

ARTICLE I: GENERAL AND LEGAL PROVISIONS

101. Authority

This ordinance is adopted pursuant to authority granted to the Town of Bailey by the General Assembly of the State of North Carolina, and especially the Town Charter; North Carolina General Statutes (N.C.G.S. or NCGS or G.S.) Chapter 160A, Article 19 (Planning and Regulation of Development); Chapter 113A, Article 4 (Sedimentation Pollution Control); Chapter 143, Article 21, Part 6 (Floodway Regulation); Chapter 63, Article 4 (Airport Zoning); Chapter 136 (Roads and Highways); Chapter 157 (Housing); Chapter 143, Article 21, Part 1 (Water Supply Watershed Protection); and any special legislation enacted for the Town of Bailey, as amended.

102. Enactment

a. Title

This ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Bailey, North Carolina.” It may also be referred to as the “Zoning Ordinance” and referred to in this document as “this ordinance,” “these regulations,” and similar references.

b. Effective Date

This ordinance shall become effective on ____ __, 20__.

c. Purpose

The purpose of these regulations shall be to:

1. Accomplish the coordinated, balanced and harmonious development of the land within the corporate limits and extraterritorial jurisdiction of the Town of Bailey, and to implement the policies of the Bailey Comprehensive Land Use Plan and any other relevant plans and policies that may be adopted by the Town, in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development;
2. To extend and preserve the positive character of the Town and its extraterritorial jurisdiction in a manner that allows for future economic opportunities and improves the visual, functional, and harmonious development of the community, by applying standards that are tailored and scaled to the specific needs and limitations of the community, and avoiding the sudden imposition of harsh or excessively burdensome requirements to existing development;
3. Regulate and restrict the height, number of stories, and size of buildings and other structures, the proportion of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes;

4. Ensure appropriate use of land, as well as appropriate form of improvements to land and standards to which the use of land conforms;
5. Make adequate provisions for vehicular and non-vehicular travel;
6. Secure safety from fire, panic and other hazards;
7. Provide for light and air;
8. Establish appropriate ranges of density for structures and population;
9. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, stormwater management systems, and other public requirements;
10. Promote desirable living conditions and the sustained stability of neighborhoods; and
11. Enhance property values and protect property against disinvestment and depreciation.

103. Jurisdiction

a. General

The provisions of this ordinance shall apply to all land, buildings, structures, and uses thereof located within the corporate limits of the Town of Bailey and within the Town's extraterritorial jurisdiction, as shown or identified on the Zoning Map.

b. Applicability to County and Federal Property

To the extent allowed by law, the provisions of this ordinance shall apply to all land, buildings, structures, and uses owned by county or federal agencies within the corporate limits of the Town of Bailey. Where the provisions of this ordinance do not apply to such structures and land, such agencies are encouraged to meet the provisions of this ordinance.

c. Applicability to State Property

The provisions of this ordinance are applicable to the erection, construction, and use of buildings owned by the State of North Carolina and its political subdivisions pursuant to G.S. 160A-392; however, no land owned by the State may be included within an overlay district or a special use or conditional use district without approval of the Council of State.

104. Zoning Map

a. General

The boundaries of the zoning districts are hereby established as shown upon the Official Zoning District Map, which is referred to throughout this ordinance as the “zoning map,” “official zoning map,” or (in context) “map.”

b. Incorporated by Reference

The zoning map, along with all notations, references, amendments thereto, and other information shown thereon, such as zoning districts and extraterritorial jurisdiction, is hereby incorporated into and made part of this ordinance, the same as if the information set forth on the map were fully described and set forth in this ordinance.

c. Map Kept on File

The zoning map properly attested is on file at the Town Hall and is available for inspection by the public. The zoning map may be kept in electronic or paper form, but only one version shall be designated as the official zoning map and it shall be kept up to date as described in subsection b. As part of this ordinance, the zoning map shall be amended only in accordance with the procedures set forth in Articles II and IV of this ordinance.

d. Replacement of Zoning Map

If the official zoning map is damaged, lost, or destroyed in whole or in part, the Town Board may by resolution adopt the true copy in whole or in part as the official zoning map, and the Zoning Administrator shall promptly prepare or cause to be prepared a new true copy of the official zoning map.

From time to time, the governing board may by resolution adopt a new official zoning map if the prior map becomes difficult to interpret due to the number of amendments or other matters shown thereon, or if the governing board desires to replace the map for other reasons, provided that the new map is an exact copy of the prior map including any amendments adopted by ordinance. The new official zoning map shall bear the adoption date of the new map and the signatures of the Mayor and Town Clerk.

The Zoning Administrator shall preserve any and all remaining parts of all prior official zoning maps and true copies thereof together with all available records pertaining to their adoption, amendment, or repeal.

e. Proper Consideration Given

In the creation, by this ordinance, of the respective districts, the Board of Commissioners of the Town of Bailey have given careful consideration to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper and comprehensive groupings and arrangements of various uses and densities in accordance with a well-considered comprehensive plan for physical development of the community.

f. Map and Ordinance Govern Use and Development of Land

The boundaries of such districts as are shown upon the map adopted by this ordinance are hereby adopted and provisions of this ordinance governing the use of land and buildings, the physical arrangement of buildings and sites, and other standards for development, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown upon said map.

1. Division of Land by District Boundaries

Where the Zoning Map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this ordinance for the zoning district in which that part is located.

2. Official Case Record Controls

Where the record of official Town actions conflicts with the Zoning Map, the record shall control. For example, if the Zoning Map shows a property to be zoned as one district, but the record shows that the property was actually zoned another district, the case record controls. The map shall be updated to reflect the case record.

g. Interpretation of District Boundaries

If uncertainty exists as to the boundaries of the use districts shown on the zoning map which is not resolved by the ordinance or ordinances establishing and amending such boundaries, the Zoning Administrator shall interpret the district boundaries according to the rules in Section 401.d.

105. Applicability

a. No Use or Development Except in Compliance with Ordinance

No structure, sign, or land shall hereafter be used, altered, developed, subdivided, or occupied except in compliance with all of the applicable regulations of this ordinance. No structure or sign shall hereafter be erected, converted, moved, constructed, reconstructed, maintained, or altered except in compliance with all of the applicable regulations of this ordinance. No lot of record that did not exist on the effective date of this ordinance shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this ordinance. No development, use of land, construction, remodeling, or other activity shall be conducted or maintained contrary to the terms and conditions of any plan approval, permit, or other form of authorization required by this ordinance to engage in such an activity.

b. Non-Compliance is Violation of Ordinance

Failure to comply with Section 105.a shall constitute violation of this ordinance and is subject to enforcement as provided in Article IX.

c. Effect and Validity of Prior Special and Conditional Use Permits

Special Use and Conditional Use Permits granted under the previous zoning ordinance and in effect at the effective date of this ordinance, remain in effect and valid to the extent of their validity and according to the specific terms and limitations of each permit as then existing under the preceding ordinance.

d. Effect and Validity of Prior Variances

Variances granted under the previous zoning ordinance remain in effect and valid to the extent of the specific variance allowed in the issuance.

106. Rules for Construction and Interpretation

The construction and interpretation of this ordinance shall be according to the general tenets of legal construction as referenced in applicable case law or statutes, and the specific rules of interpretation set forth this ordinance within definitions and other sections.

107. Diagrams and Illustrations

Diagrams and illustrations among the text of this ordinance are intended to facilitate the administration of its terms, and are for illustrative purposes. If there is any conflict between the contents of a diagram or illustration and the text of the ordinance, the written terms of the ordinance text shall govern.

108. Conflicting Provisions

a. Other Laws or Regulations

Regulations set forth by this ordinance are declared to be the minimum regulations necessary to carry out the purpose of these regulations. If the requirements set forth in this ordinance are in conflict with the requirements of any other public law, regulation, or ordinance, the more restrictive or higher standard shall govern.

b. Private Agreements

Except as otherwise may be provided herein, this ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this ordinance shall govern. No such easement, covenant, or private agreement shall excuse any failure to comply with this ordinance. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

109. Vested Development Rights

a. In General

Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning map shall not be applicable or enforceable with the consent of the owner with regard to buildings and uses in the following cases:

1. When a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or
 2. When a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
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3. When a vested right has been established and remains valid and unexpired pursuant to this section.

b. Establishing a Vested Right

A vested right is deemed established upon approval following notice and public hearing of a site-specific development plan or a phased development plan which has been submitted to the Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

1. A site-specific development plan consists of the following: A planned unit development plan, a subdivision plat, a preliminary or general development plan, a Conditional or Special Use Permit, or a Conditional or Special Use District zoning plan, only if such plan includes:
 - a. The approximate boundaries of the site;
 - b. Significant topographical and other natural features affecting development of the site;
 - c. The approximate location on the site of the proposed buildings, structures, and other improvements;
 - d. The approximate dimensions, including height, of the proposed buildings and other structures; and
 - e. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site-specific development plan.

2. A vested right is established by a phased development plan which shows the phases of shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than a site-specific development plan.

The vested right thus established is subject to the terms and conditions of the approved plan, whether a site-specific development plan or a phased development plan. Only those design elements shown on or made a part of the site plan or permit shall be vested. The vesting shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phased development plan including any amendments thereto.

c. Term of a Vested Right

A right which has been vested pursuant to the approval of a site-specific development plan shall remain vested for a period of two years from date of

approval. A right which has been vested pursuant to a phased development plan shall remain vested for a period of three years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Town Board when it approves the modification or amendment. A right which has been vested under the provisions of this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued.

d. Declaration of a Vested Right upon Voluntary Annexation

A petition for annexation filed with the Town pursuant to N.C.G.S. 160A-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that any vested right has been established, the statement shall be accompanied by proof to the Town of such rights. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

e. Future Repeal

In the event that G.S. 160A-385.1 is repealed, this Vested Development Rights section shall be deemed repealed and the provisions hereof no longer effective.

110. Severability

This ordinance and the various provisions and parts thereof (including sections, subsections, paragraphs, sentences, clauses, phrases, and terms as applied) are hereby declared to be severable. If any court of competent jurisdiction invalidates any part or provisions of this ordinance, then such judgment shall not affect the validity of any other provision of this ordinance. If any court of competent jurisdiction invalidates the application of any part or provision of this ordinance, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment. If any court of competent jurisdiction judges invalid any condition attached to a permit or approval issued pursuant to this ordinance, then such judgment shall not affect any other conditions or requirements attached to the permit or approval which are not specifically included in that judgment. Whenever any condition or limitation is included in an order, action, permit, or decision authorizing a Conditional or Special Use Permit or Zoning, Variance, Certificate of Zoning Compliance, Administrative or Map Determination, Site Plan approval, Watershed Protection Permit, Watershed Protection Occupancy Permit, or other permission granted pursuant to this ordinance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this ordinance or the requirement of some provision hereof,

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and to protect the public health, safety and welfare, and that the office or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

111. Repeal of Conflicting Provisions

Title XV of the Town of Bailey Code of Ordinances is repealed in its entirety by this ordinance. This ordinance replaces and repeals Section 91.021 (“Display of Goods Prohibited”) and Section 92.03 (“Posting Signs”) of the Town of Bailey Code of Ordinances, as well as the Open Air Sales Ordinance adopted by the Town. Other ordinances or parts of ordinances of the Town of Bailey which are in conflict with this ordinance are hereby superseded to the extent necessary to give this ordinance full force and effect.

112. Statute of Limitations

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

113. Enactment Date

This ordinance is duly adopted by the Board of Commissioners of the Town of Bailey, this the __ day of _____, 20__.

Town Clerk

Mayor

ARTICLE II: ZONING DISTRICTS

201. Establishment of Districts

For purposes of this ordinance, the zoning jurisdiction of the Town of Bailey is divided into the zoning districts described in Sections 202, 204, and 205, and land within each district is designated on the Zoning Map, as provided in Article I.

202. General Districts

The following general use districts are hereby established for the specific purposes listed here for each district, and land which lies within each is designated on the Official Zoning Map by the corresponding abbreviations listed here. These districts are also referred to as base districts, in contrast to overlay districts (Section 205).

R-40. *Residential-40 District.* To preserve rural character and allow scattered single-family dwelling units, agriculture and other rural uses, recreational uses suited to less developed areas, and conservation.

TR. *Traditional Residential District.* To provide for the established or older neighborhoods in Bailey that have a traditional small-town character and form, to ensure that infill construction in these areas is compatible with the existing built pattern and physical context of these neighborhoods, and to limit the uses allowed in these areas to those that promote stable, livable residential neighborhoods.

MHP. *Manufactured Home Park District.* To provide appropriate land for group siting of manufactured homes along with standards to ensure quality, affordability, and compatibility with surrounding areas.

R-20. *Residential-20 District.* To provide for mainly single-family houses at a density of 1 to 2 units per acre (limited to 1 unit per acre, or the minimum area required by the Nash County Health Department, whichever is larger if without central sewer) in areas of the ETJ adjacent to incorporated areas in the Town. Certain less intensive recreation and institutional uses, as well as rural agricultural uses compatible with low density residential development, are allowed in this area. This category may be annexed to the Town and then served with public water and sewer depending on the size and lots in a development and the impact of doing so on the fiscal resources of the Town. Where areas are designated low density residential on the Future Land Use Map, the R-20 district provides an option for applicants to apply to rezone land to this district, with the request being evaluated according to the FLUM and other land use plan policies.

R-10. *Residential-10 District.* To allow single-family uses within the Town limits at a comparable density (about 4 to 6 dwelling units per acre) to existing neighborhoods in this area, and to allow uses compatible with single-family neighborhoods of that density, such as certain recreational uses, more actively developed parks, and family day care homes.

MR. *Mixed Residential District.* To allow for residential neighborhoods containing a variety of housing options in addition to single-family houses, in areas that are designated for medium-density new development, including new neighborhood expansion areas within Town limits that are close to schools and existing neighborhoods. Where areas are designated for new development at medium-density or greater residential uses on the Future Land Use Map, the MR district provides an option for applicants to apply to rezone land to this district, with the request being evaluated according to the FLUM and other land use plan policies, such as the inclusion of new neighborhood parks in target areas, establishing good street connections to existing neighborhoods, the school, and other amenities and public facilities, neighborhood form, small block sizes, and rich street connectivity.

TC. *Town Center District.* To allow for traditional downtown uses such as storefront retail, small-scale commercial uses, key public and governmental or civic uses, and some residential uses in the historical downtown section of the Town, in a physical form that reflects traditional downtown building patterns.

TCE. *Town Center Extension District.* To accommodate, around the Town's central crossroads, an expanded range of uses in addition to the uses allowed in the adjacent Town Center district, and over time as lands may be redeveloped, to apply walkable standards for physical form suited to the district's central location in the Town, rather than standards typical of suburban shopping centers unsuitable for the walkable small-town environment desired by the citizens.

CO. *Outlying Commercial District.* To accommodate suburban commercial and related uses, mainly retail and service establishments, that occur in a physical form typically accessed by automobile and without an important civic or institutional component but with good connection and access to planned or existing residential areas. Certain more intensive commercial uses are allowed by Conditional Use Permit to allow review of their appropriateness for sites in this district.

I. *Industrial District.* To accommodate industrial uses and certain heavy commercial activities whose effects are unsuitable for general commercial districts, where they may function without undue interference and without generating undue side effects on other properties.

CI. *Community-Institutional District.* To accommodate a variety of community and institutional uses, such as schools, cemeteries, historic sites, and religious institutions, certain assembly uses, and other related uses and activities with similar impacts, in areas that will provide good accessibility to settled areas of the Town but also manage the potential side effects of these uses on residential areas.

203. Uses Allowed in Zoning Districts

a. Mix of Uses Allowed

More than one principal use may be established and conducted on a single lot of record and on a single site. More than one principal use may be established and conducted in a single structure.

b. Table of Allowed Uses

Uses allowed in all districts shall be in accordance with Table 203 (Table of Allowed Uses). In the table, a “P” indicates the use indicated in that row of the table is permitted by right (that is, with a Zoning Permit or Certificate of Zoning Compliance, whichever is applicable) in the district indicated in that column; a “C” indicates that the use in that row is allowed in the district indicated in that column only pursuant to a valid Conditional Use Permit, obtained pursuant to Section 406 and only according to the additional regulations and processes provided in this ordinance. A cell containing no character indicates that the use indicated in that row is not allowed in the district indicated in that column.

c. Undesignated Uses

Uses not designated in Table 203 are prohibited. Notwithstanding, if on examination it appears to the Zoning Administrator that a use not designated in the table may be substantially similar to a use that is designated in the table, the Zoning Administrator may use professional information and guided, limited discretion to evaluate whether the undesignated use is so similar in its impacts and characteristics that it should be governed in the same way as the use that is designated.

1. Submittal of Written Information

In making the determination, the Zoning Administrator shall require the person proposing the use or requesting the determination to submit a complete written description of the proposed use, its extent, all activities that will comprise the use, the conduct of the use, observable effects of the use (such as noise, vibration, smoke, odor, particulate matter, impact upon public facilities such as streets and water/wastewater infrastructure, traffic generation), and any other information necessary in the Zoning Administrator’s opinion to render an informed determination.

2. Consideration and Determination

The Zoning Administrator shall consider the submitted information and any other information that s/he determines to be relevant, and shall make a determination based on (1) the substance of the activities, (2) the performance characteristics of the use, and (3) the potential effects of the activities and the performance characteristics on other properties and uses in the vicinity. If these three elements are all substantially so similar in the determination of the Zoning Administrator to those of the use designated in the table, then the proposed use shall be governed in the same manner in the applicable zoning district, whether it is permitted by right, allowed as a conditional use, or not allowed, including compliance with any standards and any district regulations that apply to the named use.

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Section 203. Uses Allowed in Zoning Districts

USE	R-40	TR	MHP	R-20	R-10	MR	TC	TCE	CO	I	CI	Additional Standards
All Other Uses												
ABC Store							C	C				
Adult establishments										C		X
Auction house							C	C	C			
Auto parts/accessories, no outdoor storage or display							P	P	P	P		
Automotive rental or leasing								C		P		
Automotive repair								C	C	P		X
Automotive storage										P		
Bakery, commercial										P		
Bakery, retail or storefront							P	P	P			
Banks and other financial institutions							P	P	P			
Bar								C				
Barber or beauty shop							P	P	P			
Building materials and supplies, with outdoor storage								C		P		
Building materials and supplies, no outdoor storage								C	C	P		
Bus station								C	C	C		
Catering kitchen and/or reception hall		C									C	X
Cemeteries, public and private	C										C	X
Child day care centers, kindergartens, preschools, & nursery schools						C	C	C	C		P	X
Churches and other places of worship	P			C							P	X
Civic and fraternal organizations				C				C			P	X
Clothing alteration or shoe repair shop							P	P	P			
Colleges, technical schools & universities (non-profit)							P	P			P	X
Communication or broadcast studio									P	P		
Community and senior centers						C	P	C			P	
Community garden	P	P	P	P	P	P	P	P	P	P	P	
Convenience store without motor fuel sales							P	P	P			
Convenience store with motor fuel sales								C	P			X
Country club	C			P								
Craft or artisan production							P	P	P	P		
Dairy plants, non-farm										P		
Dog grooming	P								P	P		
Doggie day care	C											X
Drive-through component for a use permitted in the district									C	P		X

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USE	R-40	TR	MHP	R-20	R-10	MR	TC	TCE	CO	I	CI	Additional Standards
Office equipment and supplies							P	P	P			
Offices, business and professional		C					P	P	P			X
Outdoor operations, industrial										C		
Outdoor storage yard										P		X
Park, active (including ballfields)					P	P	P	P			P	
Park, passive	P	P		P	P	P	P	P			P	
Parking lots (stand-alone)									P			
Pawn shops										C		
Pest control service								C	C	P		
Photo-copying or duplicating							P	P	P			
Photographic studio							P	P	P			
Playgrounds		P		P	P	P	P	P			P	
Post Office or pack & ship store							P	P				
Printing plants, newspapers & publishers							C	C	C	P		
Quarry, mining, timbering, or resource extraction	C											X
Recreation, resource-based	P											
Recreational facilities, indoor (public or non-profit)						C	C	P			P	
Recreational facilities, part of a subdivision & controlled by a HOA				P	P	P						
Recycling collection station									P	P	C	
Recycling plant										C		
Repair & maintenance shops, non-automotive, no outdoor component & <2000 sq ft							P	P	P	P		X
Repair & maintenance shops, non-automotive, with outdoor component or =>2000 sq ft										P		X
Restaurants		C					P	P	P			X
Retail stores & retail service establishments of 5000 sq feet or more								C	P			
Retail stores & retail service establishments under 5000 sq feet							P	P	P			
Rural-based business	P											
Schools, elementary and secondary, public & private											P	X
Secondhand stores										C		

ARTICLE II: ZONING DISTRICTS
Section 204. Special Use Districts

USE	R-40	TR	MHP	R-20	R-10	MR	TC	TCE	CO	I	CI	Additional Standards
Self-storage facility										C		X
Service station or gasoline filling station								C	P	P		X
Public sewage & water treatment plants or application fields	P											
Shopping center less than 5000 sf floor area									P			X
Shopping center 5000 sf of floor area or more									C			X
Storage of hazardous substances or flammable liquids, bulk										P		X
Storage, indoor (not self-storage units)							P	P	P	P		X
Studio, art, craft, design, or architecture							P	P	P			
Telecommunication towers, camouflaged or co-located	P						P	P	C	P	C	X
Telecommunication towers	C						C	C		C		X
Thrift stores, charitable										P		
Tire repair, recapping										P		
Town Hall or Town Clerk's office							P	P				
Truck and trailer leasing										P		
Truck stop										P		
Trucking terminal										P		
Upholstery shops							P	P	P			
Utilities, minor	P	C	P	P	P	P	P	P	P	P	P	
Veterinary clinic	P							C	C			
Warehousing, general										P		
Woodworking shops, indoor operations	P						P	P		P		X

¹ Note to Table 203: No more than 30% of the dwellings in a contiguous area zoned MR shall constitute dwelling types other than single-family detached dwellings, unless allowed by the express terms of a Conditional Use Permit.

