Ord. passed 6-13-1972; Ord. passed 10-4-1988; Ord. passed 8-4-2010)

ZONING DISTRICTS

' 153.15 RA-20 RESIDENTIAL/AGRICULTURAL ZONE.

(A) This zone is established as a district in which the principal use of land is for low density residential and agricultural purposes.

(B) The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render it undesirable for farms and future development, and to ensure that residential development not having access to public water supplies and/or public sewage disposal will occur at sufficiently low densities for a healthful environment.

(C) In this zone a building or land shall be used only for one or more of the purposes set forth in this section.

(1) *Uses permitted.*

(a) Single-family dwellings, stick built and modular homes on individual legal lots;

(b) Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced, except animal feeder/breeder operations as defined. In the case of poultry and/or livestock farming operations, these facilities should be constructed in accordance with design standards as set forth by the Soil Conservation Service in Section IV of the U.S. Department of Agriculture's Technical Guide or by the design standards recommended by the Department of Biological and Agricultural Engineering, North Carolina State University, Raleigh, N.C.;

(c) Forestry;

(d) Municipally-owned parks, playgrounds and recreation centers;

(e) Rear yard storage of not more than two travel trailers, self-contained travel trailers, pick-up coaches, camping trailers or motorized homes;

(f) Accessory uses and buildings customarily or necessarily incident to any of the above specified uses, including a private garage or servants' quarters, private swimming pool, and noncommercial truck garden. An accessory use shall be situated on the same lot or premises as the primary use to which it is accessory;

(g) Home occupation as defined in section ' 153.02;

(h) Existing private family cemeteries;

(i) Solar energy system farm;

(j) Conditional uses:

1. Commercial antennae;

2. Communication towers;

3. Public, primary, and secondary schools, and private schools having the same curriculum as ordinarily given in public schools;

4. Churches, and church bulletin board, lighted or unlighted, not exceeding four square feet in area;

5. Parks, playgrounds and recreation centers owned and operated by non-profit civic organizations;

6. Golf, swimming, tennis, and other private clubs not open to the general public and operated as a business for profit. Provided, however, that any swimming or tennis club is not located on a parcel of land not less than one acre in size;

7. Junkyard; and

8. Manufactured homes on individual lots where a manufactured home previously legally existed.

(2) *Building height limit.* No structure shall exceed 35 feet in height unless the depth of the front yard, rear yard, and width of each side yard required herein shall be increased five feet for each ten feet or fraction thereof of building height in excess of 35 feet.

(3) *Building site area required, residences.* The minimum building site area shall be one lot or parcel of land 20,000 square feet in area for each main building. Such parcel of land shall have an average width of at least 100 feet. When a lot or parcel of land has an area of less than the above required minimum area and width and was of record at the time of passage of this chapter, said lot may be occupied by one family; provided, however, that the minimum side, front, and rear yard requirements set out in this section are conformed to.

(4) *Front yard required.* There shall be a front yard depth of not less than 50 feet measured from the front property line to the front line of the main building. Where lots comprising 25% or more of the frontage of the same street within the block are developed with buildings, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided this regulation shall not be so construed as to require a front yard depth of more than 50 feet. When the geographic grade or contour of a lot is such that compliance with this section is impossible or will impose an undue hardship upon the property owner, the Zoning Board of Adjustment will establish a front yard depth suitable and practical for such lot. On through lots, the required front yard shall be provided on both streets.

(5) *Side yard required.* There shall be a side yard on each side of the main building having a width of not less than 12 feet and the minimum distance between main buildings on adjacent lots shall not be less than 24 feet. Provided, however, on corner lots the side yard adjacent to the street shall not be less than 50% of the front yard required on lots in rear of such lots. No accessory building on a corner lot shall extend beyond the front yard line of the lots in rear thereof; provided, further that this regulation shall not be so interpreted as to reduce the building width of a corner lot as of record at the time of the passage of this chapter to less than 28 feet, not to prohibit the erection of an accessory building where this regulation cannot be complied with.

(6) *Rear yard required.* There shall be a rear yard of 25% of the depth of the lot with the rear yard having a depth of not less than 30 feet measured from the rear property line to the rear line of the main building.

(7) *Signs.* A billboard, signboard or advertising sign shall in no case be permitted as an accessory use. The placing of one Afor sale@ or Afor rent@ sign not exceeding four feet in area shall, however, be permitted. One sign not exceeding one square foot in area shall be permitted in connection with a home occupation as defined in ' 153.02.

(Prior Code, ' 62-4) (Ord. passed 6-13-1972; Ord. 7, passed 6-4-1985; Ord. passed 10-4-1988; Ord. passed 8-4-2010; Ord. passed - -)

In this zone a building or land shall be used only for one or more of the purposes set forth in this section.

(A) *Uses permitted.*

(1) Single-family dwellings;

(2) Municipally owned parks, playgrounds and recreation centers;

(3) Rear yard storage of not more than one travel trailer, self-contained travel trailer, pick-up coach, camping trailer or motorized home;

(4) Accessory uses and buildings customarily or necessarily incident to any of the above specified uses, including a private garage or servants' quarters; private swimming pool, and noncommercial truck garden. An accessory use shall be situated on the same lot or premises as the primary use to which it is accessory;

(5) Home occupation as defined in ' 153.02; and

(6) Conditional uses:

(a) Public primary and secondary schools, and private schools having the same curriculum as ordinarily given in the public schools;

(b) Churches, and church bulletin board, lighted or unlighted, not exceeding four square feet in area;

(c) Hospitals, except animal hospitals or hospitals operated for the treatment of chronic alcoholics, the insane, infectious diseases or narcotic patients;

(d) Parks, playgrounds and recreation centers; parks, playgrounds and recreation centers owned and operated by nonprofit civic organizations; and

(e) Golf, swimming, tennis and other private clubs not open to the general public and operated for the mutual recreation of members and not operated as a business for profit; provided, however, that any swimming or tennis club is located on a parcel of land not less than one acre in size.

(B) *Building height limit.* No structure shall exceed 35 feet in height unless the depth of the front yard, rear yard and width of each side yard required herein shall be increased five feet for each ten feet or fraction thereof of building height in excess of 35 feet.

(C) *Building site area required, residences.* The minimum building site area shall be one lot or parcel of land 15,000 square feet in area for each main building. Such parcel of land shall have an average width of at least 100 feet when a lot or parcel of land has an area of less than the above required minimum area and width and was of record at the time of passage of the ordinance from which this chapter is derived, said lot may be occupied by one family; provided, however, that the minimum side, front and rear yard requirements set out in this section are conformed to.