204. Special Use Districts

a. Purpose

The purpose of these base districts is to promote greater land use compatibility by allowing landowners to voluntarily place their property into classifications in which a Special Use Permit is required as a prerequisite to any use or development. More specifically, the purpose of these districts is identical to that of the corresponding general use district as indicated in this section, except that a Special Use Permit is also required as a prerequisite to any use or development, as provided for in this ordinance.

b. Table of Districts

Special Use District	Corresponding General Zoning District
R-40 SUD	R-40
TR SUD	TR
R-20 SUD	R-20
R-10 SUD	R-10
MR SUD	MR
TC SUD	TC
TCE SUD	TCE
CO SUD	CO
I SUD	I
CI SUD	CI

c. Uses Permitted

Within a Special Use District, only those uses shall be allowable that are designated by the Table of Allowed Uses as allowable within the zoning district with which the Special Use District corresponds. Specifically, a P or C designation in that table indicates that the relevant use is allowable.

d. Requirements for Uses

All allowable uses within a Special Use District require a Special Use permit authorized by the Town Board that shall specify the use(s) authorized. No permit shall be issued for any development within a Special Use District except in accordance with an approved Special Use Permit. The Special Use Permit may further specify additional conditions found to be reasonable and appropriate based on specific issues surrounding the use(s) proposed.

In addition, all other requirements of the corresponding district and other requirements and development standards of this ordinance shall be met, including the applicable development standards in Article V, Standards for Certain Uses.

e. Review Procedures

All requests for rezoning to a Special Use District, and all requests for a Special Use Permit within a Special Use District, shall be reviewed in accordance with the provisions of Article IV, Administration and Procedures. Property may be placed in a Special Use District only in response to a petition by the owners of all the property to be included.

205. Overlay Districts

Overlay zoning districts are applied in addition to one or more existing base districts to areas where special regulations are necessary or desired to protect critical features or resources. Whenever a base district and one or more overlay districts apply to an area of land and the standards of the overlay and base district

are different, the more restrictive standards shall apply, unless otherwise expressly provided in the regulations for the particular overlay district.

a. WSWO: Water Supply Watershed Overlay

1. Effect

This section carries forward by re-enactment those parts of any previous watershed ordinance of the Town of Bailey that are consistent herewith, and it is not the intention to repeal those provisions, but to preserve rights and liabilities that have accrued thereunder.

2. Applicability

Existing development is excluded from requirements of this ordinance and existing built-upon area is not required to be included in built-upon area calculations. Expansions to structures shall meet the requirements of this ordinance.

3. Nonconforming Existing Uses and Buildings

a. Uses of Land

Uses of land existing at the time of adoption of this ordinance where such use of the land is not permitted to be established thereafter in the watershed area may be continued, except as follows:

- (1) When a use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
- (2) The use of land shall be changed only to an allowed use.
- (3) When such use ceases for a period of at least one year, it shall not be reestablished.

b. Reconstruction of Buildings or Built-Upon Areas

An existing structure or built-upon area, not in conformance with this ordinance, that has been damaged or removed may be repaired and/or reconstructed (except that there are no restrictions on single family residential development), provided:

- (1) Repair or reconstruction is initiated within twelve months and completed within two years of such damage, and
- (2) The total amount of space devoted to built-upon area shall not be increased.

4. Violations and Civil Penalties

In addition to remedies available pursuant to this zoning ordinance, the North Carolina Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day's violation shall constitute a separate offense.

5. Land Use Intensity

a. General

Single-family detached uses shall not exceed one dwelling unit per acre. No residential lot shall be less than one acre, or, alternatively, 40,000 square feet excluding roadway right-of-way.

All other residential and non-residential development shall not exceed 12% built-upon area.

For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

b. Special Intensity Allocation and High-Density Development

Due to the limited extent of WS-III area in the Town's planning and zoning jurisdiction, the limited infrastructure available to the WS-III area (which limits the intensity of development that would be permitted in that vicinity in any case), the location of the WS-III area in a portion of the Future Land Use Map for which low-density rural uses are intended, the limited size and capacity of the local government to administer special provisions, and the underlying R-40 zoning district restrictions which are similar to the WS-III overlay regulations in stringency, there is no special intensity allocation option available under this ordinance, nor shall high-density development using engineered stormwater control devices be permitted in this overlay district.

6. Allowed Uses

Uses of land and buildings shall be limited to the following:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- c. Residential uses.
- d. Non-residential development, excluding (1) landfills and (2) sites for land application of residuals or petroleum contaminated soils.

7. Buffering

Along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps, a minimum buffer must be maintained as follows:

- (1) Agricultural activities – A 10-foot-wide vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission;
 - (2) All development activities – A 30-foot vegetative buffer.
-

Within the buffer, no new development is allowed except for water-dependent structures, structures such as flag poles and signs which result in only diminutive increases in impervious area, and public projects such as road crossings and greenways where no practical alternative exists. These activities must minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of stormwater Best Management Practices.

8. Watershed Administrator and Watershed Review Board

The Zoning Administrator of the Town shall act as the Watershed Administrator and shall carry out the administration and enforcement of this section. The Planning Board shall act as the Watershed Review Board.

9. Procedures for Appeals and Variances

The procedures for appeal of determinations, actions, and decisions of the Watershed Administrator shall be the same as those for appeals of other determinations of the Zoning Administrator under this ordinance.

The procedures for variances from the WSWO provisions shall be the same as those for other variances under this Zoning Ordinance, except that the Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption, giving each a description of the variance being requested, and allowing comments by these entities prior to the decision of the Watershed Review Board. The comments shall become a part of the record of proceedings.

The Watershed Review Board shall not grant any variance that results in a relaxation, by more than ten percent, of any management requirement.

10. Watershed Protection Permit

a. Permit Required

No structure or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any structure or land be made, until a Watershed Protection Permit has been issued by the Watershed Administrator, except that a single family residence may be constructed on a lot deeded prior to the effective date of this ordinance. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

b. Application

Application for a Watershed Protection Permit shall be filed with the Watershed Administrator, and shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.

c. Expiration

A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve months from the date of issuance.

11. Watershed Protection Occupancy Permit

a. Permit Required

No structure which has been erected, moved, or structurally altered may be occupied or used, nor shall any change of use of structure or land occur, until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit, certifying that all requirements of this ordinance have been met.

b. Application

A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten days after the erection or structural alterations of the building. When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

c. Denial

If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

12. Definitions

Definitions of specific terms, provided in the Model Watershed Protection Ordinance promulgated by the North Carolina Department of Environment and Natural Resources, shall be the definitions of those terms where they occur within these Water Supply Watershed Overlay provisions.

b. CRO: Corridor Overlay

1. Purpose and Intent

In addition to the purpose and intent stated elsewhere in this ordinance more generally, the purpose of the Corridor Overlay is to provide for a functional, safe, attractive, and economically productive setting around the primary intersection and roads in the heart of Bailey. This intersection and these roads (primarily Highway 581 also known as Oak Avenue, and US264A also known as Deans Street) can, with appropriate improvements and development standards, link the different areas of Town together and contribute to its safety, visual quality, and economic positioning. The standards and requirements given here are intended to carry those goals forward in pursuit of the

outcomes articulated by members of the public in the 2008 Long-Range Plan and other public policies.

2. Streetscape Standards

a. Redevelopment

Upon new development or complete redevelopment of a site, or improvements costing more than 100% of the site's total assessed value before the improvements, 4-foot-wide sidewalks shall be installed along all street frontages, and street trees of a shade tree variety shall be installed on 25-foot centers in a 5-foot-wide planting strip between the sidewalk and the street. Planting installation and material selection shall meet the standards of Section 617.

b. Building Addition or Renovation

Upon improvements to a site or building amounting to 50% or more of the site's total assessed value, driveway cuts shall be delimited and consolidated to not more than 28 feet wide for a two-direction (entry and exit) access point and designed with a not more than 20-foot inside turning radius for right turns, and street trees of a shade tree variety shall be installed on 25-foot centers in a planting area adjacent to the street frontage (if possible, in the area where a planting strip would be between an existing or future sidewalk and the street). Planting installation and material selection shall meet the standards of Section 617. The planting strip or planting area shall be delineated and improved with barriers as needed to protect from intrusion by vehicles or equipment.

3. Building Design

Every new principal commercial or institutional building, and upgrade or addition to such a building costing in excess of 100% of the assessed value of the existing building, shall comply with the following standards:

Fronts and entries. Building fronts shall face and be oriented parallel to the street. Main entries shall be located in building fronts and shall face the street, except where a building faces two streets, in which case the building entry may be located at the corner of the building where the two fronts meet. Front entries shall be located in a recess a minimum of 2 feet deep from the adjacent foremost portion of the building façade.

Fenestration. Not less than 60 percent of the linear extent of the portions of the building that face on any street shall consist of transparent, untinted glass windows, which shall extend from not more than four feet above ground level to at least seven feet above ground level; ground level for this purpose shall be measured at the base of the wall. Doors having such a window count toward the requirement.

Walkways. Each building front facing a street shall be faced by a walkway not less than four feet wide. Awnings, canopies, and similar non-structural overhangs covering the walkway in front of buildings are encouraged.

4. Parking

Upon new development or complete redevelopment of a site, or improvements costing more than 100% of the site's total assessed value before the improvements, the following standards shall be met:

Off-street parking. Not more than one row of off-street parking spaces and a single access aisle shall be located between the building and any public street on which the site fronts. Any additional area used for off-street parking and parking access shall be located to the rear or sides of buildings.

On-street (curb) parking. The delineation of on-street parking spaces in the public right-of-way is allowed and encouraged when done in coordination with a public entity having responsibility for the right-of-way and improvements thereto.

5. Access Management

Driveway access. No new driveway cuts or accesses shall be created directly onto US264A (Deans Street) or Highway 581 (Oak Avenue) to serve any lot created after the effective date of this ordinance unless the lot is at least 150 feet wide along the frontage where the cut or access is made.

Offer of cross-access to adjacent sites. For all new development involving (a) any division of lots or lot recombination or (b) any improvements costing more than 30% of total assessed value of the site, an offer of cross-access shall be made to adjacent property to allow for a 20-foot-wide access easement linking properties. The cross-access location shall be sited so as to allow every vehicular usage area, such as off-street parking or vehicle drive or lane, located on private property to conveniently access neighboring property containing such areas.

Coordinated circulation plan among sites. If a coordinated development plan or subdivision of land is undertaken involving two or more adjacent sites or parcels, the developer or applicant shall provide for cross-access and circulation between and among all such sites and parcels, such that vehicles need not enter and exit onto the public highway or street in order to have access to adjacent sites.

6. Transportation Projects

Within the Town of Bailey and especially within the Corridor Overlay, all transportation projects in the public right-of-way undertaken by any entity, public or private, shall incorporate context-sensitive design. In the corridor overlay setting, context-sensitive means, at a minimum, the following:

- 1) Plan layouts and cross-sections shall include facilities for pedestrian, bicycle, and other non-motorized modes at a level of service equal to that provided for motorized vehicles;
- 2) The project design shall elevate pedestrian level of service, comfort, and convenience, and the safety of access and use of local sites situated along the project extent, above the level of service, comfort, and convenience given to vehicle through-put, speed, and free movement;
- 3) The project shall give precedence to local needs of landowners, businesses, and other users of local sites along the project, rather than to regional and non-local considerations;
- 4) Project design and engineering choices shall be consistent with and in furtherance of a closely settled, highly developed, distinctly walkable place in the middle of a town; and
- 5) On-street parking shall be provided along one or, wherever possible, both sides of the project where it passes along a commercially zoned location.

Examples of context sensitivity using these principles would include installing crosswalk timers with generous pedestrian crossing times, rather than shortening them to move vehicles through the intersection more rapidly; limiting the width of pavement so that people may cross intersections easily; constructing a landscaped median with pedestrian refuges in the center of Highway 581; applying smaller turn radii to street corners; applying “Complete Streets” cross-sections instead of vehicle-only cross-sections; and installing pedestrian facilities appropriate to the center of a settled area.

c. MO: Museum Overlay

1. Purpose and Intent

In addition to the purpose and intent stated elsewhere in this ordinance more generally, the purpose and intent of the Historic Overlay is to protect and sustain the visual character and development quality of the neighborhood around the Country Doctor Museum. The museum is an important landmark in the Town and a destination for visitors, as well as a source of pride for Bailey residents. The standards and requirements given here are intended to carry those goals forward in pursuit of the outcomes articulated by members of the public in the 2030 Long-Range Community Plan adopted in 2008 and other public policies.

2. Existing Character

The character of the area is noteworthy as an example of a traditional small town in Eastern North Carolina. Older buildings are constructed of local natural materials, such as brick, wood, and locally quarried stone. All face the primary street and most have front porches.

Features of the settled landscape, such as fences, outbuildings, and yard plantings, consist of materials typical of the locality, such as wooden outbuildings with seamed metal roofs, and heritage plant species that are old favorites in the upper coastal plain, such as azaleas, forsythia, redbud, camellia, and dogwood. Fences and walls in the area are constructed primarily of wood or brick, sometimes with masonry accents. Driveways are narrow and are made of gravel or concrete. Extensive views over neighboring yards and farmland provide a sense of spaciousness and add to the rural experience.

3. Standards

All development within the Museum Overlay shall comply with the following standards.

a. Materials

Materials for new construction shall be wood, brick, cementitious siding, or masonry. Fake stone, metal construction, vinyl siding, and aluminum siding are prohibited, except for accessory structures less than 400 square feet behind the front building line of the principal structure.

b. Driveways

Width. Driveway cuts where they join the public street and right-of-way shall be not more than the width necessary to accommodate one vehicle. No driveway shall be more than 9 feet wide on a lot of 50 feet or less in width, nor more than 15 feet wide in any case.

Configuration and improvements. On any property, there shall be no more than one driveway access per street frontage. New circular driveways shall not be installed. Vehicles shall not be parked or driven across front yards in areas other than driveways, except where lot or building maintenance requires temporary access. Driveways shall be improved with gravel, brick, and/or concrete, but not with blacktop.

Swales and ditches. Where swales or shallow ditches exist alongside the street, they shall be protected from harm with appropriate culverts or stabilization, and shall not be eliminated, removed, or their drainage function impaired by the actions of private persons. Repeatedly parking or driving vehicles across swales or ditches is prohibited.

c. Roof Pitch

Roofs, other than porch roofs and roofs on accessory structures less than 400 square feet, shall have a pitch of at least 1:3 (4:12).

d. Porches

Every single-family dwelling constructed after the effective date of this ordinance shall have a porch facing the principal street at least 6 feet deep and 10 feet wide.

e. Garage Location

No part of any enclosed garage shall be located less than three feet behind the front wall line of the dwelling which it serves.

f. House Location

For new residential buildings, the distance between the building and the street right-of-way or property line:

(a) shall not exceed the greatest such distance for houses on the same block face, and

(b) shall not be less than the least such distance for existing houses on the same block face, or than the minimum setback in the zoning district, whichever is less.

g. Fences

Chain-link fencing is prohibited forward of a point three feet behind the front building line of the structure on the subject lot.

h. Landscaping

For every single-family dwelling constructed after the effective date of this ordinance, the subject lot shall be planted with at least two shade trees and at least five ornamental shrubs meeting the standards of Section 617. The use of native species and traditional varieties is encouraged.

206. District-Specific Regulations

The following regulations shall apply in the districts indicated.

a. Parking Exemption

The TR, TC, and TCE districts are exempt from the minimum quantity requirements for parking and from the requirement to provide loading spaces.

b. Driveways

1. In the TR district, on any lot narrower than 60 feet at the front property line and abutting an alley, driveway openings to the public right-of-way shall access the alley and not the street.
 2. In the R-10 and MR districts, for all new lots created after the effective date of this ordinance and less than 70 feet in width, front driveways are prohibited.
 3. In the TCE district, upon improvements to a site or building amounting to 50% or more of the site's total assessed value, any existing driveway cuts shall be delimited and consolidated to not more than 28 feet wide for a two-direction (entry and exit) access point and designed with a not more than 20-foot inside turning radius for right turns.
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c. Screening

Screening requirements are adjusted as provided for the TR and TC districts in Section 621.a.2.

d. Dwelling Types in the MR Zoning District

No more than 30% of the dwellings in an area that:

(1) consists of a block, frontage along a particular street, contiguous area, area under common ownership or control, or area that is or was part of an approved common development plan, and

(2) is zoned MR,

shall constitute dwelling types other than single-family detached dwellings, unless a greater percentage or specific number is allowed by the express terms of a Conditional Use Permit or Conditional Use Zoning approval.

207. Annexed Land

All territory which may hereafter be annexed to the Town shall be considered to be in the R-40 district until specifically designated with another zoning district.

ARTICLE III: DIMENSIONAL STANDARDS

301. General Rules

- a. All structures shall be sited and constructed so as to meet the dimensional requirements and limits established by this ordinance.
- b. For every building erected, moved, or structurally altered, the minimum yards, setbacks, and other open spaces required by this ordinance shall not be encroached upon except as allowed by this ordinance.
- c. No lot shall be created or reduced in shape or size so as to produce a lot which is not in conformity with the regulations for the zoning district in which it is situated or other more generally applicable regulations, except where a lot is altered because of a taking by eminent domain, or where the land is needed and accepted for public use by a unit of government, a public utility regulated by the North Carolina Utilities Commission or the Federal Communications Commission, or a not-for-profit land conservation organization already engaged in such work at other locations.

302. Table of Dimensional Standards

- a. Table 302 sets forth intensity and dimensional standards. All primary and accessory structures shall be subject to the standards set forth in the tables, except as modified by other provisions of this ordinance.
- b. Certain supplemental regulations are referenced within the table by number and set forth immediately following the table as numbered notes.
- c. In addition to the requirements of the table and other requirements of this ordinance, lots and development sites must meet all Health Department requirements and other requirements of law.
- d. Prior variances apply according to the provisions of Article I.