(D) *Front yard required.* There shall be a front yard a depth of not less than 50 feet measured from the front property line to the front line of the main building. Where lots comprising 25% or more of the frontage of the same street within the block are developed with buildings, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided this regulation shall not be so construed as to require a front yard depth of more than 50 feet. When the geographic grade or contour of a lot is such that compliance with this section is impossible or will impose an undue hardship upon the property owner, the Zoning Board of Adjustment will establish a front yard depth suitable and practical for such lot. On through lots, the required front yard shall be provided on both streets.

(E) *Side yard required.* There shall be a side yard on each side of the main building having a width of not less than 12 feet and the minimum distance between main buildings on adjacent lots shall not be less than 24 feet. Provided, however, on corner lots the side yard adjacent to the street shall not be less than 50% of the front yard required on lots in rear of such corner lots. No accessory building on a corner lot shall extend beyond the front yard line of the lots in rear thereof; provided further that this regulation shall not be so interpreted as to reduce the building width of a corner lot as of record at the time of the passage of this chapter to less than 28 feet, nor to prohibit the erection of an accessory building where this regulation cannot be complied with.

(F) *Rear yard required.* There shall be a rear yard of 25% of the depth of the lot with the rear yard having a depth of not less than 30 feet measured from the rear property line to the rear line of the main building.

(G) *Signs.* A billboard, signboard or advertising sign shall in no case be permitted as an accessory use. The placing of one ~~Afor sale@~~ or ~~Afor rent@~~ sign not exceeding four square feet in area shall, however, be permitted. One sign not exceeding one square foot in area shall be permitted in connection with a home occupation as defined in ' 153.02.

(Prior Code, ' 62-5) (Ord. passed 6-13-1972; Ord. 7, passed 6-4-1985; Ord. passed 8-4-2010)

' 153.17 R-75 RESIDENTIAL ZONE.

In this zone a building or land shall be used only for one or more of the purposes set forth in this section.

(A) *Uses permitted.*

- (1) Any use permitted in the R-15 Residential Zone;
- (2) Duplex-two family;
- (3) Public and private cemeteries;
- (4) Accessory buildings and uses customarily incident to any of the above permitted uses; and
- (5) Conditional uses:
 - (a) Guest houses and boardinghouses; and
 - (b) Nursing homes, convalescent homes and homes for the aged.

(B) *Building height limit.* Same as R-15 Residential Zone.

(C) *Building site area required, residences.* The minimum building site shall be one lot or parcel of land 7,500 square feet in area for each main building. Such parcel of land shall have an average width of at least 75 feet. When a lot or parcel of land has an area of less than the above required minimum area and width and was of record at the time of passage of this chapter, said lot may be occupied by one family; provided, however, that the minimum side, front, and rear yard requirements set out in this section are conformed to. Provided, further, that duplexes or their multiple dwelling units shall, in addition to the above area requirements, increase the minimum building site area as follows: for each additional family unit in excess of the first family unit, 3,000 square feet per family in addition to the 7,500 square feet required above.

(D) *Front yard required.* There shall be a front yard having a depth of not less than 45 feet measured from the front property line to the front line of the main building. Where lots comprising 25% or more of the frontage on the same street within the block are developed with buildings no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided this regulation shall not be so construed as to require a front yard depth of more than 45 feet. When the geographic grade or contour of a lot is such that compliance with this section is impossible or will impose an undue hardship upon the property owner, the Zoning Board of Adjustment will establish a front yard depth suitable and practical for such lot. On through lots, the required front yard shall be provided on both streets.

(E) *Side yard required.* There shall be a side yard on each side of the main building having a width of not less than ten feet and the minimum distance between main buildings on adjacent lots shall not be less than 20 feet. Provided, however, on corner lots the side yard adjacent to the street shall not be less than 50% of the front yard required on lots in rear of such corner lots. No accessory building on a corner lot shall extend beyond the front yard line of the lots in rear thereof; provided, further, that this regulation shall not be so interpreted as to reduce the building width of a corner lot as of record at the time of the passage of this chapter to less than 28 feet, nor to prohibit the erection of an accessory building where this regulation cannot be complied with.

(F) *Rear yard required.* There shall be a rear yard of 10% of the depth of the lot with the rear yard having a depth of not less than ten feet measured from the rear property line to the rear line of the main building.

(G) *Signs.* Same as R-15 Residential Zone.

(Prior Code, ' 62-6) (Ord. passed 6-13-1972; Ord. 7, passed 6-4-1985; Ord. passed 12-5-1989; Ord. passed 2-21-1989; Ord. passed 8-4-2010)

' 153.18 R-6 RESIDENTIAL ZONE.

In this zone a building or land shall be used only for one or more of the purposes set forth in this section.

(A) *Uses permitted.*

- (1) Any uses permitted in the R-75 Residential Zone;
- (2) Duplex-two family;
- (3) Conditional uses: office buildings and exchanges for public utilities; and
- (4) Solar energy system farm.

(B) *Building height limit.* Same as R-75 Residential Zone.

(C) *Building site area required for single- and multiple-family dwellings.* The minimum building area shall be one lot or parcel of land 6,000 square feet in area for each main building. Such parcel of land shall have an average width of at least 60 feet at the front building line. When a lot or parcel of land has an area of less than the above required minimum area and width and was of record at the time of passage of this chapter, said lot may be occupied by one family; provided, however that the minimum side and front yard requirements set out in this section are conformed to. Provided, further, that duplexes or other multiple dwelling units shall, in addition to the above area requirements, increase the minimum building site area as follows: for each additional family unit in excess of the first family unit, 3,000 square feet per family, in addition to the 6,000 square feet required above.

(D) *Front yard required.* There shall be a front yard having a depth of not less than 35 feet measured from the front property line to the front line of the main building. Where lots comprising 25% or more of the frontage on the same street within the block are developed with buildings, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided this regulation shall not be so construed as to require a front yard depth of more than 35 feet. When the geographic grade or contour of a lot is such that compliance with this section is impossible or will impose an undue hardship upon the property owner, the Zoning Board of Adjustment will establish a front yard depth suitable and practical for such lot. On through lots, the required front yard shall be provided on both streets.

(E) *Side yard required.* There shall be a side yard on each side of the main building having a width of not less than eight feet and the minimum distance between main buildings on adjacent lots shall not be less than

16 feet. Provided, however, on corner lots the side yard adjacent to the street shall not be less than 50% of the front yard required on lots in rear of such corner lots. No accessory building on a corner lot shall extend beyond the front yard line of the lots in rear thereof; provided, further, that this regulation shall not be so interpreted as to reduce the building width of a corner lot as of record at the time of the passage of this chapter to less than 28 feet, nor to prohibit the erection of an accessory building where this regulation cannot be complied with.

(F) *Rear yard required.* There shall be a rear yard of 10% of the depth of the lot with the rear yard having a depth of not less than ten feet measured from the rear property line to the rear line of the main building.

(G) *Signs.* Same as R-15 Residential Zone.

(H) *Zone standards.*

(1) *Zoned R-6 Residential.* For a property to be considered for placement of an individual single-family manufactured home, it must be zoned R-6 Residential.

(2) *Minimum building site area required.* Requirements are the same as the current R-6 Residential Zone.

(3) *Front yard required.* Requirements are the same as the current R-6 Residential Zone.

(4) *Side yard required.* Requirements are the same as the current R-6 Residential Zone.

(5) *Rear yard required.* Requirements are the same as the current R-6 Residential Zone.

(6) *Signs.* Same as R-15 Residential Zone, which also apply in R-6 Residential Zone.

(I) *Manufactured home standards.*

(1) Manufactured homes permitted within the R-6 Residential Zone shall be constructed after July 1, 1976, and meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

(2) Additionally, such manufactured homes shall meet the following requirements.

(a) The manufactured home shall be occupied only as a single-family dwelling.

(b) The manufactured home shall have a minimum width of 24 feet.

(c) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part.

(d) The towing apparatus, wheels, axles and transporting lights shall be removed and shall not be included in length and width measurements.

(e) The longest axis of the manufactured home shall be oriented parallel or within a ten-degree deflection of being parallel to the lot frontage, unless other orientation is permitted by the Board of Adjustment following a public hearing.

(f) The manufactured home shall be set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the State Building Code, un-pierced, except for required ventilation and access, shall be installed under the perimeter of the manufactured home.

(g) The exterior siding shall consist of one or more of the following:

1. Vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint;
2. Cedar or other wood siding;
3. Wood grain, weather resistant press board siding;

4. Stucco siding; and/or

5. Brick or stone siding; which shall be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(h) The pitch of the roof shall a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run.

(i) The roof shall be finished with a Class A shingles, or better, roofing material that is commonly used in standard residential construction. Corrugated aluminum, corrugated fiberglass or metal roofs shall not be permitted.

(j) All roof structures shall provide an eaves projection of no less than six inches.

(k) The manufactured home shall be permanently connected to local utilities.

(l) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed in compliance with the standards of the State Building Code, attached firmly to the primary structure and be anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. It is the intent of this section to prohibit the use of wood stairs only at any entrance to a manufactured home.

(Prior Code, ' 62-7) (Ord. 7, passed 6-4-1985; Ord. passed 8-4-2010; Ord. passed - -)

' 153.19 MR MULTI-FAMILY RESIDENTIAL ZONE.

(A) The purpose of this district is to provide for high density residential neighborhoods which are associated with the customary urban services.

(B) This district shall consist of single-family, two-family and multi-family dwellings and similar high density residential development and the activities related to neighborhood settings.

(C) This district will only be applied in areas with community water and sewer service.

(D) In this zone, a building or land shall be used only for one or more of the purposes set forth in this section.

(1) *Uses permitted.*

- (a) Single-family dwelling;
- (b) Duplex-two family;
- (c) Multi-family dwelling;
- (d) Town home, town house;
- (e) Small professional or announcement signs;
- (f) Real estate signs;
- (g) Renting of one room provided no external evidence is created; and
- (h) Uses and buildings customarily accessory to the above permitted uses.

(2) *Conditional uses.* The following are permitted when recommended by the Planning Board and authorized by the Town Council:

- (a) Neighborhood stores with or without residence on second floor;

(b) Public utility distribution and transmission lines, poles and towers;

(c) Home occupations; and

(d) Single offices for doctors, lawyers, professional consultants or similar occupations.

(3) *Building height limit.* Same as R-15 Residential (maximum of 35 feet).

(4) *Building site area required.* The minimum building site area shall be one lot or parcel of land 7,500 square feet in area for each main building. The parcel of land shall have an average width of at least 75 feet at the front building line. When a lot or parcel of land has an area of less than the above required minimum area and width and was of record at the time of passage of this chapter, the lot may be occupied by one family; provided, however that the minimum side and front yard requirements set out in this section are conformed to. Provided, further, that duplexes or other multiple dwelling units shall, in addition to the above area requirements, increase the minimum building site area as follows: For one additional family unit (a duplex) the minimum lot size shall be 12,000 square feet. Each additional family unit in excess of the first two shall require the addition of 4,000 square feet.

(5) *Front yard required.* Same as R-75 Residential (45 feet).

(6) *Side yard required.* Same as R-75 Residential (ten feet).

(7) *Rear yard required.* There shall be a rear yard of 20 feet measured from the rear of property line to the rear line of the main building.

(8) *Maximum lot coverage.* The coverage of the lot by structures (the footprint of the buildings) shall be not more than 40% of the area of the lot.

(9) *Location of accessory buildings.* The location of accessory buildings setback from the rear and side property lines shall be a minimum of five feet.

(10) *Parking requirements.* A minimum of one and one-half parking spaces on the same lot for each dwelling unit shall be required.

(11) *Buffer required.* A fence buffer shall be required on three sides of a lot or parcel where multi-family dwelling units are constructed unless the lot is adjacent to a vacant lot or the adjacent lot contains natural features, such as a stream, which would lend itself as a natural buffer. The fence shall be a seven-foot wooden fence constructed in a manner so as to make the fence opaque.

(12) *Drainage requirements.* Stormwater run-off shall be retained on site to the maximum extent feasible. Suggested methods for accomplishing this are through the use of porous asphalt or paving block for the parking lots, similar to *Aturf stone®* or its equivalent. If impermeable asphalt or concrete is used for the parking lot surface, medians, perimeter strips or islands within the parking area must be used as collectors and reservoirs for stormwater run-off. No water shall drain onto or across public streets or sidewalks or into adjacent property except into a drainage easement. Vegetated buffer strips shall be created, or where practicable, retained in their natural state along the banks of all watercourses, waterbodies, or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland run-off, provide access to the waterbody, and allow for periodic flooding without damage to structures.

(Prior Code, ' 62-8) (Ord. passed 6-13-1972; Ord. 7, passed 6-4-1985; Ord. passed 12-5-1989; Ord. passed 2-21-1989; Ord. passed 8-4-2010)

' 153.20 MANUFACTURED HOME ZONE.

In this zone, a building or land shall be used only for the following purposes.

(A) *Uses permitted.*

(1) Any use permitted in any Residential Zone, provided, however, any building erected in the Manufactured Home Zone for residential purposes shall comply with all requirements of the R-6 Residential Zone, except multi-family dwellings. Solar energy system farms shall not be allowed;

(2) Manufactured home parks; and

(3) Accessory buildings and uses customarily incident to any of the above permitted uses.