ARTICLE III: Dimensional Standards
Section 302. Table of Dimensional Standards

Table 302: Dimensional Standards

		Minimum Lot Dimensions			Minimum Setbacks (feet)				Max. Lot Coverage (%)
District	Use	Area (sq ft)	Width (ft)	Depth (ft)	Front	Rear	Side	Corner side	
R-40	All	40,000	100	150	30	25	12	22	20
TR	All	8,400	60	140	15 ¹ (max 30) ¹	30	8 (5 ¹)	10 (5 ¹)	35
MHP	All	10,000	75	100	30	25	12	22	30
R-20	All	20,000	100	150	25	30	10	15	25
R-10	All	8,000 if served by an alley; 10,000 if no alley	50 if served by an alley; 80 if no alley	110	20 (15 ²)	30	10	15 (12 ³)	30
MR	SF ⁴	Same as R-10	Same as R-10		20 (15 ²)	30	10	15	30
	non-SF	See note 5	See note 5		20 (15 ²)	20	10	15	40
TC	All	none	none	100	none	10	none	none	none
TCE	All	none if no driveway cut onto fronting street; otherwise, 15,000	none if no driveway cut onto fronting street; otherwise, 150	100	10	none	none	10	none
CO	All	40,000	100	150	30	30	15	25	50
I	All	none	200	200	35	20	30	35	40
CI	All	10,000	50	100	20 (15 ⁶)	20 (15 ⁶)	20 (10 ⁶)	20 (10 ⁶)	40 (60 ⁶)

Notes to Table 302:

¹ For a dwelling structure that was in existence prior to January 1, 1940: The minimum front setback for that structure shall be the existing distance of the structure from the front lot line, or 15 feet, whichever is less, but in no case less than 10 feet. The minimum side setback for that structure shall be the existing distance of the structure from the applicable side lot line, or 8 feet, whichever is less, but in no case less than 5 feet. The minimum corner side setback for that structure shall be the existing distance of the structure from the applicable corner side lot line, or 10 feet, whichever is less, but in no case less than 5 feet. These additional allowances for older dwelling structures apply to additions to such structures, but not to replacement structures.

²The minimum front setback shall be 15 feet for a residence having a front porch at least 5 feet deep and 10 feet wide. The front porch may extend into the minimum setback requirement in the manner provided for in Section 304.

³The minimum corner side setback shall be 12 feet if the lot existed prior to January 1, 2011.

⁴This row indicates requirements for detached single-family dwellings.

⁵Minimum lot sizes for multi-family dwellings and garden apartments, 25,000 square feet; family care home, 10,000 square feet; assisted or congregate living facility, 40,000 square feet; senior housing, 15,000 square feet for entire development, but any individual townhouse sites may comply with townhouse minimum; townhouses, 15,000 square feet for entire development, but 1,000 square feet for individual townhouse lots; live-work units, 1,000 square feet. Minimum lot width 100 feet for all non-single-family detached dwellings, except townhouses and live-work units, 15 feet.

⁶For a use or structure that was in lawful existence prior to January 1, 2011: The number in parentheses shall apply.

303. Setbacks

- a. Between every structure and the relevant lot line or street right-of-way line, as applicable, a setback as specified in this ordinance shall be provided.
- b. No minimum yard or setback required for a structure shall be considered as meeting the yard or setback requirements of any other structure.
- c. Where the lot boundary line in question is the outer edge of a public street right-of-way, the setback measurement shall be calculated according to the rules of this ordinance using the lot line.
 1. Where the lot line in question is the centerline of a public street, an additional distance shall be added to the setback requirement measurement. The additional distance shall be equivalent to half the width of the public right-of-way, or, if the public right-of-way width is not capable of being determined, half the width of the street from curb face to curb face, or from pavement edge to pavement edge, whichever is applicable.
 2. Where the lot line in question is not the centerline of a public street, but does extend into a public street right-of-way, the Zoning Administrator is authorized to make a reasonable determination requiring an additional distance be added to the setback to account for the degree that the lot line extends into the right-of-way.

304. Allowed Encroachments In Required Yards

- a. Architectural projections, such as chimneys, sills, eaves, belt courses, ornaments, structural planters, bay windows, and cornices, may project up to 3 feet into any required yard.
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ARTICLE III: Dimensional Standards
Section 305. Reduction in Certain Setbacks When Alleys Serve Property

- b. Landings, terraces, outdoor porches, balconies, uncovered stairs, unenclosed carports, and fire escapes (but not porches that are converted into enclosed indoor space, nor enclosed garages) may project up to 6 feet into any minimum required yard, but may not be closer than 5 feet from the lot line, unless the minimum required yard is less than 5 feet.
- c. Uncovered swimming pools, hot tubs, and decks or patios, or other outdoor installations similar to these in volume and effect, which are not more than three feet above ground level may be located in any required yard. Such installations which are more than 3 feet above ground level shall be subject to the provisions of b. above.
- d. Plants, including trees, shrubs, and hedges, may be located in any required yard, so long as the sight triangle requirements of Section 311 are met. Hedges are subject to the same height restrictions on fences and walls in front, side, and corner side required yards.
- e. In the case of lots that have an access strip extending from the front of the main portion of the lot in order to comply with the requirement for the minimum frontage on a street (Section 312), nothing may be placed in the access strip that is not permitted by this ordinance to be placed in a front required yard.

305. Reduction in Certain Setbacks When Alleys Serve Property

Notwithstanding other provisions of this ordinance:

- a. Accessory structures which are not garages may be located within 2 feet of the lot line, or right-of-way line, of an alley serving the property, and within 3 feet of lot lines abutting other lots.
- b. Accessory garages or carports which provide vehicle access to alleys may be located:
 - 1. Within 10 feet of the lot line, or right-of-way line, of the alley; or within 3 feet if the access doors are located at right angles to the alley; and
 - 2. Within 3 feet of lot lines abutting other lots.

306. Corner Lots

a. Additional Side Setback Requirement

On each corner lot, development shall meet the additional setback requirement, as indicated in the Table of Dimensional Standards for each zoning district, for that frontage of the corner lot designated as the side.

b. Determination of Front of Lot

A corner lot has more than one street frontage. Of the two frontages, the frontage along the block face with the greater number of lots fronting on it shall be considered the front of the corner lot. On every corner lot, the front setback shall be measured from that lot line designated as the front.

307. More Than One Building on a Lot

More than one principal structure may be placed on a lot if either of the following applies:

- a. The dimensional requirements of this ordinance are met as if the structures were on separate lots, and the lots could be subdivided in a way that meets the requirements of this ordinance.
- b. The structures occur as part of a complex under unified real estate ownership and management (such as a senior housing or assisted living facility, multi-family development, shopping center, or office complex) that is allowed in the zoning district. In such a case:
 1. The overall intensity of land use shall be no higher, and the standard of open space no lower, than that permitted in the district in which the project is located.
 2. The distance of every structure from the nearest property line shall meet the front, rear, and side yard setback requirements, as applicable to the respective property line, of the zoning district in which located.
 3. No principal structure shall be closer to any other principal structure in the complex than the minimum interior side yard requirement in the district.

308. Height

Structures shall not exceed 35 feet in height except as provided in this ordinance.

a. Accessory Structures

No accessory structure shall exceed the height of the principal structure as it is built and to which they appertain.

b. Exceptions to Height Limits

The following are exempt from height limits imposed by this ordinance:

1. Cupolas, belfries, steeples, and domes on public, civic, or not-for-profit institutional buildings;
 2. Public water towers and fire towers;
 3. Flagpoles and civic or institutional monuments;
 4. Smokestacks and conveyors in industrial districts;
 5. Antennas for which a building permit or zoning permit is not required;
 6. Agricultural structures serving and located on individual farms, and agricultural storage and distribution installations;
 7. Chimneys, ventilators, mechanical equipment associated with building systems, and other appurtenances usually necessarily placed above the roof level and not intended for occupancy.
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c. Additional Exception for Industrial Structures

In addition to the foregoing exceptions, in an industrial district other structures or structural elements may exceed 35 feet, so long as the portions in excess are set back at least 2 additional feet from lot lines for every additional foot of height above 35 feet, in addition to the normally applying setback.

309. Dimensional Requirements for Accessory Structures

- a. Accessory structures shall be located not closer to the front lot line than the front wall of the residence on the site.
- b. All accessory structures shall be located at least 3 feet from any lot line, except that in any district other than the TR and TC districts, accessory structures larger than 250 square feet shall be located at least 5 feet from any lot line. In addition, every accessory structure located on a corner lot in a residential district shall be set back not less than 5 feet from the side lot line abutting the street.
- c. No detached accessory building shall occupy more than 35 percent of the area of any required yard in which it is located in whole or part.
- d. Accessory structures are deemed to be part of the principal structure and subject to the dimensional requirements governing it, when the space between the structures is roofed and has solid walls or windowed walls, but not when the structures are connected by breezeways, porticos, decks, porches or other connecting structural elements having screened sides or open columns.

310. Fences and Walls

- a. Fences and walls may be placed within the required setbacks of this ordinance.
 - b. No fence or wall in a front required yard, nor in front of the front wall of the principal structure, or along a corner side yard line and forward of the front required yard, shall exceed three and a half feet in height. For a fence or wall in a corner side yard, the portion to the rear of the front required yard shall not exceed six and one-half feet in height except in the I district.
 - c. A privacy wall that does not comply with the foregoing height requirements, and which existed as of the effective date of this ordinance, may be maintained, but shall not be removed and rebuilt.
 - d. Fences may not exceed seven feet in height, except that in commercial and industrial districts, a fence may not exceed ten feet in height. Fences greater than seven feet in height shall be of an open type such as woven wire or wrought iron.
 - e. Fences and walls may exceed the height requirements of this section if required or specifically authorized in another section of this ordinance.
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311. Visibility at Intersections

a. Generally

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow which obstructs vision within the sight triangle of an intersection, between a height of 2 feet and a height of 8 feet above the average center line grade of the street nearest the intersection.

The sight triangle is the area that is:

1. Formed at the intersection of two street right-of-way lines, with two sides of the triangle extending 25 feet along the abutting right-of-way lines from where they intersect, and the third side being a line connecting those two sides.
2. Formed at the corner intersection of a street right-of-way and alley, with two sides of the triangle extending 10 feet along the abutting right-of-way lines from where they intersect, and the third side being a line connecting those two sides.

b. Exception

The provision above for visibility at intersections does not apply to principal structures in the TC or TR districts.

312. Street Frontage

a. Generally

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

1. A public street dedicated to and maintained by the Town or the North Carolina Department of Transportation; or
2. A street constructed to the standards of the Town or the North Carolina Department of Transportation maintained in good condition by a private entity pursuant to a written maintenance agreement.

b. Exceptions

The following exceptions to the above frontage requirement apply:

1. In the RA district, an easement of record, existing prior to the effective date of this ordinance and at least 15 feet wide, connected to a publicly maintained street or highway may serve not more than one recorded lot or tract that does not have frontage access to a publicly maintained street or highway.
 2. In the RA district, a private recorded access easement may be established to serve not more than one lot at least 3 acres in size for the exclusive use of a single residential unit established on such lot, and provided that the access is maintained in a condition passable for
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ARTICLE III: Dimensional Standards
Section 313. How Measurements and Related Calculations Shall Be Made

emergency service vehicles and that no such access may be established closer than 150 feet to any other previously recorded access.

3. Townhouses may have less than 20 feet of frontage on a public street, so long as the lot width requirement of the district is met.
4. Any use in an existing building in the TC district, or any use in a building on a lot that conforms to the lot width standards of the district in which it is located, may be established even if the frontage requirement is not met.

313. How Measurements and Related Calculations Shall Be Made

- a. Unless otherwise specified in this ordinance, distances shall be measured on a straight line, horizontally or vertically as the case requires, with no consideration for intervening structures, roads, objects, or landforms.
 - b. Setbacks shall be measured from the closer of the nearest lot line or the nearest street right-of-way line.
 1. If the lot line is straight, the measurement shall be taken along the line perpendicular to the applicable lot line.
 2. If the lot line is curved, the measurement shall be taken along the line perpendicular to the tangent of the lot line at each point along the lot line. Notwithstanding, the foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without such rounding.
 3. If the lot line contains angular variations, then the measurement shall be taken in such a way that no place along the lot line shall the setback be located less than the required distance from any part of the lot line.
 4. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirement for the minimum frontage on a street (Section 312), the measurement of the front setback shall be taken from a line joining the points where the access strip joins the main portion of the lot, and from a line joining those points to the foremost points of the side lot lines.
 - c. Residential density shall be calculated by taking the number of dwelling units and dividing it by the acreage of the gross lot area on which the dwelling units in question are or will be located.
 1. The acreage used in the calculation shall consist of the actual gross acreage of the parcel or parcels prior to the dedication of any rights-of-way, public parks, or other dedicated public areas.
 2. In cases where a project site encompasses more than one lot, the density may be averaged over the entire project site.
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314. Additional Standards

In addition to the requirements of this article, lots and development sites must meet all applicable Health Department requirements and other requirements of law.

315. Definitions

Definitions related to the dimensional and other standards of this article are as follows.

Abutting. Directly adjoining another piece of property or a right-of-way at any point along the property line, or along any extent of the property line.

Block face. A block face is one side of a block between two consecutive intersections, or extending from an intersection to the Town limit or the jurisdictional limit of the Town.

Building envelope. The area defined by the applicable yard or setback requirements, within which a structure may be built on a lot or site.

Corner lot. A lot located at or contiguous to two or more intersecting streets. A lot abutting a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Front required yard. The front required yard extends across the full width of the site. On a through lot, the front required yard is present on both street frontages.

Ground level. The average of finished ground level adjoining the structure or object being measured, not to include any berm or other type of graded mound on which the structure or object is placed.

Height. Height of a structure is the vertical distance in feet between the finished bottom floor (not to include finished grade of a basement or a floor that is halfway or more below ground level) to the highest point of the roof, or, if the structure has no roof, then the highest point of the structure. The height of a fence or wall is the vertical distance from ground level to the top of the fence or wall.

Lot coverage. The maximum area of a lot that may be covered with structures, expressed as a percentage of the area of the lot.

Lot depth. The depth of a lot shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirement for the minimum frontage on a street (Section 312), the foremost points of the side lot lines shall be measured at the place where the access strip joins the main portion of the lot.

Lot width. Lot width is the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the points where the front required yard line meets the side lot lines. If the required front yard includes a

range, or a maximum, of distances, the average of the range, or the maximum, respectively, shall be used as the location where lot width is measured.

Rear required yard. The rear required yard extends across the full width of the site. The depth of the rear required yard is the required setback distance between the rear property line and a line parallel to it on the site. Notwithstanding the foregoing, on a corner lot the rear setback shall extend only to the side required yard abutting the street.

Required yard. The required minimum, maximum, or allowable range, whichever is applicable, of distance between a lot line and the building line of a principal structure.

Setback. A “required yard” may sometimes be referred to as a “yard” or “setback” within the context of this ordinance or its interpretation or use. These terms are synonymous.

Side required yard. The side required yard extends from the rear line of the front required yard (or the front property line if the front required yard is zero) to the front line of the required rear yards (or the rear property line if the rear required yard is zero). A corner side required yard shall extend to the rear lot line.

Street right-of-way. A strip of land or an easement, owned publicly or privately, which affords the principal means of access to abutting property.

Through lot. A lot other than a corner lot with frontage on more than one street, often called a double frontage lot.

Yard. The open space, outside the building envelope, resulting from the applicable required yards or setbacks and within which construction of a building or structure is restricted.

ARTICLE IV: ADMINISTRATION AND PROCEDURES

401. Zoning Administrator

a. Appointment and Designee

The Zoning Administrator shall be appointed by the Town Board of Commissioners. In the absence of a specific appointment, the Town Clerk shall serve as the Zoning Administrator. The Zoning Administrator may designate another person, official, or department to carry out or assist in carrying out the powers and duties assigned herein.

b. Powers and Duties

The Zoning Administrator is charged with the administration and enforcement of the provisions of this ordinance. In addition to the jurisdiction, authority, and duties that may be conferred upon the Zoning Administrator by general or special law, in administering and enforcing this ordinance, the jurisdiction, powers, and duties that shall be carried out by the Zoning Administrator include:

1. Maintaining the official zoning map including all the amendments to it;
2. Making the provisions of this ordinance, including the official zoning map, available to the public;
3. Preserving all prior versions of the zoning map;
4. Maintaining a record of all permits and official actions, such as written decisions and determinations, taken;
5. Serving as secretary to the Planning Board and keeping its records, along with minutes of its proceedings;
6. Making decisions and determinations pursuant to this ordinance, and where there is a need for interpretation, interpreting the provisions of this ordinance, and the boundaries of the zoning districts on the official zoning map, in accordance with law and the standards provided herein;
7. Initiating, or making recommendations for, updates and amendments to this ordinance to the Town Board;
8. To consider and decide upon requests for administrative approvals and permits not delegated to the Town Board or the Planning Board;
9. Taking any other authorized action to render this ordinance operational or to ensure compliance with the terms of this ordinance.

c. Administrative Determinations

1. Materials Required When a Determination Is Requested

Whenever the Zoning Administrator makes a determination pursuant to this ordinance at the request of any person or entity, the requestor shall furnish a written description of the proposal or situation for which a determination is requested, along with plans or diagrams containing elements sufficient in the view of the Zoning Administrator to determine compliance with this ordinance.

2. Record of Determinations

Whenever a determination is made in writing, the Zoning Administrator shall keep it on file, along with the materials furnished by the applicant that were used to make the written determination.

3. Notice of Determinations

When the Zoning Administrator makes a written determination, written notice shall be provided to the person making the request and to the owner of the property in question if the determination was in regard to a specific property.

d. Map Interpretations

1. Rules for Interpretation of District Boundaries

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

a. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;

b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

c. Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries;

d. Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks;

e. Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following the indicated centerline;

f. Boundaries indicated as following shorelines or thalwegs shall be construed to follow such shorelines, and if the shoreline or thalweg is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline or thalweg;

g. Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices;

h. Boundaries indicated as parallel to or extensions of natural or man-made features indicated in subsections (a) through (g) above shall be so construed; and

i. Distances not specifically indicated shall be determined by the scale of the official zoning map.

2. Map Determinations

Interpretations of the map by the Zoning Administrator are administrative determinations appealable to the Board of Adjustment.

e. Computation of Dates and Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or federal or state holiday or a holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or such holiday. References to days are calendar days unless otherwise stated.

402. Planning Board

a. Establishment, Membership, Vacancies

The Planning Board is hereby established, which shall consist of five regular members (three of whom are residents of the Town, and two of whom are residents of the extraterritorial jurisdiction) and two alternate members (one of whom is a resident of the Town, and one of whom is a resident of the extraterritorial jurisdiction). The town resident members of the Board shall be appointed by the Town Board. Residents of the extraterritorial jurisdiction shall be appointed by the Nash County Board of Commissioners. Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the Town Board.

If the County Board of Commissioners fails to appoint one or more extraterritorial members within ninety days after receiving a resolution from the Town Board requesting that one or more appointments be made, the Town Board may appoint make any appointment that has not been made by the County Board of Commissioners.

b. Terms of Office

The initial terms of office upon initial appointment and constitution of the Planning Board shall be as follows: one regular member appointed for a term of one year; two regular members appointed for terms of two years (one of whom is an extraterritorial member); two regular members appointed for terms of three years (one of whom is an extraterritorial

member); and two alternate members appointed for a term of three years. After the completion of the initial terms of office for each member, all additional appointments to vacancies of the Board shall be for three-year terms.

c. Record of Actions

A record of the recommendations, decisions, and actions of the Planning Board shall be kept in the office of the Zoning Administrator and made available for public inspection.

d. Powers and Duties

The Planning Board shall have the following powers:

1. To make studies and recommend to the Town Board plans and goals relating to the land use, growth, development and redevelopment of the Town and its planning jurisdiction;
2. To develop and recommend to the Town Board policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
3. To make recommendations to the Town Board concerning proposed zoning text and map amendments and to recommend amendments to the Zoning Ordinance or other land development regulations that should be initiated by the Town;
4. To review and approve subdivision matters, in accordance with adopted subdivision regulations of the Town; and
5. To perform any other duties assigned by the Town Board to it.