(B) *Location of manufactured homes regulated.* From and after the effective date of this chapter, it shall be unlawful for any person to place or maintain any manufactured home used for human habitation or to use any manufactured home for sleeping, living or business purposes on any premises within the corporate limits or that area subject to the extraterritorial jurisdiction of this town except upon premises located within a manufactured home park, a permit for which has been granted pursuant to the requirements of this chapter. If two or more manufactured homes are located on the same undivided lot or tract of land, they must meet the requirements of this section.

(C) *Permit for manufactured home park required.*

(1) It shall be unlawful for any person to construct, maintain or use any lot or other parcel of land within the corporate limits for a manufactured home park until application has been made and a permit therefor has been issued by the Zoning Administrator. The Zoning Administrator (County Planning Department) shall, prior to issuing a permit, determine if all requirements of this chapter have been complied with. A manufactured home park permit may be revoked by the zoning administrator upon a finding of fact that a violation of the requirements of this chapter exists. Provided, the owner, lessee, or other responsible person is notified in writing of such violation and after the expiration of five days from the date of receipt of such written notice. It shall be unlawful for any person, firm, or corporation to continue to operate such manufactured home park after the permit therefore, as required herein, has been revoked by the Zoning Administrator.

(2) Application for a permit to develop, operate, alter or maintain a manufactured home park shall be made to the Zoning Administrator under the provision of this section. The application for a permit shall include the following:

(a) A plan for the general layout of the park containing the information required below:

1. The area to be used for the park showing property lines and adjacent zoning and land use;
2. Driveways, entrances, exits, roadways and walkways;
3. Location of manufactured home spaces and buildings;
4. Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas and utility rooms;

5. Method and plan of sewage disposal;
6. Location and quantity of refuse containers;
7. Plan of water supply; and
8. Plan of electric lighting.

(b) Plans and specifications for any building to be constructed on the site.

(c) Further information may be required by the Zoning Administrator or County Health Department to enable them to determine if the proposed park will comply with the regulations of this chapter and other applicable laws.

(d) Prior to the issuance of an occupancy permit the Zoning Administrator shall review the plan and inspect the site for compliance with any changes which had been proposed in the initial review process.

(D) *Conflict with health department regulations.* In the event the State or County Board of Health has adopted regulations governing manufactured homes or manufactured home parks, the requirements of this chapter or the requirements of the State or County Board of Health, whichever is more stringent, shall govern.

(E) *Sanitary facilities, water supply, sewerage, refuse disposal and utilities required.*

(1) In every park and related permanent building, all installation of plumbing and electrical wiring, and all gas and oil appliances shall comply with the provisions of the building, plumbing, electrical, heating, and gas ordinances and codes and any other applicable regulations of the town.

(2) In addition, the following requirements must be met:

(a) *Water supply.* An adequate and safe supply of water shall be readily available at the manufactured home park site. Within the corporate limits of the town, every manufactured home park shall

connect to the town water system. Within the extraterritorial jurisdiction, where the town water system is available it shall be used. If any independent water supply is used, it must be built in accordance with the County Health Department standards and must be capable of furnishing 450 gallons of water per day per available manufactured home space. The water supply for each manufactured home shall be obtained only from approved connections located on each manufactured home space or inside each manufactured home, certificated by the County Health Department.

(b) *Sanitary sewer.*

1. Each manufactured home park within the corporate limits of the town shall be required to have a connection with the town sanitary sewer system. Any extension of the municipal sanitary sewer system required to comply with this requirement shall be made in accordance with the utility extension ordinance or policies of the town then in effect.

2. All sewage wastes from each park, including wastes from toilets, and toilet rooms, showers, lavatories and washbasins and wastes from refrigerator drains, washing machines, sinks or faucets in manufactured homes or on manufactured home spaces, shall be piped into the park sewage disposal system. All sewage wastes from every trailer equipped with its own toilet facility shall be piped into the park sewage disposal system and under no circumstances shall such wastes be discharged on the ground or in streams. Within the extraterritorial jurisdiction, where the town sanitary sewer system is not available, the town would prefer park owners to connect to the municipal system. If connection to the municipal system is not possible, individual septic systems may be used or a community system for the park may be used. The method of sewage disposal shall be approved by the County Health Department or the N.C. Department of Environment, Health and Natural Resources, Division of Environmental Management. Prior to the presentation of a plan to the town, owners and developers are urged to contact the County Health Department or the Zoning Administrator to assure future compliance with the appropriate regulations.

(c) *Refuse disposal.* All garbage and refuse in every park shall be stored in suitable receptacles in accordance with County Health Department requirements.

(d) *Utilities.* Each manufactured home space shall be equipped with plumbing and electrical connections; the electrical connections shall meet the County Electrical Code. In addition, electrical connection shall be at least 200 amp service. Each individual electrical service shall be within 15 feet of the point electricity enters the manufactured home.

(F) *Registration.*

(1) It shall be the duty of the operator of the park to keep an accurate register containing a record of all manufactured homes or trailers, owners and occupants of the park.

(2) The register shall contain the following information:

- (a) Name and address of the owner and each occupant;
- (b) License number and state of issue of each licensed vehicle;
- (c) Space number in which the manufactured home or trailers is parked;
- (d) Date of entering the park; and
- (e) Date of leaving the park.

(G) *Site requirements.*

(1) Manufactured home parks shall comply with the area, location and other dimensional requirements of this section. Prior to granting a permit for a manufactured home park, the Zoning Administrator shall require the owner or developer to submit a complete plan of the proposed park, as described in division (C) above.

(2) Site requirements for all manufactured home parks shall be as follows:

(a) The minimum size lot, tract or parcel of land to be used for a manufactured home park shall not be less than 20,000 square feet, and such lot, tract or parcel of land shall have an average width of not less than 100 feet.

(b) The amount of land for each individual manufactured home space shall be determined by the Zoning Administrator after an investigation of soil conditions, the proposed method of sewage disposal and proposed water system. However, in no case shall the size of a manufactured home space be less than 6,000 square feet or 60 feet by 100 feet, if municipal or community water and sewer is available. In the event

individual septic tanks and wells are used the lot size shall be a minimum of 10,500 square feet, or 175 feet by 60 feet. Additional space requirements may be needed to meet setback or space requirements.

(c) Each manufactured home shall have a minimum five foot setback from the boundary of its individual manufactured home lot as established in division (G)(2)(b) above and each manufactured home must be at least 20 feet from any other manufactured home side-to-side, side-to-end or end-to-end. Setback requirements are measured from the outside edge of the exterior of entrance stoops, porches, steps, decks and the like.

(d) No individual manufactured home lot shall be located within 25 feet of any exterior street or any exterior boundary line of the manufactured home park site.