403. Board of Adjustment

a. Establishment, Membership, Vacancies

The Board of Adjustment is hereby established, which shall consist of the membership of the Planning Board, with the same terms of appointment and service.

b. Powers and Duties

The Board of Adjustment shall have the power to hear and decide upon appeals from administrative determinations, to authorize variances, and to hear and decide upon applications for Conditional Use Permits, in accordance with the procedures herein.

c. Appeals From Administrative Determinations

1. Initiation of Appeal

In any matter where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance, an appeal may be

taken by any person aggrieved, or by an officer, department, or board of the Town. An appeal by a person to whom written notice of the decision is given shall be taken within 30 days of receipt of written notice. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. Appeal is made by filing with the Town Clerk, and with the Board of Adjustment, a notice of appeal, specifying the grounds for the appeal. The Zoning Administrator shall forthwith transmit to the Board all the documents and exhibits constituting the record upon which the determination appealed from was made, and a copy shall be provided to the appellant and the owner of the property in question if the determination was in regard to a specific property.

2. Stay

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies an opinion to the Board of Adjustment, after notice of appeal has been filed, that because of facts stated in the certificate, a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this ordinance. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

3. Hearing of Appeal

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Zoning Administrator shall appear as a witness at the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that, in its opinion, ought to be made in the premises. To this end, the Board shall have all the powers of the officer from whom the appeal is taken.

4. Quasi-Judicial Nature of Appeal

The review of appeals from administrative decisions are subject to the quasi-judicial procedures of Section 404.f.

d. Variances

1. When Permissible

When, owing to special conditions, unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall vary any of the provisions of this article so that the spirit, purpose, and intent of the ordinance is served, public safety is secured, and substantial justice is achieved.

2. Existence of Nonconformities Not a Reason for Variance

The existence of a nonconformities of neighboring lands or structures in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

3. Findings Required to Grant Variance

A variance may be granted in such individual cases of unnecessary hardship upon a finding by the Board of Adjustment that all of the following conditions exist:

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

b. The unnecessary hardship results from conditions that are peculiar to the property in question, such as its location, size, shape, or topography. Hardships resulting from personal circumstances, as well as hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

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

d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

4. No Variance For Uses

No variance shall be granted to permit a use which is not a permitted or conditional use in the district involved.

5. Conditions Imposed On Variances

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice is done and that the public safety and welfare is assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed structure or use, as may be deemed by the Board to protect property values and general welfare of the neighborhood. The conditions must be reasonably related to the condition or circumstance that gives rise to the need for a variance. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.

6. Applicability and Expiration

Variances granted by the Board run with the land and not to the subject applicant. A variance granted by the board does not expire

unless it has not been acted upon within a period of 12 months from the date of issue. In such cases, the variance may be cancelled upon written notice to the owner of the subject property.

7. Quasi-Judicial Nature of Variance Review

The review of a request for a variance is subject to the quasi-judicial procedures of Section 404.f.

404. Proceedings of Citizen Boards

The proceedings and functions of the Planning Board and Board of Adjustment shall be governed by the following rules.

a. Meetings

In the ordinary course of business, each board shall have a regular meeting day, time, and place. However, from time to time meetings of each board may be held at the call of the chairman and at such other times and locations as the board may determine to be reasonably necessary. All meetings shall be conducted publicly.

b. Officers

Each board shall elect a chair and vice-chair from its members, who shall serve for one year or until re-elected or until their successors are elected. The chair of each board, or in the chair's absence, the vice-chair, may administer oaths and compel the attendance of witnesses by subpoena.

c. Rules of Order

Each Board shall adopt rules and bylaws in accordance with the provisions of this ordinance and of Article 19, Chapter 160A of the General Statutes of North Carolina.

d. Roles of Regular and Alternate Members

All members and alternative members serving in place of a member shall have voting power upon all matters of business before the board pursuant to this ordinance. Alternate members serve only in the absence or temporary disqualification or recusal of any regular member or to fill a vacancy pending appointment of a member.

e. Record

Each board shall keep a record of its proceedings. The record shall show, at a minimum, the vote of each member upon each question, and if absent or failing to vote, an indication of such fact. The record shall also show, wherever applicable, the final disposition of all cases considered with any written order, findings of fact, and the reasons given by the board for the findings of fact.

f. Conduct of Meetings – Quasi-Judicial

1. When Quasi-Judicial Procedures Apply

Applications for Conditional and Special Use Permits, appeals from administrative determinations, and variances require that the Board of Adjustment (or Town Board, in the case of Special Use Permits) conduct proceedings in accordance with quasi-judicial procedures.

2. Hearing Required

The Board of Adjustment, or the Town Board in the case of Special Use Permits, shall hold a public hearing on the application and shall give due notice of the hearing to the parties involved.

3. Notice

a. Published Notice

Notice of the public hearing shall be published in a newspaper of general circulation in the area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than 10 days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

b. Mailed and Posted Notice

Notice of the public hearing shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

4. Conduct, Evidence, and Testimony

All hearings by the Board of Adjustment for administrative appeals, variances, and Conditional Use Permits, and by the Town Board in the case of Special Use Permits, shall be conducted as quasi-judicial hearings in accordance with the general law and court decisions of the State. More specifically, any interested party must be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. Findings shall be based on substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based on sworn evidence or testimony unless the party or parties before the board stipulate the facts or waive this requirement. Oaths or

affirmations for witnesses can be administered by the chairperson or acting chairperson of the board or the clerk to the board. Subpoenas may be issued pursuant to the provisions of N.C.G.S. 160A-388(g).

5. Voting

a. When Supermajority Required

The concurring vote of four-fifths of the members of the Board of Adjustment is necessary to grant a variance from the provisions of this ordinance.

b. When Majority Required

The concurring vote of a majority of the members of the Town Board is necessary to grant a Special Use Permit. The concurring vote of a majority of the Board of Adjustment is necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to grant a Conditional Use Permit.

c. Conflicts and Recusals

A member shall not participate or vote on any quasi-judicial matter in a manner that would violate any affected person's constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

No member shall be excused from voting except upon matters involving the consideration of personal or financial interests which preclude impartial consideration of the issue in question. A failure to vote by any member who is eligible shall be recorded as an affirmative vote.

If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculations of the requisite supermajority if there are no qualified alternates available to take the place of such board members.

6. Final Disposition of Cases

The board shall make its decision within a reasonable time. The final disposition of all cases considered shall be by written order, supported by the board's findings of fact and their application to the applicable standards, and the reasons given by the board for the findings of fact. The order shall be signed by the chair or other duly authorized member

of the board. The decision is effective upon filing the written decision with the Zoning Administrator.

7. Filing and Delivery

Every quasi-judicial decision shall be filed in the office of the Zoning Administrator and a written copy thereof shall be delivered to the appellant or applicant, to the owner of the property in question if the determination was in regard to a specific property, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The decision shall be delivered by personal delivery, by electronic mail, or by first-class mail. The person required to provide notice, which shall be the Zoning Administrator unless other person is so directed by the board, shall certify that proper notice has been made.

8. Appeal From Decisions

Quasi-judicial decisions are subject to review by superior court by proceeding in the nature of certiorari pursuant to G.S. 160A-393. A petition for review by the superior court shall be taken by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection 404.f.7. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

405. Permits

a. General

1. Expiration

Certificates of Zoning Compliance, Conditional and Special Use Permits, and Zoning Permits expire six months after the date of issuance if a building permit has not been issued for the work authorized by the permit, or, if no building permit is required, the work authorized by the permit has not commenced. If after commencement the work is discontinued for a period of 12 months or more, such permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

2. Record Kept On File

A record of all permits shall be kept of file in the office of the Zoning Administrator.

3. Conformance With Plans

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction set forth in such approved plans and applications and are not valid for any other use, arrangement, or construction.

b. Minimum Submittal Requirements

1. Completeness Required

A complete application shall be submitted before the Zoning Administrator shall be obligated to take any official action in or toward the processes set forth herein. Applicants are responsible for ensuring, by prior consultation with the Zoning Administrator, whether an application submittal is complete by any deadline for submittal that may apply.

2. When Site or Plot Plan Required

Site or plot plans shall be required as part of the application process for each of the following:

- a. New structures or expansions to existing structures.
- b. Special Use and Conditional Use permits.
- c. New uses not contained within a structure, if the new use will result in an increase in required landscaping, parking, buffer areas, or other site features required under this ordinance; but not including agricultural uses which do not involve the construction of buildings, containment pens for livestock or poultry, or the construction of sediment or animal waste lagoons.
- d. Seasonal outdoor sales and temporary construction/sales trailers.

3. Plot Plan Requirements

A plot plan shall be required for any single-family or duplex residential use, and any other situation determined by the Zoning Administrator to require a plot plan. A plot plan does not require the seal of a professional engineer, architect, landscape architect, or surveyor, but shall be drawn to scale and signed by the preparer. It shall consist of the following elements, except that the Zoning Administrator has the authority to waive any element where the proposed type or scale of use makes that information unnecessary or impractical, or to require such additional information as may be needed to determine compliance with this ordinance

- a. The date the plan was drafted along with the name, signature, address, and phone number of the preparer.
 - b. The zoning classification of the subject property and all immediately adjacent properties.
 - c. Property lines, lot dimensions, and total area in acreage or square feet, whichever is necessary to determine compliance.
 - d. The location and extent of rights-of-way and easements.
 - e. The location and type of natural water features, including intermittent or permanent streams, ponds, rivers, and wetlands.
 - f. The location and dimensions of driveways onto streets.
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- g. The location and dimension of structures, including signs.
- h. The location and dimension of parking lots or areas and internal circulation drives.
- i. The location and dimension of private streets.
- j. The location and dimension of landscaping, buffering, screening, fences, and walls.
- k. The location and dimension of septic tank systems and wells.
- l. The location of trees that are eight inches or greater in diameter at breast height.

4. Site Plan Requirements

A site plan shall be required for all commercial, industrial and multi-family projects, manufactured home parks (except in the case of minor facility improvements in an existing park where the number of mobile home sites within the park is not affected, in which case a plot plan shall suffice), special uses, conditional uses, and any other situations where the Zoning Administrator or Planning Board determine that a site plan is needed in order to determine compliance with this ordinance. A site plan shall require the seal of a professional engineer, architect, or landscape architect, except that surveyors may also seal plans for projects that do not include any engineering stormwater control structures. The plan should be drawn at a scale at which all features are clearly legible. A site plan shall consist of the following elements:

- a. A location map that shows the project in relation to the larger planning area.
 - b. The names, addresses, and telephone numbers of owners, mortgages, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development.
 - c. The name of the development.
 - d. Date of plan preparation.
 - e. A north arrow, legend and scale (including a bar scale).
 - f. Environmental features, both existing and proposed, including (where applicable): natural cover (wood, pastureland, etc.); streams, ponds or rivers; historic sites; fragile environmental areas; the location of significant trees (those eight inches or greater in caliper when measured six inches above grade), or wooded areas; contour lines shown as dotted lines at no more than two-foot intervals, or other interval that the Zoning Administrator specifies; the location, size, and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether such open space areas are intended to be offered for dedication to the public;
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- g. Dimensions and layouts of all parking and loading areas including properly designated handicapped spaces;
 - h. Public and private streets and alleys, including planned points of ingress and egress. Driveway approval procedures as required by the N.C. Department of Transportation shall be initiated;
 - i. Existing and proposed stormwater structures and conveyances, including culverts, ditches, swales, ponds, and drainpipes;
 - j. Utilities, including water, sewer, electric, power, and telephone;
 - k. The location and dimensions of all structures, including freestanding signs, and including the number of dwelling units the structure is designed to accommodate, if applicable, and the height and number of stories of the structure;
 - l. Lighting plan.
 - m. All sidewalks, trails, and pedestrian paths.
 - n. Landscaping Plan, in accordance with Sections 609 through 619.
 - o. Legal features including the zoning of the property and adjacent properties, including zoning district lines; property lines; project phase lines; street rights-of-way; existing and proposed utility easements and features (including water, sewer, electric, power, stormwater, and telephone); and lot dimensions.
 - p. Sign details required. Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.
 - q. In addition to the information required above, manufactured home parks shall provide the following information on the site plan: Accurate boundary lines of the park; location of all manufactured home spaces and stands, with dimensions; all recreation and convenience areas including parks, laundry facilities, swimming pools, etc.; location of park office; location of dumpsters, waste receptacles, and sanitation facilities; location of all permanent structures; location of existing and proposed streets, driveways, entrances, exits, walkways, easements, and other required features for manufactured home parks; proposed utility layouts including sewer lines, water lines, and storm drainage grading and installations, and showing feasible connections to existing and proposed utility systems; profiles or all proposed drives and streets, showing natural and finished grades; and such other information as needed to determine compliance with the provisions of this ordinance.
 - r. The Zoning Administrator may exempt the applicant from indicating any element which is clearly inapplicable to the proposed
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use, and may require the submittal of such additional information as may be needed to determine compliance with this ordinance.

c. Zoning Permit

1. When Required

A Zoning Permit shall be obtained from the Zoning Administrator prior to the construction, extension, enlargement, or other structural alteration, location, or relocation of any structure, including signs for which an administrative permit is required by Table 710 (Table of Allowed Signs) and fences, or any part thereof.

2. Applications

Applications for a Zoning Permit shall be in a form prescribed by the Zoning Administrator and accompanied by a site or plot plan in accordance with Section 405.b.

d. Certificate of Zoning Compliance

1. When Certificate Required

No land shall be used or occupied, and no structure shall be used or changed in use, until a Certificate of Zoning Compliance has been issued by the Zoning Administrator stating that the structure and/or the proposed use complies with the provisions of this ordinance and all necessary inspections have been completed and approved.

2. Exemptions

No such Certificate of Zoning Compliance is required for a use of land without any associated structural improvements and which is conducted in compliance with this ordinance, nor for an accessory use conducted in compliance with this ordinance and not involving the construction or expansion of a structure.

3. Issuance Within 10 Days After Compliance

The Certificate of Zoning Compliance shall be issued within 10 working days after the construction or alterations of the structure in question have been completed in conformity with this ordinance, including all improvements on the site that are required to allow the use to proceed in conformity with this ordinance. Until all required improvements are provided, no such Certificate shall be issued.

4. Record On File

A record of all such Certificates shall be kept on file and open to the public, subject to state law.

406. Conditional Uses and Special Uses

a. Background

The provisions of this ordinance permits some uses to be established by right in the appropriate district, while other uses are listed which require a permit from the Board of Adjustment, which are termed conditional uses.

ARTICLE IV: ADMINISTRATION AND PROCEDURES
Section 406. Conditional Uses and Special Uses

These uses, in some circumstances, may be compatible with and desirable in the districts in which they are designated as conditional uses, but they may also have characteristics which could have detrimental effects if not properly designed and controlled. In a Special Use District, all allowable uses may be conducted only with approval of the Town Board under the conditions and requirements of a Special Use Permit.

b. Application

Every application for a Conditional Use Permit or a Special Use Permit shall be made by the applicant on or in a form provided by the Zoning Administrator and accompanied by a site plan prepared in accordance with Section 405.b.4 in the number of copies specified by the Zoning Administrator, along with any other information determined by the Zoning Administrator to be necessary for proper review of the application.

The reviewing board may require any further information and plan details necessary as part of the application to determine whether the property will be developed consistent with the provisions and purposes of this ordinance.

c. Public Hearing Required

All Conditional Use Permit and Special Use Permit requests require a public hearing in accordance with Section 404.f.

d. Board Review and Determination

In considering an application for a Conditional Use Permit, the Board of Adjustment shall determine whether the conditions in Section 406.g will be met by the proposed use and development. If the conditions will not be met, the permit shall be denied, and if the conditions are met, the permit shall be granted. The Board may impose additional conditions and safeguards as provided in Section 406.g.2 if it finds that doing so will thereby result in the use and development meeting the conditions of Section 406.g.1.

e. Issuance or Denial of Permit

If all requirements and conditions are mutually accepted by the applicant and the Board of Adjustment, the Board shall authorize the issuance of the Conditional Use Permit; otherwise, the permit shall be denied.

f. Effect and Amendment

Every Conditional Use Permit authorized shall be perpetually binding upon the property included in such permit, subject to the limitations of Section 405.a.1. The permit and conditions may be subsequently changed or amended only after a public hearing of the Board of Adjustment by the procedures in this section.

g. Conditions Which Must Be Met By Conditional Uses and Special Uses

1. General Conditions

In order for any Conditional Use Permit or Special Use Permit to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the reviewing board to find that the following conditions exist where applicable:

- (1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied.
- (2) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.
- (3) Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- (4) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.
- (5) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.
- (6) The type, size, and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

2. Additional Conditions

If the Board of Adjustment approves a conditional use, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to ensure that the permit will be complied with and to reduce or minimize any potentially injurious effect of the use or development on adjoining properties, on the character of the neighborhood, or on the health, safety, morals, or general welfare of the community.

Where appropriate, such conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made of recreational space and facilities.

407. Zoning Amendments

a. Who May Initiate

This ordinance, including the zoning map, may be amended only by the Board of Commissioners of the Town of Bailey, according to the procedures

of this article. Proposed amendments may be initiated by the Board of Commissioners, Planning Board, or Board of Adjustment of the Town.

Proposed amendments to the text of this ordinance may also be initiated by any resident or property owner within the jurisdiction covered by this ordinance, and any property owner within the jurisdiction covered by this ordinance may initiate a request for a change in the zoning classification of the property.

Property may be placed in a Special Use District only in response to a petition by the owners of all the property to be included. No land owned by the State of North Carolina may be included within a Special Use District without approval of the Council of State.

b. Map Amendment

1. Application contents

Except for amendments initiated by the Town Board, Planning Board, or Board of Adjustment, no proposed amendment shall be considered by the Town Board nor a public hearing held until an application made on a form provided by the Zoning Administrator, and containing the following information is submitted by the applicant:

- a. A statement of the present zoning regulations or district boundary,
- b. The name and signature of the applicant,
- c. The tax parcel number(s) of the parcel(s) proposed to be rezoned,
- d. The names and addresses of the owners of the lot in question,
- e. A map of the proposed amendment showing tax parcel number(s) of the subject property and adjacent properties shall be attached to the application,
- f. The map shall show ownership of adjacent lots along with the use of each adjacent property, and
- g. The applicant shall provide any additional information related to the proposed amendment requested in writing by the Planning Board or Board of Commissioners.

2. Application for Special Use District

If an applicant believes that development of the property in a specific manner will lessen adverse effects upon surrounding properties, or otherwise make the zoning map change more in accordance with the principles underlying this ordinance, the applicant may apply for a zoning map change to the appropriate Special Use District and simultaneously apply for a Special Use Permit, and shall specify the nature of the proposed development.

In the case of a proposed Special Use District, in addition to the contents above in Section 407.b.1, the applicant shall simultaneously

apply for a Special Use Permit according to the requirements of Section 406.b, including a site plan of the proposed use(s) and development in accordance with the requirements of 405.b.4. If the request involves other conditions, the applicant shall submit a detailed description of the proposed conditions.

3. Fee and Transmittal

The Zoning Administrator shall transmit the original application to the Town Board, and a copy to the Planning Board, and the original application shall be filed in the office of the Town Clerk after consideration by the Town Board. A fee in accordance with the fee schedule established shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

c. Text Amendment

1. Application Contents

A petition for amendment to the text of this ordinance shall consist of:

- a. A completed application form.
- b. A written justification for the requested amendment including consistency of the proposal with town planning policies.
- c. Any other information deemed necessary by the zoning administrator or review board.

2. Fee and Transmittal

A fee in accordance with the adopted fee schedule shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid

d. Public Hearing Required

No amendment will be adopted by the Town Board until they have held a public hearing on the amendment, and have allowed at least 30 days for the Planning Board to make a recommendation concerning the amendment.

e. Notice Requirements

1. Published Notice

Notice of the public hearing shall be published in a newspaper of general circulation in the area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than 10 days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

2. Mailed Notice

Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. The person or persons mailing such notices shall certify to the Town Board that fact, and such certificate shall be deemed conclusive in the absence of fraud.