(e) All manufactured home spaces shall abut upon an interior street of no less than 20 feet in width, which shall have unobstructed access to a public street or highway. It is the intent of this section that each individual manufactured home space shall not access directly onto a public street or highway except through an interior street. Maintenance and repair of the streets shall be provided by the owner of the park. The streets shall be maintained so as to provide all-weather access to all manufactured home spaces at all times. The Zoning Administrator shall make the determination as to whether a manufactured home park is in compliance with this street maintenance. If a park has five or more manufactured home spaces, the interior streets shall be paved. When a park size is increased beyond four spaces the entire park shall have paved streets. If two adjacent parks are connected both parks, which are now one, shall have paved streets if total spaces exceed four. If a park has four or fewer spaces, numbers which do not require that the streets be paved, the streets shall be graded and maintained so that they are passable in all weather.

(f) Dead-end streets shall not exceed 600 feet in length. Any interior street designed to be permanently closed shall have a turnaround of at least 80 feet in diameter at the closed end.

(g) Interior streets shall intersect as nearly as possible at right angles, and no drive shall intersect at less than 75 degrees. Where a drive intersects at a public street or highway, the design standards of the state department of transportation shall apply.

(h) Suitable vehicular access for firefighting and emergency equipment, delivery of fuel, removal of refuse, parking and removal of manufactured homes and for other necessary services shall be provided.

(i) Each manufactured home park with five or more manufactured home spaces shall have one or more recreation areas with a minimum size of 2,500 square feet which shall be easily accessible to all park residents. Each addition of five manufactured home spaces shall require an additional 2,500 square feet of

recreational space. Recreation areas shall be located to be free of traffic hazards and should, where topography permits, be centrally located.

(j) Parking space sufficient to accommodate at least two automobiles shall be located on each manufactured home space.

(k) No manufactured home park shall be located on ground that is subject to flooding. The park shall be graded so as to prevent any water from pending or accumulation on the premises. All ditch banks shall be sloped and seeded to prevent erosion or vegetated buffer strips shall be maintained in their natural state to prevent erosion.

(l) The manufactured home park shall have a fence buffer on three sides between the park and any adjacent residential uses other than manufactured homes unless the park is adjacent to a vacant lot or the adjacent lot contains natural features, such as a stream which would lend itself as a natural buffer. The fence shall be a seven-foot wooden fence constructed in a manner so as to make the fence opaque.

(m) The area of each individual manufactured home space shall be improved to provide an adequate foundation for the placement of the manufactured home as required by the State Building Code.

(n) Each manufactured home shall be securely anchored in accordance with the State Building Code standards.

(H) *General sanitation.* In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities, and equipment in a clean, orderly, safe and sanitary condition.

(I) *Park identification.* Each manufactured home park shall have its park name on a sign clearly visible at the park entrance.

(1) Manufactured home park identification shall be limited to one sign per park entrance. No sign shall exceed 36 square feet in area.

(2) Each manufactured home lot shall be numbered and clearly marked so as to be clearly visible for emergency vehicle response.

(J) *Existing manufactured home parks.* Manufactured home parks existing at the time of the adoption of the ordinance from which this chapter is derived shall be allowed to continue, but shall not be allowed to expand or increase through (including but not limited to) acquisition of additional land or development of any manufactured home site or placement of any manufactured home in said manufactured home park, unless such expansion fully meets the requirements set forth in this chapter. If a manufactured home park existing before the adoption date of the ordinance from which this chapter is derived should lose its operating permit, then it shall be subject to the regulations and requirements of this chapter in the reapplication for an operating license.

(K) *Manufactured home standards.*

(1) Manufactured homes permitted within the Manufactured Home Zone shall be at a minimum Class B homes.

(2) Additionally, such manufactured homes shall meet the following requirements:

(a) The manufactured home shall be occupied only as a single-family dwelling.

(b) The manufactured home shall have a minimum width of 16 feet for a single wide home and twenty-four feet for a double wide home.

(c) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part.

(d) The towing apparatus, wheels, axles, and transporting lights shall be removed and shall not be included in length and width measurements.

(e) The longest axis of the manufactured home shall be oriented parallel or within a ten degree deflection of being parallel to the lot frontage, unless other orientation is permitted by the Board of Adjustment following a public hearing.

(f) The manufactured home shall be set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina State Building Code,

unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.

(g) The exterior siding shall consist of one or more of the following:

1. Vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint;
2. Cedar or other wood siding;
3. Wood grain, weather resistant press board siding;
4. Stucco siding; or

5. Brick or stone siding; which shall be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(h) The pitch of the roof shall have a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run.

(i) The roof shall be finished with a Class A shingles, or better, roofing material that is commonly used in standard residential construction. Corrugated aluminum, corrugated fiberglass, or metal roofs shall not be permitted.

(j) All roof structures shall provide an eaves projection of no less than six inches.

(k) The manufactured home shall be permanently connected to local utilities.

(l) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed in compliance with the standards of the North Carolina State Building Code, attached firmly to the primary structure and be anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. It is the intent of this subsection to prohibit the use of wood stairs only at any entrance to a manufactured home.

(Prior Code, ' 62-9) (Ord. passed 6-13-1972; Ord. passed 12-5-1989; Ord. passed 8-4-2010; Ord. passed - -)
Penalty, see ' 153.99

' 153.21 NEIGHBORHOOD BUSINESS ZONE.

Within the Neighborhood Business Zone as indicated on the zoning map no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed for any other than one or more of the purposes specified in this section.

(A) *Uses permitted.*

- (1) Any use permitted in any residential zone, except multi-family dwellings and solar energy system farms;
- (2) Banks;
- (3) Barbershops;
- (4) Beauty shops;
- (5) Eating and drinking establishments with the exception of drive-in facilities;
- (6) Florists;
- (7) Laundries, laundromats and dry cleaning establishments;
- (8) Offices, business and professional;
- (9) Repair shops for jewelry, radios and television and other small household appliances;

(10) Signs constructed and placed in accordance with the ordinances with the town;

(11) Retailing establishments engaged in selling drugs, food and beverage, notions and hardware;
and

(12) Accessory buildings and uses customarily and necessarily incident to the above specified uses.

(B) *Building height limit.* No building shall exceed 35 feet in height.

(C) *Area regulations.*

(1) Buildings erected in the Neighborhood Business Zone for dwelling purposes exclusively shall comply with the requirements of the R-6 Residential Zone.

(2) Where a building is erected for mixed use, namely for both dwelling and business purposes, such building shall be provided with two side yards, one on each side of the building, neither of which shall be less than eight feet in width; provided, however, that this regulation shall not apply to the side of a corner lot adjacent to the street.

(3) Where a lot abuts upon the side of a lot zoned residential, there shall be a side yard of not less than 20 feet in width.

(D) *Front yard required.* Same as R-6 Residential Zone.

(Prior Code, ' 62-10) (Ord. passed 6-13-1972; Ord. passed 8-4-2010; Ord. passed - -)

' 153.22 CENTRAL BUSINESS ZONE.

Within the Central Business Zone, as indicated on the zoning map, no lot, building or structure shall be used, and no building or structure shall be erected which is intended or designed for any other than one or more of the purposes set forth in this section.

(A) *Uses permitted.*

- (1) Any use permitted in any residential zone and neighborhood business zone, except multi-family dwellings and solar energy system farms;
- (2) Retail stores, shoe shops, barbershops, restaurants, offices, hotels, theaters, assembly halls, newsstands, service stations, public and private parking lots and garages, greenhouses and retail stores conducting incidental and secondary wholesale departments;
- (3) Public utility storage or service yards;
- (4) Signs constructed and placed in accordance with the ordinances of the town;
- (5) Newspaper offices or printing plants;
- (6) Dry cleaning, pressing plants and laundries;
- (7) Freezer lockers, cold storage plants;
- (8) Billiard or pool tables or rooms, bowling alleys, dance halls and other forms of public amusements;
- (9) Motor freight terminal, wholesale and storage warehouses;
- (10) Automobile sales, service and body repair garages;
- (11) Accessory buildings and uses customarily and necessarily incident to the above specified uses;
- (12) In general, business not creating or likely to create either smoke, odor, gas, dust, noise or vibration;

(13) Automobile service station; and

(14) Convenience store.

(b) *Building height limit.* In the Central Business Zone, every building hereafter erected or structurally altered to exceed 50 feet in height shall, above said height, be set back from the front lot line on the ratio of one foot for each two feet rise above said 50 feet in height.

(C) *Area regulations.*

(1) Buildings erected in the Central Business Zone for dwelling purposes exclusively shall comply with the requirements of the R-6 Residential Zone.

(2) Where a building is erected for mixed use, namely for both dwelling and business purposes, such building shall, if more than two rooms in depth, be provided with two side yards, one on each side of the building, neither of which shall be less than six feet in width; provided, however, that this regulation shall not apply to the side of a corner lot adjacent to the street.

(3) Where a lot abuts upon the side of a lot zoned residential there shall be a side of not less than 20 feet in width.

(Prior Code, ' 62-11) (Ord. passed 6-13-1972; Ord. passed 8-4-2010; Ord. passed - -)

' 153.23 HIGHWAY BUSINESS ZONE.

Within the Highway Business Zone, as indicated on the zoning map, no lot, building or structure shall be used, and no building or structure shall be erected, which is intended or designed of any other than one or more of the purposes specified in this section.

(A) *Uses permitted.*

- (1) Any use permitted in any Residential Zone, Mobile Home Zone, Neighborhood Business Zone, and the Central Business Zone, except multi-family dwellings and solar energy system farms;
- (2) Automobile washing establishments;
- (3) Mobile home display lots, boat and marine sales;
- (4) Building material storage and sales yards;
- (5) Glass and mirror repair and sales;
- (6) Animal hospitals, provided there shall be no open kennels, provided further no pens and kennel fences shall be located closer than 20 feet to any property line;
- (7) Hatcheries;
- (8) Commercial greenhouses;
- (9) Drive-in restaurants, provided such drive-in restaurants are fenced on all sides which abut residential districts to a height of at least six feet;
- (10) Motor freight terminals;
- (11) Dairy bars, where the products are sold at retail on the premises only;
- (12) Baseball and golf driving ranges;
- (13) Golf courses, including miniature;

(14) Riding stables;

(15) Racetracks;

(16) Drive-in theaters;

(17) Coliseums;

(18) Automobile service stations; and

(19) Convenience stores.

(B) *Area and yard regulations.*

(1) Buildings erected in the Highway Business Zone for dwelling purposes exclusively shall comply with the requirements of the R-6 Residential Zone.

(2) Where a building is erected for mixed use, namely, for both dwelling and business purposes, each story of such building used in any part for dwelling purposes shall, if more than two rooms in depth, be provided with two side yards, one on each side of the building, neither of which shall be less than six feet in width; provided, however, that this regulation shall not apply to the street side of a corner lot.

(3) Where a lot abuts upon the side of a lot zoned residential, there shall be a side yard of not less than 20 feet in width.

(Prior Code, ' 62-12) (Ord. passed 6-13-1972; Ord. passed 8-4-2010; Ord. passed - -)

' 153.24 INDUSTRIAL ZONE.

(A) In the Industrial Zone, any building or land may be used for any purpose not in conflict with any ordinance of the town, except that no building or occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been approved by the Zoning Board of Adjustment:

(1) Cement, lime, gypsum or plaster of Paris manufacture;

(2) Explosives, manufacture or storage;

(3) Fat rendering;

(4) Gas manufacture;

(5) Glue manufacture;

(6) Pulp manufacture; or

(7) Any other similar operation which may be declared objectionable by the Zoning Board of Adjustment.

(B) Area and yard regulations:

(1) Buildings erected in the Industrial Zone for dwelling purposes exclusively shall comply with the requirements of the R-6 Residential Zone;

(2) Where a building is erected for mixed use; namely, for both dwelling and business purposes, each story of such building used in any part for dwelling purposes shall, if more than two rooms in depth, be provided with two side yards, one on each side of the building, neither of which shall be less than eight feet in width; provided, however, that this regulation shall not apply to the side of a corner lot adjacent to the street; and

(3) Where a lot abuts upon the side of a lot zoned residential, there shall be a side yard of not less than 20 feet in width.

(Prior Code, ' 62-13) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

MISCELLANEOUS PROVISIONS

' 153.35 HEIGHT AND AREA EXCEPTIONS AND SUPPLEMENTS.

The following requirements or regulations qualify or supplement, as the same may be, the zone regulations or requirements appearing elsewhere in this chapter.

(A) Public or semi-public buildings, hospitals, sanatoriums, schools and churches or temples, where permitted in a zone, may be erected to a height not exceeding 96 feet.

(B) Chimneys, water tanks or towers, elevator bulkheads, stacks, ornamental towers or spires, wireless or broadcasting towers, or monuments, cupolas, domes, false mansards, parapet walls, similar structures and necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances.

(C) Every part of a required yard shall be open from its lowest point to the sky unobstructed; except for the ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however, that none of the above projections shall project into a minimum side yard more than 24 inches.

(D) Open or enclosed fire escapes, outside stairways, balconies and other necessary unenclosed projections may project into a minimum side yard not more than 50% of the required side yard and the ordinary projections of chimneys and flues may be permitted by the Building Inspector where same are so placed as not to obstruct the light and ventilation.