3. Alternative to Mailed Notice

If a zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, the Town may, as an alternative method of notification, elect to publish notice of the hearing as provided by G.S. 160A-364. Such notification shall not be less than one-half of a newspaper page in size. The advertisement shall be effective only for owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent tax listing for the affected property, shall be notified according to the first class mail provisions listed above.

4. Posted Notice

The Town shall cause to be prominently posted a sign on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested persons. The sign shall indicate the proposed action, the date of the hearing and the date of posting. The sign shall be posted not more than 25 nor less than 10 days prior to the hearing date.

f. Review by Planning Board

Within 30 days after the public hearing by the Town Board, the Planning Board shall review and make a recommendation on the proposed amendment (including a review and recommendation on any Special Use Permit submitted with a proposed rezoning to a Special Use District). If the Planning Board does not report its recommendation in writing within 30 days, the Town Board may proceed to consider the amendment (and Special Use Permit request, if applicable) without a Planning Board report. The Town Board is not bound by the recommendations, if any, of the Planning Board.

g. Statement of Consistency

1. By Planning Board

In accordance with G.S. 160A-383, the Planning Board shall advise and comment on whether the proposed amendment is consistent with

the land use plan, or any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Board that addresses plan consistency and other matters deemed appropriate by the Planning Board. A statement by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval by the Town Board.

2. By Town Board

Prior to adopting or rejecting any zoning amendment, the Town Board shall adopt a statement describing whether its action is consistent with the adopted land use plan and any other applicable adopted or official plans. The statement shall explain why the Town Board considers the action taken to be reasonable and in the public interest.

3. Statement on Small-Scale or Special Use Rezoning

When the proposed zoning map amendment meets the definition of a small-scale rezoning or includes a rezoning to a Special Use District, the Planning Board shall include a statement analyzing the reasonableness of the amendment as part of its report to the Town Board. The statement must address the following:

- a. Size of area and its particular characteristics;
- b. Consistency of rezoning with the comprehensive plan or other officially adopted town plans that are applicable;
- c. Degree of change in uses allowed in relation to surrounding uses; and
- d. Relative harm and benefit to owner, neighbors, and the community.

h. Conflict of Interest

Neither a Town Board member nor a Planning Board member shall vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable immediate financial impact on the member.

i. Evidence Considered

In considering a zoning map change to any district other than a Special Use District, the Planning Board and Town Board shall not consider any testimony or evidence concerning the specific manner in which the applicant proposes to use or develop the property.

j. Special Use Permit Requests as Part of Change to Special Use District

Requests for Special Use Permits as part of a requested change to a Special Use District shall be processed and considered simultaneously with the zoning map change requests for the Special Use.

ARTICLE IV: ADMINISTRATION AND PROCEDURES
Section 407. Zoning Amendments

1. In considering an application for a Special Use Permit, the Town Board shall determine whether the conditions in Section 406.g will be met by the proposed use and development. If the conditions will not be met, the permit shall be denied, and if the conditions are met, the permit shall be granted.
 2. In determining whether the proposed use and development will meet the conditions in Section 406.g, the Town Board may impose such reasonable and appropriate additional requirements and conditions upon the permit as it may deem necessary in order that the purpose and intent of this ordinance is served, public welfare secured, and substantial justice done. Such conditions and requirements shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site, including those intended to reduce or minimize any potentially injurious effect of the use or development on adjoining properties, on the character of the neighborhood, or on the health, safety, morals, or general welfare of the community. The Town Board may require a detailed site plan for certain elements of the use and development to be submitted to and approved by the Planning Board and/or Town Board, as part of the conditions for the Special Use Permit, before construction can begin.
 3. If all requirements and conditions are accepted by the applicant, the Town Board shall grant the permit; otherwise, the permit shall be denied. The petitioner shall agree in writing to all applicable conditions prior to a final approval of the application.
 4. Every Special Use Permit so authorized shall be perpetually binding upon the property included in such permit (subject to the limitations in 405.a.1) unless subsequently changed or amended by the Town Board after a public hearing by the procedures in this Section.
- k. Adoption of Amendment and Action By Zoning Administrator**
Promptly after the adoption of a map or text amendment, the Zoning Administrator shall alter the Official Zoning Map to indicate the amendment. The Zoning Administrator shall enter in writing on the face of the map a certification which indicates the alteration and cites the date of adoption and the effective date of the amendment, as well as the book and page of the ordinance amending the map.
- l. Amendment or Withdrawal of Petition for Zoning Amendment**
1. An applicant may amend or withdraw its petition for a zoning amendment. Requests by an applicant for amendment or withdrawal of the petition must be made in writing at least 10 business days prior to the date established for the public hearing. After that time, the
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petition shall be heard as submitted, or the applicant may withdraw it subject to provisions of Section 407.1.2.

2. The Town Board may grant a request to withdraw a petition after 10 business days prior to the date established for the public hearing, but the applicant shall not be reimbursed the application fee paid, and shall reimburse the Town for any costs associated with fulfilling the notice requirements for the public hearing. For a petition for a map amendment, the applicant shall also be subject to a one-year waiting period for resubmitting the petition, as described in Section 407.1.4.
3. The Town Board shall not permit at any time an amendment which would delete from the request a portion of the land originally included in the petition for rezoning when the effect of such deletion would be to change the percentage of votes required for approval of the rezoning.
4. A petition for a map amendment that has been denied shall not be again instituted sooner than one year from the date of the denial, unless the Town Board, after considering the advice of the Planning Board, shall find that there have been substantial changes in conditions or circumstances bearing on the application.

m. Protest Petitions

If a qualified protest as defined in G.S. 160A-385 is filed against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Town Board. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered members of the Town Board for calculation of the requisite supermajority.

1. Protest Petition Qualification

To qualify as a protest under this section, the petition must be signed by the owners of either (i) 20% or more of the area included in the proposed change or (ii) 5% of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.

A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the owners of potentially qualifying areas.

2. Written Petition and Contents

No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. 160A-385 unless it be in the form of a written petition actually bearing

the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Administrator or Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

The protest petition shall be accompanied by a map clearly drawn and of sufficient size to show the names and addresses of all the property owners immediately adjacent to the property sought to be rezoned, along with the area in square feet of the each of the adjacent lots (a tax record or a survey shall be sufficient to establish a prima facie area calculation).

3. Withdrawal of Signatures

A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

4. When Protest Not Applicable

The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted Special Use District.

408. Fees for Submitting Applications

a. Fee Schedule

A fee schedule shall be established and updated from time to time. The Town Board shall determine the fees to accompany all applications submitted under this Ordinance, and may adjust fee amounts from time to time.

b. Fees To Be Paid

No application that is not initiated by an officer or agency of the Town shall be processed until the established fee has been paid.

c. Refund of Fees

Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

409. Accidental Good Faith Violation Involving Mistake by Agent of Town

The Board of Adjustment may authorize as a conditional use, a use which involves a modification of any of the standards of the Zoning Ordinance to the extent necessary to accommodate an accidental good faith violation of the ordinance involving a mistake by a Town official or employee.

The normal procedures and conditions for Conditional Use Permits shall apply, except that in place of finding that the general conditions of Section 406.g.1 are met, sufficient evidence must enable the following findings to be made by the Board of Adjustment before such a permit may be granted:

- a. One or more provisions of the zoning ordinance have already been violated;
- b. A mistake in interpretation of the ordinance or in the process of an inspection by a town official or designated agent was made which led to the violation or substantially contributed to the extent of the violation;
- c. The violation was accidental and made in good faith by the applicant;
- d. Correction of the violation would result in substantial expenditure by the applicant, or the violation is minor in nature compared to the expenditure which would be needed to correct it.

In granting the Conditional Use Permit, the Board of Adjustment may impose reasonable additional conditions pursuant to Section 406.g.2.

ARTICLE V: STANDARDS FOR CERTAIN USES

The following standards apply, as indicated, to every instance of the various uses allowed by this zoning ordinance. The standards apply in addition to all other provisions of this ordinance, unless otherwise explicitly indicated.

501. Accessory Uses

a. Generally

To be treated an accessory use, a use or activity must fall within the definition in Article X of this ordinance. To the extent that it does not, it shall not be allowed as an accessory use.

Permitted uses and approved conditional uses and special uses shall be deemed to include accessory uses and activities that are necessary and customarily associated with, and are clearly incidental and subordinate to, the principal uses allowed in the zoning districts. Accessory uses and activities shall be subject to the same regulations as apply to principal uses in each district, unless otherwise expressly stated.

b. Establishment of an Accessory Use

No new accessory use shall be established and no accessory structures shall be allowed until approval of all required permits for the principal use or activity.

Notwithstanding the foregoing, in the TR, R-10, R-20 and R-40 districts, one or more accessory uses to a residential principal use may be established and conducted on a lot that is adjacent to and in the same ownership as the lot, if no structure associated with the accessory use has a permanent building foundation or heated enclosed floor area, and if all applicable setbacks for all lot lines are met. For example, an above-ground swimming pool for household use or a toolshed may be erected on a lot adjacent to a lot in the same ownership that contains a house. No commercial or residential structure shall qualify for this exception.

c. Examples of Allowed Accessory Uses

The following are examples of allowed accessory uses:

1. Participation by businesses, non-profit organizations, and households, taking place on private property, in official special events sponsored or organized by the Town, is an accessory use to an allowed principal use on the property.
2. Opening receptions for new exhibitions is an accessory use to an art gallery.

3. A church bazaar, rummage sale, BBQ plate sale, or seasonal fair associated with a nonprofit institution and on the site of that institution.
4. A playground or child care facility operated by and on the site of a religious institution.
5. A household yard sale occurring not more than four times in any calendar year is a residential accessory use.
6. Solar panels and collectors and clotheslines are allowed accessory uses to dwellings. Solar panels and collectors are allowed accessory uses to non-residential uses when installed primarily for production of energy used on the site, but which may be metered to feed power to a grid when there is a surplus to what is used on the site.
7. A mobile food service unit periodically serving meals to agricultural workers working on the farm is an accessory use to a farm.
8. An on-site septic tank and/or field, so long as it is permitted by the Nash County Health Department under applicable state and county rules.

d. Regulation of Accessory Uses

If a use is listed in the Table of Allowed Uses as an allowable accessory use in some districts and not in others, it may be carried on as an accessory use or principal use only in those districts indicated.

Whenever certain uses are regulated specifically in this article, their status as an accessory use in a particular case shall not exempt them from the regulations.

e. Supplemental Standards for Particular Accessory Uses

The following standards shall apply to particular accessory uses, as indicated.

1. Cookie and doughnut sales

Sales of fundraising items, such as Girl Scout cookies, boxes of doughnuts, raffle tickets, and the like, are allowed as an accessory use to a principal retail or non-profit institutional use, so long as the activity is carried out by volunteers for the benefit of a non-profit organization and food preparation does not occur at the site of sale.

2. Accessory dwelling to a commercial or industrial use

One dwelling for accommodating an owner-operator, on-site caretaker, or security or maintenance staff is permissible as an accessory use to a commercial or industrial establishment in a non-residential district. Establishments larger than one acre may be permitted up to 2 additional such accessory dwellings upon a showing that the security or operational needs of the facility require additional dwellings.

3. Flagpoles

Height may not exceed 35 feet in height in the I district and 20 feet in other districts.

4. Home occupation

Accessory uses to dwellings shall not include commercial uses, except as permitted as home occupations. The conduct of every home occupation shall comply with the following standards:

- a. It shall be principally conducted by a resident of the dwelling; and shall involve no more than two employees who do not reside on the premises.
- b. It shall not be conducted so as to fall outside the definition of accessory use and no more than 25 percent of the total actual floor area of the dwelling or 500 square feet, whichever is less, shall be used in the conduct of the home occupation. An accessory building not exceeding these limits may contain the home occupation.
- c. There shall not be more than 4 customer visits per day. No deliveries, customer or sales visits, meetings, or employee presence on the premises shall occur outside the hours from 8 a.m. to 8 p.m.
- d. In a residential zoning district, no commercial vehicles over a gross weight or licensed capacity of 20,000 pounds shall be kept or parked on the site or on the street. The total number of vehicles used in the conduct of the home occupation shall consist of not more than one personal vehicle per resident engaged in carrying out the home occupation, plus one additional vehicle.
- e. The home occupation shall not involve any outdoor elements, storage, or activities, except growing of home garden produce.
- f. No equipment or process shall be used that creates noise, vibration, fumes, odors, or which causes electrical interference. No home occupation shall involve the use of equipment which would change the fire rating of the structure in which it is conducted/
- g. A sign in connection with the home occupation shall not be illuminated and shall be no larger than 2 square feet.
- h. No home occupation shall involve car washing or detailing on the site, motor vehicle repair, slaughtering, bulk storage of flammable liquids or gases, adult businesses, animal breeding or boarding, or veterinary activities on the site.
- i. The home occupation shall obtain any necessary business licenses and a privilege license from the Town.

Upon application by the resident principally conducting a home occupation, the Board of Adjustment may grant, for that particular location and activity, a Conditional Use Permit to approve a specific variation from one or more of the standards above.

- 5. Portable self-storage containers**
At residential and commercial uses, one self-storage container per dwelling or establishment may be temporarily kept at the site for up to two periods, of up to 30 days each, per calendar year. No such container shall be used as a structure for permanent storage. Placement of the container in the public right-of-way is subject to parking regulations and all other applicable provisions of the Town Code.
 - 6. Rummage sales, church bazaars, seasonal fairs, fish fries, BBQ plate sales, and similar events**
Such fundraising events are allowed as an accessory use only to non-profit institutions and schools.

 - a. Each event shall take place on the site of the non-profit institution or school, or at a location that is zoned for a similar public assembly use such as an assembly hall.
 - b. Not more than 6 events per institution, of a duration not longer than 48 hours each, shall take place per year.
 - c. The institution shall notify the Town Clerk of the dates and location of the event in advance.
 - 7. Sidewalk display of merchandise**
This is allowed as an accessory use to retail establishments in the TC and TCE districts.

 - a. Items smaller than 3' x 3' or less than 30 pounds shall be brought inside when the business is not open.
 - b. Displays shall be maintained in a neat and attractive condition. No items shall be displayed on shipping pallets, cardboard boxes, plastic wrapping or similar materials.
 - c. A 4-foot-wide clear zone shall be maintained on the sidewalk for pedestrian passage.
 - d. No display area shall extend more than 4 feet beyond the building walls nor shall it intrude onto the curb or street.
 - 8. Shipping containers and truck trailers**
For retail uses over 5000 square feet, no more than two shipping containers and/or truck trailers may be parked for a period longer than one day, and then they shall only be parked in or immediately adjacent to the loading area for the establishment during the period necessary for unloading. In no case shall a container or trailer remain in place longer than 30 days.
 - 9. Storage, indoor (accessory)**
In the TC, TCE, and CO districts, shall not be visible from outside the building. In the TC district, shall not occur in the front 50 feet of the ground floor of any building. In the TCE district, shall not occur in the
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front 50 feet of the ground floor of any building constructed after the effective date of this ordinance.

10. Outdoor display of yard and garden merchandise

Building materials stores, variety stores, supermarkets, hardware stores, and similar establishments may, as an accessory use, display seasonal plant materials, lawn and garden supplies, outdoor furniture or similar yard and garden merchandise out-of-doors.

- a. All sales areas shall be contained within a designated area immediately adjacent to the primary retail building.
- b. Display areas shall leave a 4-foot-wide clear zone on the walkway for pedestrian passage and shall not encroach upon required parking areas or travel lanes in parking areas.
- c. All tents or detached canopies must be securely tied down and maintained to prevent a hazardous condition.

11. Commercial vehicle storage on a residential site

Not more than one commercial vehicle, which shall not have a gross weight or a licensed capacity of more than 10,000 pounds, and which is regularly used in the conduct of employment by a resident of the site, may be parked overnight on or at a site in a residential zoning district.

12. Recreational vehicle storage on a residential site

A recreational vehicle not longer than 18 feet may be stored in the driveway of a single-family residence, but on no other residential property. It shall not be connected to any utility, nor shall it be used for any period of time as a residence.

13. Vending machines, outdoor

Vending machines outside of an enclosed building and accessory to a commercial or institutional use shall not exceed 1 machine for the first 1000 square feet or less of enclosed building, and 1 additional machine for each 5000 additional square feet. No such machine shall be located on any side of a building facing a residentially zoned property.

14. Yard sale

Household yard sales shall occur not more than four times in any calendar year. The responsible property owner shall notify the Town Clerk of the location and date of each yard sale in advance.

502. Adult establishment

No adult establishment shall be located within 1000 feet of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, residence, playground, or site where alcoholic liquors or beverages are sold or served, or of the closest point on the closest property line of any other adult establishment, as measured by a

horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.

503. Auction house

- a. Outdoor storage and display shall be in compliance with all applicable Town ordinances. No item shall be stored or displayed outside overnight.
- b. Noise generated from the use shall not be unreasonably loud so as to disturb the peace, comfort, and safety of the neighborhood. Factors to consider in determining the unreasonableness of noise levels include: time of day the noise occurs, proximity to sleeping areas and adjacent buildings, duration of the noise, and nature of the noise (constant, intermittent, recurrent).

504. Automotive repair

Except in the I district, all repair work shall be done in an enclosed building or service bay for the purpose.

505. Bed and breakfast homestay

Shall be managed by the resident of the premises at all times when guests are in occupancy. Shall not include commercial kitchen facilities other than those used to provide guests with meals, except as part of another use allowed by zoning on the site. Shall serve meals only to overnight guests. In a residential zoning district, no parking on the site will occur other than in an existing residential driveway and up to 3 spaces in the rear or side yard.

506. Catering kitchen and/or reception hall

- a. The principal building used for the operation must have been in existence as of January 1, 2008, and originally intended for residential occupancy at the time of its construction.
- b. Deliveries to and from the site shall not require that traffic pass through a residential neighborhood.
- c. The operator of the site shall be responsible for reinforcing delivery driveways or loading areas, in such a way as to ensure that the pavement edge of the abutting public street is not damaged or eroded.
- d. Activities on the site may only be conducted indoors and in outdoor areas that are screened by a masonry wall at least six feet in height from adjacent residential properties.

507. Cemetery

Shall comply with applicable standards of Chapter 93 of the Town Code, the Nash County Health Department, and the State of North Carolina.

508. Church or place of worship

If having a seating capacity in excess of 300 persons, shall be located with direct access to a major or minor collector street as identified on the most recent functional classification map published by the North Carolina Department of Transportation.

If established after the date of this ordinance, in the R-20 district shall have a minimum lot size of one acre.

Churches may have accessory uses such as cemeteries, day care facilities, pre-schools, or schools, which shall comply with the requirements of this ordinance. Homeless shelters and soup kitchens are not accessory uses to a church, but shall constitute principal uses and are subject to the requirements of this ordinance.

509. Civic and fraternal organizations

If having a seating capacity in excess of 300 persons, shall have access only on a major or minor collector street as identified on the most recent functional classification map published by the North Carolina Department of Transportation.

510. Colleges, technical schools, and universities (non-profit)

Are allowed in the TC district in buildings existing as of the date of adoption of this ordinance.

511. Convenience store with fuel sales

All of the standards applicable to service stations and filling stations shall apply to convenience stores with fuel sales.

512. Day care center

- a. Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only; except that on corner or through lots, a minimum 20-foot setback as measured from the abutting street right-of-way line shall be required; and surrounded by a fence or wall at least four feet in height.
- b. At least one off-street passenger loading space separate from required parking shall be provided for each twenty persons enrolled. Adequate on-site turnaround area shall be provided for all loading spaces.
- c. The facility shall comply with all applicable state agency standards.

513. Dish antenna one meter or less in diameter

Dish antennas one meter (39.37 inches) or less in diameter are allowed as a permitted accessory use in all zoning districts and no permit shall be required, so long as the antenna is installed securely so as to pose no safety hazard. Dish antennas shall not be installed on any side of a building facing a public street unless (1) adequate reception cannot be obtained from another location and (2)

federal law requires that the antenna be allowed on the side that would otherwise be prohibited.