(E) Public use facilities may be located in any zoning district and are not subject to the building height limits, site area, or front, side or rear yards generally required in the zoning district in which the public use facility is located.

(Prior Code, ' 62-14) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.36 TELECOMMUNICATIONS TOWERS.

(A) Telecommunications towers may be located in any zoning district as a conditional use subject to the requirements set forth in this section.

(1) As used herein, the term *TELECOMMUNICATIONS TOWER* shall mean any structure exceeding 35 feet in height which is used for the purpose of telecommunications, including, but not limited to, all wireless communications facilities@ as that term is defined in the Telecommunications Act of 1996, as amended.

(2) Telecommunications towers are subject to the following conditions.

(a) The applicant for a conditional use permit for a telecommunications tower must submit with the application such site plans, sworn statements or other documentation necessary to establish that the application meets the requirements of this section.

(b) The dimensional requirements for telecommunications towers in all districts shall be governed by this section. Telecommunications towers may be located on any undeveloped lot and as a second use on any developed lot, provided that the distance between the base of the tower and all adjoining property lines shall be one foot for every two feet of tower height.

(c) All telecommunication towers and any equipment located at the base of the tower must be enclosed by security fencing having a minimum height of eight feet. All guyed towers must also have eight-foot high security fencing around each guy anchor point.

(d) If a telecommunications tower is to be located in a zoning district in which this chapter imposes landscaping requirements, the area surrounding the fenced compound at the base of the tower must meet the landscaping requirements applicable to the zoning district. If compliance with these landscaping requirements is not practical for any reason, the applicant may propose an alternative means of compliance which will satisfy the requirements of this section so long as the base of the tower and the equipment located within the fenced compound is reasonably shielded from view from adjoining property lines.

(e) The applicant for a telecommunications tower must submit a sworn statement with the applications stating that: the tower will be designed, constructed, operated, and maintained in accordance with all applicable local, state, and federal laws, rules, and regulations, including the regulations of the Federal Communications Commission and the Federal Aviation Administration; that any tower exceeding 150 feet in height will be designed to accommodate the equipment of at least one additional telecommunications company; and that any tower which is not used for a continuous period of not less than 12 months shall be removed.

(f) No telecommunications tower shall have any signs located on the tower nor shall any tower facility be occupied as a dwelling.

(B) This section contains the regulations for placement of telecommunications towers and, to the extent that any other provisions of the zoning ordinance shall be deemed applicable to telecommunications towers, such provisions shall be construed so as to be consistent with the provisions of this section.

(C) No telecommunications tower shall be constructed except upon the issuance of a conditional use permit in accordance with the definition of Aconditional use@ in ' 153.02. The Town Council shall have the right to modify any of the requirements contained in this section as a condition to the issuance of a conditional use permit, and shall have the right to place such additional conditions on the issuance of a conditional use permit for telecommunications tower as they deem necessary or appropriate.

(Prior Code, ' 62-15) (Ord. passed 6-13-1972; Ord. 29, passed 11-9-1999; Ord. passed 8-4-2010)

' 153.37 NONCONFORMING USES.

(A) The lawful use of a building existing at this time of the passage of this chapter shall not be affected by this chapter, although such use does not conform to the provisions of this chapter; and such use may be extended throughout the building provided no structural alterations, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building, are made therein but no such use shall be extended to occupy any land outside such building. If such nonconforming building is removed or the nonconforming use of such building is discontinued for a continuous period exceeding 120 days, every future use of such premises shall be in conformity with the provisions of this chapter.

(B) The lawful use of land existing at the time of the passage of this chapter, although such does not conform to the provisions of this chapter, shall not be affected by this chapter; provided however, that no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of the ordinance from which this

chapter is derived. If such nonconforming use is discontinued for a continuous period exceeding 120 days, any future use of said land shall be in conformity with the provisions of this chapter.

(C) A nonconforming use may be changed to a use of the same or higher classification according to the provisions of this chapter.

(1) When a zone shall hereafter be changed, any then existing nonconforming use in such changed zone may be continued or changed to a use of a similar or higher classification; provided all other regulations governing the new use are complied with. Whenever a nonconforming use of a building has been discontinued or changed to a higher classification or to a conforming use, such use shall not thereafter be changed to a nonconforming use or to a lower classification.

(2) The order of classification of uses from the highest to lowest for the purposes of this section shall be as follows:

- (a) R-15 Residential uses;
- (b) R-75 Residential uses;
- (c) R-6 Residential uses;
- (d) Mobile Home uses;
- (e) Neighborhood Business uses;
- (f) Central Business uses;
- (g) Highway Business uses; and
- (h) Industrial uses.

(3) For the purposes of this section manufactured home uses shall be considered a use of lower classification than Neighborhood Business District uses; Central Business District uses and Highway Business District uses.

(D) (1) Nothing in this chapter shall be construed to prevent the restoration of a building destroyed to the extent of not more than 80% of its replacement value, exclusive of foundations, by fire, explosion, or other casualty, or act of God, or the public enemy, if such building is repaired or rebuilt within one year of the date of such damage but not thereafter. A building damaged more than 80% of its replacement value shall be rebuilt to conform to this chapter. This chapter shall not prevent this continued occupancy of use of such building or part thereof which existed at the time of such partial destruction.

(2) In residential zoning districts, a single-family detached dwelling may be erected on a nonconforming lot.

(Prior Code, ' 62-16) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.38 ZONING BOARD OF ADJUSTMENT.

(A) A Zoning Board of Adjustment is hereby established. The word *BOARD* when used in this chapter shall be construed to mean the Zoning Board of Adjustment. Said Board shall consist of five members, appointed by the Town Council, each to be appointed for a term of three years. The original appointment shall be made in this manner: One member shall be appointed for a term of one year; two members shall be appointed for a term of two years; and two members shall be appointed for a term of three years. At the expiration of the terms of all members first appointed all new or reappointments shall be made for a term of three years. All appointments to fill vacancies shall be for the unexpired term. The Board shall elect a chairman from its membership and such other officers as the Board deems best.

(B) The members of the Board shall receive no compensation for their services.

(1) All meetings of the Board shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact, and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record. No final action shall be taken on any matter unless a quorum be present.

(2) An appeal from the decision of the Building Inspector may be taken to the Board by any person aggrieved or any officer, department, board or bureau of the town affected by such decision. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board after the notice of appeal shall have been filed with him or her by reasons of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Board or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

(3) (a) The Board shall have the following powers:

1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Building Inspector. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector to decide in favor of the applicant any matter on which it is required to pass this chapter or to effect any variation in this chapter;

2. To permit a temporary building for business in the residential zone, which is incidental to the residential development, such permit to be issued for a period of not more than one year; and

3. To authorize upon appeal in specific cases variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in undue hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(b) In considering all proposed variations to this chapter, the Board shall, before making any finding in a specified case, first determine that the proposed variation will not constitute any change in the zones shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals and general welfare. In granting a variance the Board may attach hereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purposes of this chapter. Before a variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. A variance may be granted only when the practical difficulty or undue hardship complained of is due to the particular characteristics of the property and not to the general conditions of the neighborhood which may reflect an

undue stringency of this chapter itself. A hardship peculiar to the applicant, as distinguished from others affected by the general rule, must be shown. The fact that property may be utilized more profitably will not be considered adequate to justify the Board in granting a variance.

(4) Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the town may within 30 days after the filing of the decision in the office of the Board, but not thereafter, present to a court of competent jurisdiction a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon such decision of said Board shall be subject to review as provided by law.

(Prior Code, ' 62-17) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

Statutory reference:

Board of Adjustment, see G.S. ' 160A-388

' 153.39 ZONING COMPLIANCE CERTIFICATE.

(A) No building or other structure shall be erected, moved, extended, enlarged or structurally altered until a building permit for such work has been issued by the town.

(B) Each application for a building permit shall be accompanied by such building plans or other information as may be necessary to determine if the provisions of this chapter are being observed.

(C) This chapter shall be administered and enforced by the Zoning Administrator, or his/her designated representative, who shall be named by the Town Council and is hereby empowered to:

(1) Issue a zoning compliance certificate as a prerequisite to issuance of a building permit by the County Building Inspections Department;

(2) To collect the designated fees approved by the Town Council for requests for amendments, conditional use permits, variances, appeals and plat filings; and

(3) To make and keep all records necessary and appropriate to the office, including records of issuance and denial of all zoning compliance certificates, conditional use permits, variances, appeals, complaints and violations of this chapter and actions taken.

(D) Application for a zoning compliance certificate shall be made to the Zoning Administrator. Each application shall be accompanied by plans sufficient in detail to show the exact location of all structures, parking, utilities, streets and any other information the Zoning Administrator deems necessary to satisfy the requirements of this chapter, except that for residential accessory buildings, a simple plot plan showing location of buildings on the lot may be submitted.

(Prior Code, ' 62-18) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.40 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.

(A) No land shall be used or occupied, except for agricultural purposes, and no building hereafter structurally altered or erected shall be used or changed in use until a certificate of occupancy shall have been issued by the town stating that the building and/or the proposed use thereof complies with the provisions of this chapter. A like certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use.

(B) A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such building or part shall have been completed in conformity with the provisions of this chapter. A record of all certificates shall be kept on file in the town office, and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building erected.

(C) No permit for excavation for, or erection of, any building, or part of a building, or for repairs to, or alteration of, a building shall be issued until after a statement of its intended use has been filed by the applicant.

(1) No building, sign or other structure shall be erected, added to, relocated or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Building Inspector or his/her designee issues a building permit in accordance with the requirements of this chapter.

(2) No building which has been erected, added to, relocated or structurally altered for which a permit has been issued shall be used or occupied, nor the use of any building or land changed, until a certificate of occupancy has been issued by the Building Inspector stating that the building or structure, or part thereof, complies with the provisions of this chapter. No previously unoccupied structure shall be occupied until the certificate of occupancy is issued.

(3) No temporary utilities shall be connected until a building permit is issued. No permanent utilities shall be connected until a certificate of occupancy is issued.

(4) The county provides building inspection services within the corporate limits and the extraterritorial jurisdiction of the town. Application for a building permit and certificate of occupancy shall be made with the County Building Inspections Department. A zoning compliance certificate must be obtained from the Zoning Administrator before application can be made for a building permit.

(5) No building permit shall be issued until the plans and specifications of said building comply with the State Building Code, the county inspections ordinance, the provisions of this chapter, municipal zoning and land use regulations and a zoning compliance certificate has been executed by the town.

(Prior Code, ' 62-19) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.41 INTERPRETATION, PURPOSE, CONFLICT.

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

(Prior Code, ' 62-20) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.42 CHANGES AND AMENDMENTS.

The Town Council may from time to time on its own motion or on petition after public notice and hearing as provided by law amend, supplement, or change, modify, or repeal the boundaries or regulations herein or subsequently established. Provided, however, the Town Council may refer any proposed amendment to the zoning ordinance or map to the Planning Board for its recommendation and report. In case, however, of a protest against such change signed and acknowledged by the owners of 20% or more of the frontage proposed to be changed or of the areas of the lots on either side thereof, or of the frontage immediately in rear thereof, or directly opposite thereto, such amendment shall not be passed except by a three-fourths vote of all the members of the Town Council present and voting.

(Prior Code, ' 62-21) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.43 ENFORCEMENT.

The Building Inspector or other person designated by the Town Council is hereby authorized, and it shall be his or her duty, to enforce the provisions of this chapter. Appeal from the decision of the Building Inspector or other designated enforcement officer may be made to the Zoning Board of Adjustment.

(Prior Code, ' 62-22) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.44 BUILDING PERMITS PRIOR TO EFFECTIVE DATE.

No section of this chapter shall in any way prohibit, restrict, or affect in any manner or form any person, firm or corporation who has secured a building permit issued by the town prior to June 13, 1972.

(Prior Code, ' 62-23) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)

' 153.45 EXTRATERRITORIAL JURISDICTION.

Pursuant to G.S. ' 160A-360, the town shall exercise extraterritorial jurisdiction over the area hereinafter described which is contiguous to the limits of the town and not more than one mile distant at any point therefrom, to wit: beginning in the center of the intersection of U.S. Highway 13-N.C. Highway 11 and N.C. Highway 30 and running thence eastwardly along the centerline of N.C. Highway 30 to its intersection with N.C. Secondary Road 1508; thence northwardly in a straight line to the common juncture of the boundaries of Edgecombe, Martin and Pitt Counties; thence westwardly with the boundary line of Edgecombe County to its intersection with Crisp Branch Canal; thence southwardly in a straight line to the intersection of U.S. Highway 64 and N.C. Secondary Road 1431; and thence from that point a straight line to the intersection of U.S. Highway 13-N.C. Highway 11 and N.C. Highway 30, the point of beginning.

(Prior Code, ' 62-24) (Ord. passed 7-2-1980; Ord. passed 8-4-2010)

Statutory reference:

Territorial jurisdiction, see G.S. ' 160A-360

' 153.99 PENALTY.

Any person, firm or corporation who violates the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding \$50 or imprisoned not exceeding 30 days. Each day that violation continues to exist shall be considered a separate offense.

(Prior Code, ' 62-24) (Ord. passed 6-13-1972; Ord. passed 8-4-2010)