514. Dish antennas larger than one meter in diameter

Shall only be allowed as an accessory use in all districts other than industrial. Dish antennas shall not be installed on any side of a building facing a public street unless (1) adequate reception cannot be obtained from another location and (2) federal law requires that the antenna be allowed on the side that would otherwise be prohibited.

515. Doggie day care

The minimum lot size shall be 2 acres. Every outdoor component shall be no closer than 200 feet from any existing residence and from the nearest boundary of a lot in a residential district other than R-40.

516. Drive-through component of a principal use permitted in the district

a. Plan

A plan showing the location and measurements of the drive-through component, and that these standards shall be met, shall be submitted for review prior to issuance of a permit.

b. Stacking

Adequate lane and stacking space shall be provided so that cars will not have to back onto or stand on a public street, sufficient to accommodate drive-in business during peak business hours of the establishment. Financial institutions only may have more than one lane of drive-through service.

c. Location

No element of a drive-through component shall be located between the building on the site and any public street, except that a single stacking lane may be located between the building and a secondary (side) street in the case of a corner lot. No element of a drive-through component shall be located on any side adjacent to, within 150 feet of, or directly or diagonally (45°) across a public right-of-way from a residential use or zoning district.

d. Noise-Emitting Devices

Regardless of what side of the establishment it is on, no speaker or other device that emits any noise shall be audible at the property line of any residential use or zoning district.

e. Curb Cuts

No more than one additional curb cut shall serve the drive-through component in addition to the curb cuts for any other component, parking area, or other feature of the site; the intent is for drive-through service to utilize the same entry and exit as other vehicles on the site.

f. Pedestrian Safety and Convenience

Pedestrian pathways and entries to the principal use shall be equally commodious and convenient as drive-through access. Pedestrian sidewalks, areas around building entries, and crosswalks through vehicular use areas shall be obviously marked and delineated with boldly visible markings, along with such safety barriers as bollards, walls, and rails if necessary to prevent hazardous or unexpected encounters between pedestrians entering and leaving the building and vehicular movements.

g. Limitations on Hours

Drive-through service shall be limited to the same hours as principal uses on the site, if such a limitation applies to the other principal uses. No drive-through car wash bay shall be operated when the principal business is not open for business.

517. Dwellings, multi-family

a. Density

The maximum density shall be 20 dwelling units per acre.

b. Limits on Concentration of Dwellings

No more than 16 dwellings shall occupy a single development site. No more than 8 dwellings shall be attached in a single structure. Every new multi-family development site shall be located no less than 600 feet from an existing multi-family development site.

c. Minimum Lot and Dimensional Standards

The minimum lot width is 60 feet. The minimum front, side, and rear building setbacks from property lines shall be 20, 10, and 15 feet, respectively. The maximum building footprint is 60% of the area of the site.

d. Parking

No parking area shall be located between the building and any public street.

e. Orientation

In each multi-family development, the fronts of some buildings may face an interior court for pedestrian access, but at a minimum, the buildings closest to the property's street frontage shall be oriented to face the street and shall have their primary entrance(s) facing the street. Each dwelling unit with an exterior wall that faces a street shall have at least two windows per dwelling unit facing each such street, including at least one such window on each habitable floor of the dwelling.

f. Exterior Walls

No exterior wall shall extend more than 15 horizontal feet without a window or door opening, nor more than 25 horizontal feet without at least two window or door openings. Exterior materials shall not include vinyl siding or trim.

g. Porches and Patios

Every dwelling shall have a covered front porch or stoop at least six feet deep and a rear patio at least ten feet by ten feet.

h. HVAC Units

All exterior HVAC units shall be sited in one or more enclosures of HardiPlank or masonry to reduce noise, and sited no less than 20 feet from the property line of any adjoining property in residential zoning or use.

i. Perimeter Yard

A landscaped perimeter yard at least 20 feet deep shall be provided on each side of the site that adjoins property containing a single-family detached dwelling or that is zoned for a residential category other than MR, and no parking or structures shall be sited in that yard. The yard shall be maintained in turf grass or other well-suited ground cover and shall include at least 2 ornamental trees and 1 shade tree distributed along each 50 linear feet of the intervening property line.

j. Required Green Space

Every multi-family development having more than 4 dwellings shall include a common green space, which shall be usable by residents for leisure purposes and shall have outdoor seating, shrubs, trees, and suitable living ground cover for all areas not constituting walkways, and which shall contain an area of not less than 600 square feet times the number of dwellings in the development for use as an amenity by the residents. Areas may be combined to form a single common green space or multiple spaces, but no required common green space shall be less than 3000 square feet. The common green space required by this section shall be of a cohesive shape that indicates suitable intentional design for its purposes, and shall not consist of leftover areas of land around the development.

k. Separation Between Buildings

Internal to the site of a multi-family development, the minimum separation of buildings to each other on a site shall be as follows, where “front,” “side,” and “rear” refer to the front, side, and rear of a building, respectively: 50 feet from front to front; 12 feet from side to side; 30 feet from side to rear or rear to side; and 50 feet from rear to rear.

l. Accessory Uses

Allowable accessory uses to a multi-family development include facilities such as swimming pools, cookout patios, a leasing office, interior utility or recreational rooms, and similar elements for the convenience of residents only and their guests.

m. TC and TCE Districts

The standards of this section for density, minimum lot and dimensional standards, porches and patios, and perimeter yards, shall not apply to multi-

family dwellings in the TC and TCE districts. In addition, the standards for green space, porches and patios, exterior walls, and fenestration requirements shall not apply to the re-use of an existing building in the TC district for multi-family dwellings.

518. Dwelling, single-family detached

The dwelling shall face the primary street, and shall have the main entry and at least two windows on the side facing the principal street. No part of any enclosed garage shall be situated more than two feet forward of the front wall of the dwelling. Where the lot is served at the rear or side by a public alley, any garage or carport shall be accessed from the alley and not the primary street, and no new driveway shall be cut to the primary street. In the TC district, no driveway or forward-facing garage shall be established.

519. Entertainment establishment, indoor

Entertainment shall not take place outside the hours of 9:00 a.m. to midnight. Pool rooms and bowling alleys shall comply with the applicable standards of Chapter 112 of the Town Code.

520. Entertainment establishment, outdoor

No light shall shine directly on any adjacent property. Noise emanating from the use shall not exceed ambient noise levels in the surrounding area at a distance of 100 feet from any boundary of the property on which the use is located. Entertainment shall not take place outside the hours of 9:00 a.m. to 10:00 p.m. on Monday through Thursday, 9:00 a.m. to 11:00 p.m. on Friday and Saturday, or 1:00 to 9:00 p.m. on Sunday.

521. Family child care home

Shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling; shall not take place in a dwelling that is part of a multi-family development. The establishment shall be staffed by persons whose reside in the dwelling, except that up to one non-resident may be employed on the premises. No outdoor play is permitted after 8:00 p.m. nor before 8:00 a.m. Care shall not be provided on an overnight (24-hour) basis. The establishment shall comply with all applicable state agency standards.

522. Family care home

Every new family care home shall be located a minimum of 1500 feet from an existing family care home, shall not be located in a Class A or B manufactured home or in a dwelling that is part of a multi-family development, shall meet the standards of this chapter applicable to single-family dwellings, and shall meet the requirements of state laws and regulations concerning such establishments.

- 523. Farmers market**
Not more than 25% of sales value for each seller represented at a farmers market may be from more than 100 miles from the site. All products offered for sale must be agricultural in origin.
- 524. Farmstand, on-site**
Not more than 25% of sales value may consist of products from other sites. All products offered for sale must be agricultural in origin and produced within 25 miles of the farmstand.
- 525. Fuel oil sales**
All storage tanks and loading facilities will be located at least 50 feet from any exterior property line. Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or a commercial street directly intersecting a thoroughfare. A site plan shall be submitted and the approval of the Fire Marshal obtained prior to issuance of zoning approval. The applicant shall provide all needed information to enable the appropriate officials to determine the safety of the storage measures.
- 526. Kennel**
The minimum lot size shall be 2 acres. Every outdoor component shall be no closer than 200 feet from any existing residence and from the nearest boundary of every lot in a residential district other than R-40.
- 527. Live-work unit**
Each live-work unit shall contain separate, self-contained residential and working spaces, either separated by floors or by the arrangement of the floor plan. An entrance to the residential space shall be provided that is separate from that of the business establishment. On the site, no more than one other full-time employee shall be engaged in the business.
- 528. Manufactured home, modular**
Every modular manufactured home shall have a permanent foundation, a shingled roof, lapped siding, and a minimum 1:3 roof pitch, and shall also meet the standards specified in this section for a single-family detached dwelling.
- 529. Manufactured home on a single lot**
Every manufactured home placed on any lot outside a manufactured home park after the effective date of this ordinance shall comply with the following standards.
- a. The manufactured home shall not be older than 5 years at the time it is placed on the lot.
 - b. The manufactured home shall be listed as real property on the county tax rolls.
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ARTICLE V: STANDARDS FOR CERTAIN USES
Section 530. Manufactured housing parks

- c. The manufactured home shall be over 60 feet long and over 12 feet wide.
- d. The manufactured home shall be placed parallel to the front lot line, and the front of the mobile home shall be placed facing the principal street.
- e. Exterior siding materials shall consist of vinyl or aluminum horizontal lap siding, wood, or hardboard such as HardiPlank siding, and shall be comparable in composition, appearance, and durability to the exterior siding community used in standard residential construction. The exterior materials shall be in good repair.
- f. A continuous, uniform foundation enclosure, unpierced except for required ventilation and access, shall be installed. The enclosure shall be of masonry, such as brick or concrete block.
- g. All wheels, axles, hitches, lights, and other mechanisms related to transporting the unit to the permanent site shall be removed.
- h. The manufactured home shall be tied down in accordance with the State of North Carolina Regulations for Mobile Homes and Modular Housing.
- i. Permanent steps shall be constructed at all exterior doors and a permanent porch or patio measuring at least 3 feet wide and 5 feet long shall be constructed at the front or main entrance.
- j. All areas of the lot not used for accessory structures or uses shall be grassed or otherwise suitably landscaped to prevent erosion.
- k. The pitch of the roof of the mobile home shall have a minimum vertical rise of 4 feet for each 12 feet of horizontal run, and the roof shall be finished with a type of shingle that is commonly used in standard residential construction.
- l. The roof shall provide an eave projection of no less than 6 inches, which may include a gutter, on all sides along an exterior wall.
- m. All standards must be met prior to issuance of a Certificate of Occupancy, and no mobile home may be placed or parked on a lot for more than 60 days with or without a Certificate of Occupancy unless all of the above requirements are met.
- n. Every manufactured home that, at any time after the effective date of this ordinance, has stood vacant and unoccupied for a continuous period of two years shall be removed and may not be relocated within the jurisdiction of the Town.
- o. No manufactured home shall be used for storage of items.

530. Manufactured housing parks

Every manufactured housing park shall comply with the following requirements.

a. Size and Location

The minimum land area is two acres. No manufactured housing park shall be located in a flood hazard or flood-prone area subject to 500-year or lesser magnitude floods.

b. Permit Required

No person shall construct, or make any addition or alteration to a manufactured housing park that either increases the number of manufactured home spaces or affects the required facilities within the park, except in accordance with approved plans and permits.

c. Spaces

Each manufactured home space shall:

1. Be clearly established on the ground by permanent markers or monuments of concrete or iron pipe placed at all corners
2. Clearly display a street address as assigned by the governmental unit responsible for addressing
3. Contain at least 3,600 square feet in area and be at least 100 feet wide
4. Be provided with a concrete walk and patio from the door of the home to its parking space.
5. Be provided with a parking space sufficient to accommodate at least one automobile; every parking space shall be located out of the way of the internal drive, and shall be paved. Crusher run stone is acceptable in lieu of asphalt or concrete paving, but must be renewed from time to time and maintained in good condition.
6. Be provided with a concrete pad of sufficient size to accommodate a typical manufactured home and also to allow the anchoring of the home to secure it against movement.
7. The manufactured home pad and the manufactured home space shall be graded to provide adequate storm drainage away from the home, and to prevent water from ponding on the premises. There shall exist no more than two feet difference between the chassis of the manufactured home and the finished grade of the manufactured home pad.

d. Installation of Manufactured Homes

1. Each manufactured home in the park shall be installed only in a manufactured home space. No more than one manufactured home may be parked or installed on any manufactured home space.
 2. Each manufactured home shall, at the time of its installation, meet the approval standards of the building inspection department for use as human habitation. A manufactured home may only be replaced with a home that is not more than 5 years old at the time it is placed on the
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homesite in the manufactured housing park. A Class B manufactured home may be sited in a space only if it less than 5 years old and is replacing another Class B manufactured home more than 5 years old.

3. No manufactured home pad shall be located less than 25 feet from another manufactured home pad, a manufactured home addition, or any other structure.
4. No manufactured home pad shall be located closer than 30 feet from a public street right-of-way or exterior park boundary, nor less than 10 feet from the edge of any driveway in the manufactured housing park.
5. The entire perimeter area between the bottom of the structure and the ground of each manufactured home shall be skirted or underpinned with brick, masonry, finished concrete or siding (of like or similar character to the manufactured home) that completely encloses the perimeter of the undercarriage except for proper ventilation and access openings.

e. Driveways and Access

1. Private driveways shall be provided, which shall serve every manufactured home space and shall connect to a public street. The drives shall be paved with asphalt or concrete. The drives shall be at least 20 feet wide and the edges shall be striped with white reflective paint or marked with permanent, stable reflective markers so that the drives are visible at night.
2. No manufactured home space shall have direct vehicular access to a public street.
3. Dead-end drives shall be terminated with a vehicular turning loop at the end with an outer radius of at least 24 feet. The middle of the loop shall be landscaped with grass, trees, or other appropriate vegetated materials.

f. Signage

Signs shall be limited to one sign for each frontage on a public road, each having an area of not more than ½ square foot for each manufactured home space and with the total copy area in no case larger than 20 square feet. Signs shall be located on the property, no closer than five feet to any property line. Signs shall also comply with the other sign regulations of this ordinance.

g. Planting Strip

The manufactured housing park shall have a planting strip a minimum of 5 feet wide adjacent to its boundary and extending along the entire perimeter of the manufactured housing park, which shall be planted and maintained with not less than 5 evergreen shrubs and 1 hardwood tree in every 50 linear feet.

All manufactured housing parks abutting any residential zone shall have a Type A planting yard along the full length of the abutting property line.

h. Utilities, Health, and Public Safety

1. Every new manufactured housing park shall be connected to public water and sewer utilities.
2. Each manufactured home stand shall be equipped with water and sewer plumbing connections and electrical connections.
3. Every manufactured home installed shall have a flush toilet, lavatory, bathtub or shower, water heater, kitchen facilities, and electric wiring, and shall be connected to central electric utilities and Town water and sewer services.
4. Every manufactured housing park shall provide suitable watertight and fly-tight receptacles with closely fitting covers. The manufactured housing park operator shall personally make certain that all garbage and refuse are regularly disposed of in a sanitary manner.

i. Recreation Areas

Recreation areas shall be provided that meet the following minimum standards:

1. One or more playgrounds containing a minimum of 20% of the total area in the manufactured housing park, with each such playground containing at least 5,000 square feet.
2. One or more fenced areas, in a sunny and well-drained location suitable for a vegetable garden, containing a minimum of 25 square feet for each manufactured home space, enclosed by a rabbit-proof fence and provided with a spigot for irrigation.

j. No Sales Allowed

It shall be unlawful to sell manufactured homes or trailers within a manufactured housing park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he or she maintains occupancy.

k. Structural Additions to Manufactured Homes

No living compartment or structure other than a sun porch, patio room or "Florida Room," or other prefabricated structure specially designed for manufactured home use or extension, shall be added to any manufactured home parked within the jurisdiction of this chapter.

l. Operation

The owner of the manufactured housing park shall keep an accurate register of all manufactured home owners, manufactured homes, and occupants of the manufactured housing park. The register shall contain:

1. The name and address of every owner and the occupants of every manufactured home;
2. The manufactured home space in which the manufactured home is located;
3. Date of the manufactured home entering the park; and
4. Date of the manufactured home leaving the park.
5. The operator shall make the register available upon request to law enforcement and zoning officials.

m. Removal of Homes After Abandonment or Long Vacancy

If a manufactured home in a park is abandoned for more than 60 days, the operator of the park shall be responsible for its removal in accordance with applicable state law. Every manufactured home that has stood vacant and unoccupied for a continuous period of two years shall be removed and may not be relocated within the jurisdiction of the Town.

n. Prohibited Conditions

Every manufactured home park shall be maintained in good repair and condition. In addition to all applicable requirements of this ordinance, the following conditions are expressly prohibited by this section and shall not be maintained in a manufactured home park: broken windows on any structure or unit, dog pens or chains, keeping of poultry or livestock, stray animals, vehicles not in operable condition, trash outside of approved waste receptacles.

o. Other Requirements

1. No recreational vehicle shall be parked in any manufactured housing park.
2. The manufactured housing park may have a central structure containing coin-operated machines for the park residents' use only. The facilities shall be completely enclosed and shall have no exterior advertising.

531. Manufactured home temporary storage

It shall be unlawful to store a manufactured home temporarily or permanently within the Town, except as follows:

- a. During towing or transit to its permanent site or other allowable destination, a manufactured home may be parked at a safe, lawful, and non-obstructive location on a public right-of-way, but it shall not be parked overnight;
 - b. Within a manufactured housing park properly licensed by the Town;
 - c. By an owner or licensed dealer at a site where manufactured home or trailer sales are permitted by zoning; or
 - d. On a site where it is lawfully being installed.
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532. Manufacturing, heavy

Every heavy manufacturing use shall be located at least 1000 feet from any residentially zoned property, and the reviewing body shall take into consideration the potential for odors, dust, noise and other noxious effects in reviewing the request to establish the use.

533. Medical office

In the TR district, every medical office shall meet the following standards:

- a. The use shall take place in a residential structure built prior to the effective date of this ordinance.
- b. The site shall abut or be directly across a street from property in commercial use or zoning.
- c. There shall exist, along a public street, adequate parking within 200 feet of the entrance to serve the use; or parking in an existing private lot not on the site, with a written agreement for use of that lot for the parking needs of the medical office.
- d. No parking on the site will occur other than in an existing residential driveway and up to 3 spaces in the rear or side yard.
- e. Any sign for the establishment is limited to 4 square feet.
- f. Operating hours shall not exceed 8 am to 6 pm, nor shall operating hours total more than 8 hours on weekends.

534. Nursing care facility

In the R-40 district, every nursing care facility shall be located on a site containing at least two acres. Parking areas and service areas shall be no closer than 200 feet from any existing residence and from the nearest boundary of a lot in a residential district other than R-40.

535. Offices, business or professional

In the TR district, every business or professional office shall meet the following standards:

- a. The use shall take place in a residential structure built prior to the effective date of this ordinance.
 - b. The site shall abut or be directly across a street from property in commercial use or zoning.
 - c. There shall exist, along a public street, adequate parking within 200 feet of the entrance to serve the use; or parking in an existing private lot not on the site, with a written agreement for use of that lot for the parking needs of the medical office.
 - d. No parking on the site will occur other than in an existing residential driveway and up to 3 spaces in the rear or side yard.
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- e. Any sign for the establishment is limited to 4 square feet.
- f. Operating hours shall not exceed 8 am to 6 pm, nor shall operating hours total more than 8 hours on weekends.

536. Outdoor storage yard

- a. The area to be used for outdoor storage shall be fenced to a height of at least six feet; shall not be outside the required building setbacks for the district; and if there is a principal building on the site, shall be in the rear of the site and not forward of a line 10 feet behind the front wall of the building.
- b. In the case of storage of materials which pose an environmental hazard, such as fertilizer, treated lumber, or other loose, uncontainerized material or items, a concrete containment pad shall be utilized to fully prevent leaching, run-off, or release of materials from the containment pad.
- c. The bulk storage of hazardous materials as a principal use shall be treated as “Storage of hazardous substances or flammable liquids, bulk.”

537. Quarry, mining, timbering, and on-site resource extraction

- a. Blasting shall take place only between the hours of 8:00 a.m. to 5:00 p.m. and only on Monday through Friday.
- b. A six-foot fence is required around all mining and quarry operations. For excavation, a strip a minimum of 50 feet wide on all sides shall be maintained unexcavated. A buffer strip around the site meeting the requirements of a Type A buffer strip as provided in Section 613 of this ordinance is required.
- c. Service roads on the site shall be paved or improved with well-maintained crusher run gravel so that dust is not generated by vehicles passing over them.
- d. The site shall be located in an area where operations and traffic from the site will not pose a nuisance or hazard to residential areas or other uses in the vicinity.

538. Repair and maintenance shops, non-automotive

In the TC district, shall comply with the following vibration and noise standards, measured at any lot line and outside the building where activity takes place:

a. Vibration

Shall not create continuous, frequent, or repetitive vibrations which exceed 0.002g peak. In general, this means that a person of normal sensitivities should not be able to feel any vibrations.

Vibrations from temporary construction and from vehicles which leave the site are exempt. Vibrations lasting less than 5 minutes per day are also exempt.

- b. **Noise**
Shall not create noises exceeding 50 dBA.

539. Restaurant

In the TR district:

- a. The applicant or operator shall demonstrate that adequate parking exists (which may be provided under an agreement with a nearby office or institutional use) to serve the restaurant;
- b. The principal building used for the operation must have been in existence as of January 1, 2008, and originally intended for residential occupancy at the time of its construction;
- c. Deliveries to and from the site shall not require that traffic pass through a residential neighborhood;
- d. Activities on the site may only be conducted indoors and in outdoor areas that are screened by a masonry wall at least six feet in height from adjacent residential properties.

540. Schools (elementary & secondary, public & private)

Shall be located on a major or minor collector road.

541. Seasonal outdoor sale

- a. No more than 2 seasonal outdoor sales shall take place on a site in a calendar year, nor more than 30 calendar days in each instance.
 - b. No part of the operation may occupy a public right-of-way.
 - c. Adequate and safe access to and from the operation from streets shall be provided, along with a parking area sufficient to accommodate the anticipated number of customer and dealer vehicles and to allow for safe movement.
 - d. The use shall comply with all requirements of building and fire prevention codes and requirements of the Nash County Health Department.
 - e. The applicant shall apply for a sign permit, if necessary.
 - f. The person responsible shall apply for a permit for the sale from the Zoning Administrator at least 10 calendar days in advance of the sale, in a form approved by the Zoning Administrator.
 - 1. The application shall include information sufficient to enable the Zoning Administrator to determine if the proposed use will comply with these requirements, including written evidence that the applicant has the permission of the owner of the premises to conduct the use, and any additional information deemed appropriate by the Zoning Administrator
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2. The Zoning Administrator shall determine if the proposed use will comply with the requirements, and if so, shall issue the permit. The maximum period of duration shall be determined by the Zoning Administrator and stated in the permit. If any requirements or conditions are deemed necessary by the Zoning Administrator to ensure compliance of the use with this or other Town regulation or to protect the public health, safety, and welfare, the Zoning Administrator shall specify them in the permit.
- g. Upon termination of the sale, all structures, trash, debris, and equipment shall be removed from the premises.

542. Self-storage facility

- a. No manufacturing, sale of goods or services, repair, or other operations not related to storage are allowed on the site.
- b. All personal property shall be stored indoors, except that RVs, boats and other personal recreational vehicles in operable condition may be stored in a delineated area on the site consisting of not more than 25 percent of the site area.
- c. Storage bay doors shall not face a residential district or any public road.
- d. No shipping containers or commercial vehicles longer than 20 feet may be stored on the site.

543. Service stations and filling stations

- a. **Structures and Canopies**
Structures and canopies associated with pumps shall not be higher than 14 feet clearance and 16 feet overall. Pumps and canopies are considered part of the principal use and shall comply with the yard setback requirements and other applicable requirements for a principal use. Gasoline pump canopies shall be located: (i) With the shortest side of the canopy facing the primary abutting street and with the canopy no closer to the primary street than the convenience store or office on the site, or (ii) with the store building or office located between the primary abutting street and the gasoline pump canopy. No outdoor amplified sound shall be used, other than intercoms to facilitate communication between store clerk and customers at the pump.
 - b. **Canopy Lighting**
Maintained average horizontal illuminance at grade directly under the canopy shall not exceed 20 foot-candles and must conform to IESNA recommended practices. Individual luminary lamp wattage shall not exceed 250 watts and no more than 2 lamps shall be installed per side. Light fixtures mounted under canopies shall be completely recessed into the canopy, with flat lenses that are translucent and completely flush or recessed with the underside (ceiling) of the canopy. The sides (fascias) of the canopy
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shall extend below the lens of the fixtures by a minimum of 12 inches to block the direct view of the light sources and lenses from the side. Lights shall not be mounted on the top or sides of the canopy, and the sides shall not be illuminated.

c. Allowable Activities on Site

The following elements and activities are permitted: automobile gasoline sales and light maintenance including engine tune-ups, lubrication, and battery replacement. All maintenance and service operations not of an emergency nature shall take place inside an enclosed structure designed for that purpose. All used motor oils and similar products shall be stored only in underground or inside areas in accordance with applicable State regulations.

544. Shopping center

Shall contain only those uses that are allowable in the zoning district. All yards adjacent to streets, or to residentially zoned property, or to alleys adjacent to residentially zoned property shall be at least 100 feet in depth. Prior to approval of a shopping center greater than 5000 square feet floor area, the applicant shall make a showing of public and economic need for the establishment of the new commercial area outside existing commercial areas, and furnish a traffic impact analysis. Ground signs for shopping centers greater than 5000 square feet floor area shall be located in a planted bed maintained in living condition.

545. Storage of hazardous substances or flammable liquids

- a. All storage tanks and loading facilities shall be located at least 100 feet from any exterior property line.
- b. Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or a commercial street directly intersecting a thoroughfare.
- c. A site plan shall be submitted and the approval of the Fire Marshal obtained prior to issuance of zoning approval. The applicant shall provide all needed information to enable the official to determine the safety of the storage measures.

546. Storage, indoor

In the TC, TCE, and CO districts, shall not be visible from outside the building. In the TC district, shall not occur in the front 50 feet of the ground floor of any building. In the TCE district, shall not occur in the front 50 feet of the ground floor of any building constructed after the effective date of this ordinance.

547. Telecommunications towers

a. Standards Intended to be in Compliance with Other Laws

These standards of this section shall be interpreted or enforced so as not to violate any provisions of federal or state law, including but not limited to the

Federal Telecommunications Act and N.C.G.S. 160A-400.50 to -400.53. If any standard herein is held by a court of competent jurisdiction to exceed what the law allows and an order is actively in effect to curtail the excessive provisions, the ordinance shall be interpreted and enforced to the maximum extent allowed under the circumstances.

b. Telecommunications tower, camouflaged

The following standards are applicable to every camouflaged telecommunication tower in lieu of the standards for telecommunication towers generally, and compliance shall be demonstrated by the applicant prior to approval of the use:

1. The structure has an additional real function other than as a support for antenna / telecommunications equipment.
2. The structure shall be visually compatible with the style and character of structures of the surrounding area or as generally found in the applicable zoning district. A demonstration of compatibility shall include such elements as materials, architectural elements or style, and documentation of typical development in the zoning district that is similar in nature or appearance to the structure proposed to be part of the camouflaged telecommunication tower.
3. The communications equipment or devices shall not be readily identifiable as such to a casual observer on the ground.
4. The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, that there is a binding commitment(s) from one or more FCC licensees to utilize the proposed wireless telecommunication facility.

c. Telecommunication tower (other than camouflaged)

The following standards are applicable to every telecommunication tower that is not a camouflaged telecommunication tower, and compliance shall be demonstrated by the applicant prior to approval of the use:

1. The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, that there is a binding commitment(s) from one or more FCC licensees to utilize the proposed wireless telecommunication facility;
 2. The proposed facility is co-located or accommodated on an existing communication tower or structure within a 3-mile radius, or, if it is not co-located, the applicant made a good faith effort to co-locate the proposed facility on an existing communication tower within a three mile radius but it is impracticable to do so.
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ARTICLE V: STANDARDS FOR CERTAIN USES
Section 547. Telecommunications towers

- a. Good faith effort is demonstrated by reasonable offers to purchase or lease rights to co-locate the facility from all owners of existing communication towers within the 3-mile radius, and owner rejection of the offers or a showing of impracticability;
 - b. Impracticability is demonstrated by submittal of all four of the following written determinations, made by a qualified and licensed North Carolina professional engineer:
 1. That the equipment needed for operation of proposed facility exceeds the structural capacity of existing towers, and that existing towers cannot be modified to accommodate the proposed facility at a reasonable cost;
 2. That the equipment needed for operation of the proposed facility would cause interference materially affecting the operation of the existing towers, which cannot be mitigated at a reasonable cost;
 3. That the existing towers are not capable of accommodating the proposed facility because of the height requirements of the proposed facility; and
 4. That the existing towers are not capable of accommodating the proposed facility because of geographic service area requirements, or other factors that make it impossible to locate the proposed facility at an existing tower.
 3. If co-location is impracticable, the new tower is designed:
 - a. Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and two future users (for a total of three);
 - b. To allow for future rearrangement of antennas mounted at varying heights;
 - c. To allow co-location of public safety service equipment at usual and customary rates that are in addition to the sites required for future users; and
 - d. To be consistent with the general character of the surrounding area and land uses, in terms of height, bulk, texture and color.
 4. A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant, and shall be maintained in full force and effect until all above ground portions of the tower are removed.
 5. The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located, except that:
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ARTICLE V: STANDARDS FOR CERTAIN USES
Section 547. Telecommunications towers

- a. The height of the tower may exceed height requirements of this ordinance, up to a limit of 100 feet in the TC and TCE districts, and up to a limit of 250 feet in the R-40 and I districts;
 - b. The tower shall be located so as to provide a minimum distance from the tower to all property lines equal to 100 percent of the height of the tower;
 - c. The tower shall be set back a minimum of 75 feet from any existing or planned street right-of-way;
 - d. The tower's peripheral supports and guy anchors shall be located entirely within the boundaries of the property on which the tower is located, but may be located within required yard setbacks; however, they shall be located no closer than five feet from any property line, and no closer than 20 feet from a property line if the tower is adjacent to a residential district or residential uses; and
 - e. The tower's supports and peripheral anchors shall be set back a minimum of 50 feet from any existing or planned street right-of-way.
 - f. Notwithstanding the foregoing distance and setback standards, a tower up to 30 feet in height may be placed on existing buildings without meeting yard and fencing requirements.
6. A fence or wall not less than 8 feet in height from finished grade shall be constructed to encompass the tower, any maintenance structure, and each guy anchor (if used), and access to the tower shall be through a locked gate.
 7. A screen of vegetation meeting the requirements of a Type A planting yard shall be installed between every fence and an adjacent residential, TC, TCE, CO, or CI district.
 8. If high voltage is necessary for the operation and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "DANGER – HIGH VOLTAGE". The fence shall be topped with a row of barbed wire or other security feature sufficient to discourage prank or daredevil attempts at entry.
 9. Any lighting on or near ground level shall not shine onto adjacent property.
 10. The tower complies with all relevant standards of this and other Town ordinances.
 11. The tower does not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration.
 12. The owner/operator of the tower agrees to submit an annual report to the Zoning Administrator which includes written evidence of licensing
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ARTICLE V: STANDARDS FOR CERTAIN USES
Section 548. Temporary construction trailer or real estate sales office

by the FCC, the names of the users of the tower, and how many additional users can be accommodated on the tower. Failure to provide evidence of the license is a violation of this ordinance, and grounds for revocation of the permit authorizing the use.

13. An obsolete or unused stealth communication tower shall be removed within 12 months of cessation of use.

d. Exempt situations

The following are exempt from zoning approval processes and requirements:

1. The removal or replacement of transmission equipment from an existing wireless support structure that does not result in an increase in height or additional horizontal extension of more than five feet;
2. Ordinary maintenance, including inspections, testing, replacement of structural parts or foundation work to maintain functional capacity and structural integrity, or re-locating of antennas to different height levels on the structure.
3. The placement of temporary Carrier On Wheels (COW) facilities to provide wireless services on an emergency basis, during a state of disaster or public emergency declared by the Governor of the state; or when an emergency or public need requires the placement of such a device, in the view of the fire marshal, Chief of Police, county Sheriff, or other public official acting in his or her official capacity to manage or act after a disaster or during a state of emergency.

548. Temporary construction trailer or real estate sales office

A temporary office for use by construction, security, and real estate sales personnel shall take place only in a mobile or modular unit built for that purpose, or a site-built structure. Recreational vehicles, tents, or canopies are prohibited for use as temporary construction, security, and real estate sales offices. The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any neighboring residential use within a separate development. A temporary construction trailer shall be removed within 30 days after final inspection or expiration of the relevant building permit, whichever occurs first. A temporary real estate sales office shall be removed within 30 days of the sale or lease of all dwellings.

549. Townhouses

a. Density

The maximum density shall be 16 dwelling units per acre.

b. Limits on Concentration of Dwellings

No more than 30 townhouses shall occupy a single development site. No more than 8 townhouses shall be attached in a single structure. Every new

townhouse development shall be located no less than 300 feet from an existing townhouse development.

c. Minimum Lot and Dimensional Standards

The minimum lot width for an individual townhouse is 18 feet. The minimum front, side, and rear building setbacks from the property lines at the boundary of the development shall be 0, 10, and 15 feet, respectively. The maximum building footprint is 60% of the area of the each townhouse lot.

d. Parking

No parking shall be located between the front or corner side wall of any building and any abutting public street. No driveway or driveway curb cut serving a townhouse shall be located in front of the townhouse, nor shall garage doors be located in the front façade of any townhouse. Garages may be grouped together in a townhouse development so as to consolidate vehicular access and limit driveways and the total amount of pavement.

e. Orientation

In each townhouse development, the fronts of some buildings may face an interior court for pedestrian access, but at a minimum, the buildings closest to the property's street frontage shall be oriented to face the street and shall have their primary entrances facing the street. Each dwelling unit with an exterior wall that faces a street shall have at least three windows per dwelling unit facing each such street, including at least one such window on each habitable floor.

f. Exterior Walls

No exterior wall shall extend more than 20 horizontal feet without a window or door opening, nor more than 30 horizontal feet without at least two window or door openings. Exterior materials shall not include vinyl siding or trim.

g. Porches and Patios

Every dwelling shall have a covered front porch or stoop at least six feet deep and a rear patio at least ten feet by ten feet.

h. HVAC Units

All exterior HVAC units shall be sited in one or more enclosures of HardiPlank or masonry to reduce noise, and sited no less than 20 feet from the property line of any adjoining property in residential zoning or use.

i. Perimeter Yard

A landscaped perimeter yard at least 20 feet deep shall be provided on each side of the site that adjoins property that contains a single-family detached dwelling or that is zoned for a residential category other than MR, and no parking or structures shall be sited in that yard. The yard shall be

maintained in turf grass or other well-suited ground cover and shall include at least 2 ornamental trees and 1 shade tree distributed along each 50 linear feet of the intervening property line.

j. Required Green Space

Every townhouse development having more than 4 dwellings shall include a common green space, which shall be usable by residents for leisure purposes and shall have outdoor seating, shrubs, trees, and suitable living ground cover for all areas not constituting walkways, and which shall contain an area of not less than 400 square feet times the number of dwellings in the development for use as an amenity by the residents. Areas may be combined to form a single common green space or multiple spaces, but no required common green space shall be less than 2000 square feet. The common green space required by this section shall be of a cohesive shape that indicates suitable intentional design for its purpose, and shall not consist of leftover areas of land around the development.

k. Separation Between Buildings

Internal to the site of a townhouse development, the minimum separation of buildings to each other on a site shall be as follows, where “front,” “side,” and “rear” refer to the front, side, and rear of a building, respectively: 50 feet from front to front; 12 feet from side to side; 30 feet from side to rear or rear to side; and 50 feet from rear to rear.

l. Accessory Uses

Allowable accessory uses to a townhouse development include facilities such as swimming pools, cookout patios, interior utility or recreational rooms, and similar elements for the convenience of residents only and their guests.

m. Homeowners Association

A homeowners association for the development shall be established in accordance with the provisions of N.C. General Statutes, Chapter 47F for developments of 20 or more lots, or, for developments of less than 20 lots, in accordance with the following:

1. A homeowners association shall be established which shall have responsibility for the maintenance of all common areas and of all open space and recreation areas that are not deeded to the Town.
 2. The developer or owner shall file with the Zoning Administrator a declaration of covenants and restrictions as well as regulations and bylaws that will govern the maintenance of all common areas, recreation and open space. The document shall be recorded with the final townhouse or condominium project plat. Provisions shall include, but not be limited to, the following:
 - (1) The association shall be established before the units are sold.
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(2) Membership shall be mandatory for each home buyer and all successive buyers.

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

(4) Any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgagee liens.

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

(6) The following information shall also be provided. a) The name of the association. b) The manner in which directors of the association are to be selected. c) The post office address of the initial registered office. d) The name of the city and county in which the registered office is located. e) The number of directors constituting the initial board of directors. f) The names and addresses of the board of directors shall be submitted annually to the Town.

(7) Property owners shall be furnished with a copy of the declaration of covenants and restrictions by the seller of the individual lots.

550. Woodworking shops, indoor operations

In the TC and TCE districts, the area devoted to operations shall not exceed 1500 square feet, and shall also comply with the standards for non-automotive repair and maintenance shops in the TC district for noise and vibration.

ARTICLE VI: SUPPLEMENTAL DEVELOPMENT STANDARDS

601. General Requirements

a. Fronts of Buildings and Primary Entrances

Except for shopping centers, or as otherwise specified in this ordinance, all principal buildings other than industrial buildings shall be oriented so that a front wall faces to the fronting street, and the primary entrance is located in that front wall.

b. Building Materials

For non-residential uses, new principal buildings that are constructed of metal, or which are manufactured or modular commercial buildings, shall have a masonry veneer on the facades facing each public street. This requirement shall not apply to buildings in the I district, nor to the replacement or reconstruction of a metal or manufactured or modular commercial building, after damage due to natural causes or hazard.

c. Uses Occurring in Public Right-of-Way

No use shall take place in a public right-of-way except by permission of the entity responsible for controlling or maintaining the right-of-way.

602. Parking and Loading Requirements

Whenever any structure is erected, modified, enlarged or increased in capacity, or any open use is established, modified or enlarged, the parking and loading requirements and standards of this article shall be met for the structure and its associated use. No Certificate of Occupancy shall be issued until the requirements are met.

603. Dimensional Requirements for Off-Street Parking

a. Parking Spaces

Parking spaces shall be a minimum of 8 feet wide and 17 feet long.

b. Access Aisles to Spaces

The vehicular access aisles serving spaces shall meet the minimum widths indicated in Table 603. Clear markings or signs shall show the intended direction of travel through the access aisles.

Table 603: Width of Parking Access Aisles

Parking Angle	Minimum width in feet	
	One-way traffic	Two-way traffic
0°	12	20
30°	11	20
45°	13	20
60°	18	22
90°	22	24

604. Design Standards for Off-Street Parking and Loading

All off-street parking and loading areas, whether provided voluntarily or required by this ordinance to be provided, shall comply with the following requirements:

a. Surface

1. Off-street parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights, except as otherwise provided in subsections (2) and (3) below.
2. Parking areas with four or fewer spaces may be surfaced with compacted gravel. The gravel shall be placed slightly below grade or contained with permanent barriers so that it does not wash onto public rights of way.
3. Provided that a dust-free and erosion-free surface is maintained, paving shall not be required for:
 - a. parking facilities used on an irregular basis for non-profit assembly uses;
 - b. parking areas serving single-family residential uses;
 - c. parking areas for agricultural uses in the R-40 district;
 - d. parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.
4. Access drives serving off-street parking and loading shall be paved and maintained from the curb line to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved, except in the case of single-family residences.

b. Markings

Each parking space shall be marked off with permanent paint or other physical indications of its boundaries and maintained so as to be distinguishable. Parking lots with 20 or more spaces shall have a clearly marked, ADA-accessible pedestrian route at least 4 feet wide and free from encroachment from the sidewalk (or, if there is no sidewalk, from the outer edge of the parking lot) to the front entrance of the establishment.

c. Curbs or Bumpers

Parking spaces shall be set aside from non-parking areas by either continuous curbs or one non-contiguous stationary bumper for each parking space abutting on an area not used for parking. Every curb or bumper shall not be less than five inches or more than two feet high, and shall be secured in place permanently with a stable attachment. Where any parking stall abuts upon a walkway or upon a travel lane other than the access aisle

directly serving the space, there shall be a space of three and one-half feet between the wheel bumper or curb and the edge of the walkway or travel lane.

d. Drainage

Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement.

e. Parking Lot Landscaping

All new off-street parking lots with 8 or more spaces shall comply with the requirements of this section. If an existing parking lot is expanded to add 8 or more spaces, it shall comply with these requirements within the expanded part.

1. Tree Planting

Shade trees shall be planted at a rate of two shade trees for every 10 spaces or fraction thereof. Required trees shall be located within or adjacent to parking lots in tree islands, medians, at the end of parking bays, or between rows of parking spaces, in a manner such that no parking space is located more than 30 feet from a parking lot tree. Trees shall be located so as to provide the maximum shade to the greatest number of parking spaces, wherever practicable.

a. Trees required in the planting yards or street yards are not credited toward the parking lot requirements.

2. Planting Area Dimensions, Design, Improvements, and Plantings

a. Planting areas within the parking lots shall provide a minimum of 81 square feet per tree, with a minimum inside dimension of 9 feet and a minimum prepared depth of 3 feet.

b. Planting areas shall be improved and planted to comply with the Landscape Standards and Specifications of this article. All plant species and varieties shall be appropriate types for use in parking lots based on their horticultural characteristics and needs.

f. Applicability of Street Yards and Planting Yards

Whenever a parking lot is developed or expanded to add 8 or more spaces, the applicable street yard and planting yard requirements of this ordinance shall be complied with for the site, in the same manner as if the structure or use on the site were triggering the requirement. Whenever new parking spaces are added to serve a commercial or institutional use adjacent to property that is in residential use or a residential zoning district, the planting yard requirements of this ordinance shall be complied with for the site, in the same manner as if the structure or use on the site were triggering the requirement.

g. Entries and Exits

1. Vehicular driveways giving entry or exit to parking lots onto streets shall be limited to one entrance per street frontage per property. If an alley serves the property and the parking lot contains fewer than 20 spaces, the parking area shall be accessed by the alley and not by the street.
2. On all corner lots, every vehicular opening shall be located at least 50 feet from the point of intersection of the established street right-of-way lines.
3. Every entry and exit driveway onto a street shall be delimited permanently with a curb cut or, in the case of streets without curbs, with physical markers and barriers on each side of the driveway (such as a culvert and low walls) to indicate the area for vehicle passage in and out and to prevent vehicles from entering or exiting by other ways. No entrance or exit driveway delimitation shall exceed 26 feet in width at the property line or 30 feet at the curb back or pavement edge.
4. Clear markings or signs shall show the intended direction of travel at one-way entries and exits.

h. Circulation

All off-street parking areas shall be designed so as to permit every car entering or exiting the lot to proceed in a forward motion; no off-street parking space shall allow or require a vehicle to back into a street.

i. Exceptions

1. If the Zoning Administrator determines that a parking layout not specifically prohibited by this section would be likely to cause avoidable safety or traffic congestion problems, the Zoning Administrator may withhold approval of the permit allowing the use of the site for which the parking is required until a modification is made to address the problems. The Zoning Administrator's decision is appealable to the Board of Adjustment under the normal procedure for an appeal of an administrative decision.
 2. If a peculiar characteristic of an establishment makes a requirement of this section clearly impossible, the Board of Adjustment may grant the applicant a modification from the requirements only to the limited extent necessary and so long as public safety issues are addressed.
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ARTICLE VI: Supplemental Development Standards
Section 604. Design Standards for Off-Street Parking and Loading

Table 604: Required Number of Parking Spaces

Use	Number of Required Parking Spaces
Dwelling, single-family detached	2 per dwelling
Dwelling, multi-family	2 per dwelling, plus 1 per every 4 dwellings
Family care home	0.4 times the maximum lawful number of clients
Manufactured home on single lot	2 per dwelling
Manufactured home park	2 per dwelling
Assisted or congregate living facility	1 per dwelling
Continuing care facility	0.4 times maximum lawful number of clients
Townhouses	2 per dwelling, plus 1 per every 4 dwellings
Live-work units	1 per dwelling unit
Child day care centers, kindergartens, preschools, elementary and junior high schools	2 for each 750 square feet of classroom floor area or fraction thereof, or 1 per 3 seats in principal place of assembly, whichever is greater
High schools, colleges, technical schools & universities	8 for each 750 square feet of classroom floor area or fraction thereof, or 1 per 3 seats in principal place of assembly, whichever is greater
Entertainment or recreational establishment, commercial, indoor	1 per 200 square feet of activity area open to the public
Recreational establishment, commercial, outdoor	1 per 500 square feet of activity area open to the public
Hospitals, nursing facilities	1 per 2 beds
Hotel or motel	3, plus 1 per guest room
Places of assembly, such as auditoriums, places of worship, funeral homes, civic or fraternal orgs and clubs, community or senior centers, theaters and similar uses	1 per 5 seats in principal place of assembly
Manufacturing, industrial plants, service plants, research, warehousing, and wholesaling	1 per 300 square feet of office or administrative area, plus 1 per 500 square feet of service or manufacturing area
Offices or studios, business, financial, and professional	1 per 300 square feet
Restaurants	1 per 50 square feet of floor area for public use
Self-storage facility	1 per 300 square feet of office area
Service station, automotive repair	2 per service bay
Shopping center	1 per 300 square feet of floor area
Sales or leasing of equipment, manufactured home, or vehicles	2 spaces, plus 1 per 500 square feet of gross floor area in administrative building(s)
Low generator retail and service establishments such as specialty shops, interiors and furnishing, repair shops, contractors or trades offices	1 per 500 square feet of sales or public area
High generator retail and service establishments such as convenience stores, gas filling stations, variety and discount retail stores, superstores, home improvement centers, drugstores, laundromats, pack & ship, fitness clubs, barber/beauty shop	1 per 200 square feet of sales or public area, plus (if applicable) 1 per 2 gas pumps

605. Quantitative Requirements for Parking

a. Minimum Required Number

The minimum number of required parking spaces shall be calculated as provided in Table 605.

1. Fractions

When the number calculated contains a fraction 0.5 or greater, it shall be rounded up; if less than 0.5, down.

2. Uses Not Listed

In the case of a use not expressly listed in the table, the number of required spaces shall be the same as for a similar use or inclusive category which is provided for; or, in the alternative, the applicant may submit information that allows the Zoning Administrator, in his or her judgment, to make a determination that the number required should vary from that required for the similar use or inclusive category.

b. Calculating Requirements For More Than One Use

Except for shopping centers and commercial complexes, which are listed specifically in Table 605, where there are different uses in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required parking spaces shall be equal to the sum of the requirements of the various uses if their peak hours of parking usage are substantially the same. If their peak hours of parking usage are expected to be different, a reduction in the parking requirement may be appropriate, and the Zoning Administrator may make reference to the ITE Manual or other current professional reference standards to determine the degree of reduction that can be made.

c. Exceptions

The TR, TC, and TCE districts are exempt from the minimum quantity requirements for parking.

d. Flexibility

An applicant may petition the Zoning Administrator or the reviewing board for an adjustment to the requirements for minimum quantity of parking spaces. The requested adjustment shall be accompanied by evidence submitted by the applicant, demonstrating to a reasonable conclusion that the quantity of spaces actually needed will be less than that required by this ordinance.

e. Shared Parking

The required parking spaces for any number of separate uses may be combined in one lot. The spaces required by this ordinance for one use may be shared with the spaces required by this ordinance for another use, upon petition by the applicant. The applicant's request must demonstrate:

1. that the hours or days of usage are distinct enough between the uses that the parking spaces to be shared will not be in demand at the same time (for example, the applicant might demonstrate that a majority of the parking spaces required for a church or theater whose peak attendance will be at night or on Sundays, can be shared with a use which will be closed at night and on Sundays), and
2. that a parking agreement is in place between the authorized entities or persons operating or managing the uses that will share parking spaces.

f. Counting On-Street Spaces Toward Parking Requirements

On-street parking (curb parking) spaces may be counted toward the minimum parking requirements for a non-residential use if (1) the spaces are metered, marked with time-of-use limitations, or their use is regulated by Town ordinance, and (2) they are located within 200 feet of the use.

606. Location of Off-Street Parking

a. Parking Between Building and Street

Except in the CO and I districts, no more than one bay (comprising an access aisle either single- or double-loaded with one or two rows of parking spaces) of off-street parking areas (whether required by this ordinance or not) serving buildings erected after the effective date of this ordinance shall be located between the building and the front property line. In the case of corner lots, no more than one such bay may be located between the building and each of the two front property lines.

b. Setback Requirements

Parking (whether required by this ordinance or not) shall not be located in the front required setback, except for bicycle parking.

607. Bicycle Parking

a. Requirement

Every use or building which is required to supply eight or more parking spaces shall also supply one bicycle parking space for each ten parking spaces or fraction thereof.

b. Design and Type

Bicycle parking racks shall be provided which accommodate a bicycle at least five feet in length and two feet wide. Each rack shall provide a stable frame permanently anchored to a foundation to which the bicycle frame and both wheels may be conveniently secured. The rack shall allow for convenient access to every space when the rack is full. The placement of the rack shall allow for sufficient maneuvering space for bicycles to maneuver toward and away from the rack. Inverted U-style racks are preferred, and ribbon, fence, and wheel-holding type racks are prohibited.

c. Location

Bicycle parking spaces shall be located near the entrance of the use being served, and shall be located within view of public streets if possible.

608. Off-Street Loading Spaces

Every building or structure used for commercial or institutional purposes shall provide loading space as indicated in this section.

a. Exceptions

1. The TR, TC, and TCE districts are exempt from these requirements for loading spaces, but if a loading area is provided, it shall be accessed from the public alley if feasible. In other districts, if there is not more than one delivery and pickup per day at an establishment, the required loading space may be combined with the parking space on the premises.
2. If a peculiar characteristic of an establishment makes a requirement of this section clearly impossible, the Board of Adjustment may grant the applicant a modification as to the specific requirement.

b. Dimensions of Loading Spaces

Each loading space shall be no less than 12 feet wide, and 22 feet long for establishments of less than 5000 square feet or 30 feet long for establishments of 5000 square feet or larger. Each space shall also be no less than 15 feet in height if it is covered.

c. Access to Loading Spaces

It shall have access to public streets or alleys by driveways of adequate width for the vehicles that will be used. A presumptive adequate width is 10 feet for four-wheel commercial vehicles and 14 feet for commercial vehicles having more than 2 axles. The turning radii shall be designed to be adequate for the delivery vehicles customarily associated with the particular use.

d. Location of Loading Spaces

Loading spaces, whether required by this ordinance or not, that serve buildings erected after the effective date of this ordinance shall not be located between the building and the front property line and, in the case of corner lots, shall not be located between the building and either of the two front property lines.

e. Minimum Requirements

Loading space shall be provided in accordance with the following schedule:

1. Retail business and shopping center – One space for each 10,000 square feet of gross floor area or fraction thereof, plus one space for each anchor tenant in a shopping center.
 2. Wholesale trade and industry – One space for each 10,000 square feet of gross floor or fraction thereof.
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3. Office and institutional uses, including hotels and motels – One space for each 50,000 square feet of gross floor area or fraction thereof.
4. Elementary, junior high and high schools, kindergartens, nurseries, and day care centers shall provide a safe place off the street for the loading and unloading of children from automobiles and buses.

609. Landscaping

The landscaping provisions are intended to advance the goals articulated by the public in the Bailey Long-Range Plan as well as to protect and enhance the Town economically, environmentally, and aesthetically.

610. Definitions

The following definitions shall apply to the regulation and control of landscaping within this article.

Caliper. A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.

Critical Root Zone (CRZ). A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

Diameter-at-breast-height (DBH). The tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

Drip Line. A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Landscaping. The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover.

Parking Lot Plantings. Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

Planting Area. The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

Planting Yard. The required installation of landscaping and screening materials between zoning districts having significantly different use levels.

Type A Planting Yard: A planting strip having a minimum width of 5 feet which is intended provide vegetation in densely developed areas, enhance the appearance of individual properties, and enhance the compatibility of differing uses.

Type B Planting Yard: A medium level of screening having a minimum width of 10 feet which is intended to partially block visual contact between zoning classifications and add spatial separation.

Type C Planting Yard: A screen having a minimum width of 30 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation, and to reduce the effects of lighting, vehicle movement or massing, and noise that would otherwise intrude upon nearby properties.

Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Medium: A plant growing 5 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Small: A plant growing to less than 5 feet in height at maturity that is planted for ornamental purposes.

Street Yard: A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

Tree, Ornamental: A small to medium tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Tree, Shade: A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

611. Planting Yards - Generally

Planting yards are intended to provide a vegetative screen and buffer between very different intensities of land uses and zoning districts, in order to reduce incompatibilities between them. The planting yard types are determined by levels based on zoning districts. The zoning districts have been divided into the following four levels:

Level 1: R-40, TR, MHP, R-20, R-10, and MR

Level 2: TCE, CI

Level 3: I, CO

612. Planting Yard Applicability

- a. Whenever any structure is erected, or modified with improvements costing more than 50% of the site's total assessed value before the improvements, or an open use requiring a non-residential zoning district is proposed, a planting yard shall be provided on each side of the property that is adjacent to another parcel of land in accordance with Table 612, which indicates the type of planting yard that is required between proposed uses and adjacent properties.
 - b. A planting yard shall not be removed, and shall be maintained in good condition, during the life of the development.
-

Table 612: Planting Yard Applicability

<i>Proposed Use Level</i>		<i>Adjacent Level</i>		
		Least Intensive	▶	Most Intensive
		1	2	3
Least Intensive	1	*	*	*
▼	2	A	*	*
Most Intensive	3	C	B	*
* = No Planting Yard Requirement				

613. Minimum Planting Yard Landscaping

- a. Table 613 gives the requirements for each type of planting yard for width and the type and quantity of plant material, and the number of points allowed for each type of plant material.

Table 613: Planting Yard Landscaping

Yard Type	Minimum Width (in feet)	Minimum Number of Shade Trees	Minimum Number of Ornamental Trees	Shrubs	Required Points per 100 Linear Feet (per foot)*
A	5	optional	1 every 20'	As needed to meet required points	40 (0.40)
B	10	1 every 30'	1 every 20'		70 (0.70)
C	30	1 every 50'	1 every 50'		100 (1.0)
Points for Plant Materials					
Shade tree			12		
Ornamental tree			6		
Large shrub			3		
Medium shrub			2		
Small shrub			1		

614. Landscaping and Design Standards for Street Yards

Street yards consist of a planting area parallel to each public street adjacent to the site, designed to provide continuity of vegetation along the street and to soften the impact of development by providing a pleasing view from the public right-of-way. Street yards shall be provided for all new development in the CI, CO, and I districts, building expansions or improvements costing more than 50% of the site's total assessed value before the improvements, and for parking lots in the R-40, R-20, R-10, and MR districts, as follows:

- a. Street yards shall be a minimum of 8 feet wide. In the R-40, R-20, R-10, and MR districts, street yards for parking lots shall be a minimum of 15 feet wide.
- b. Street yards shall contain one shade tree per 35 linear feet, or one ornamental tree per 25 linear feet, except in the case of a conflict with

public utility lines, in which case the location of the required trees may be shifted elsewhere on the site only to the extent necessary to avoid safety conflicts.

- c. The required trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals, to allow some flexibility in design while discouraging long intervals without trees.
- d. Wherever street yards are along an arterial or collector street frontage, the required trees shall be located so as to leave adequate room for a future 4-foot sidewalk.
- e. Parking, merchandise display and off-street loading are prohibited in the street yard.
- f. Every tree or shrub planted within a sight triangle shall comply with the provisions for visibility at intersections.

615. Tree Preservation and Care During Construction

Existing trees shall be preserved whenever feasible. Credits for tree preservation in lieu of required trees to be planted are available. To qualify for tree preservation credits:

- a. A tree preservation plan is submitted and reviewed by the Town's Zoning Administrator prior to grading the site, and site development and grading takes place only in accordance with the approved plan.
 - b. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).
 - c. When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.
 - d. Credit for existing trees within parking lots and planting yards will be given at the rate of 18 points per 4 inches in diameter at breast height (DBH) of existing plant material preserved. Minimum size requirement to qualify for tree preservation is 4 inches (DBH). Should any tree designated for preservation in the tree preservation plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. The replacement tree shall be a minimum of 2" in caliper for a shade tree and a minimum of 6' in height for an ornamental tree (six feet from the top of root ball to top of tree) at the time of planting.
-

616. Landscape Plan Submittal Requirements

In order for a plan to be reviewed, a site plan containing the following information must be submitted to the Zoning Administrator:

- a. Site plan drawn to scale and including a north arrow and necessary interpretive legends;
- b. Property lines and zoning designation of adjacent properties;
- c. Location of proposed buildings, parking areas with spaces delineated, paving and sidewalks;
- d. Existing plant materials and areas to be left in natural state;
- e. Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required;
- f. Locations, size and names for all proposed plants;
- g. Location and description of other landscape improvements, such as earth berms, walls, fences, sculptures, fountains, and paved areas;
- h. Planting and installation details as necessary to ensure conformance with all required standards;
- i. Location of overhead and underground utilities; and
- j. A summary table showing landscaping compliance, which shall list:
 1. Required planting yards by type, length, points required, and plants to meet the requirement;
 2. The length of street yard and trees by type (shade or ornamental) to meet the tree planting standard;
 3. Number of new parking spaces provided and the trees required and the trees proposed to meet parking lot landscaping requirements;
 4. Any other information necessary to show compliance with the landscaping standards of this ordinance.

617. Landscape Standards and Specifications

All landscaping undertaken to satisfy the requirements of this ordinance must comply with the following standards:

- a. The developer shall furnish and install all plant materials listed on the plan schedule.
 - b. Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
 - c. Plant materials must be from the Recommended Plant List or known to be hardy in USDA Plant Hardiness Zone 7. Plants included in the Plant Types to Discourage List may not be used to meet the requirements of this Ordinance.
-

ARTICLE VI: Supplemental Development Standards
Section 617. Landscape Standards and Specifications

1. Prohibition on Invasive Species. No plants installed to satisfy the requirements of this ordinance may be invasive species. An invasive species includes any plant identified by the N.C. Department of Transportation as a “Threat to Habitat and Natural Areas,” “Moderate Threat to Habitat and Natural Areas,” or on the “Watch List” in the publication “Invasive Plants of North Carolina” by the N.C. Department of Transportation, 2008.
 2. Native Species. At least 75% of the plants installed to satisfy the requirements of this ordinance shall be species native to North Carolina. A native species includes any plant species listed in Appendix A, “Native Plants and Seeds,” of the publication “Invasive Plants of North Carolina,” N.C. Department of Transportation, 2008, and which is indicated therein as being well adapted to Piedmont or Coastal Plain conditions.
 - d. Shade trees must be a minimum of 2 inches in caliper. Ornamental trees must be a minimum of 6 feet in height at the time of planting, measured from top of root ball to top of tree.
 - e. No tree may be planted in the sight triangle.
 - f. No staking materials shall be used unless absolutely necessary. If staking is necessary, than the developer/property owner must remove the staking materials after one growing season.
 - g. Property owners shall ensure the survival and health of required trees so long as the landscape requirements of this ordinance apply.
 - h. A temporary Certificate of Occupancy may be issued when extremes in weather or soil conditions are not favorable for landscaping.
 - i. The developer shall ensure that all plant pits, vine pits, hedge trenches, and shrub beds are excavated as follows:
 1. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade.
 2. Soil within the planting areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the planting area and the adjacent soil strata. Plants shall rest on well-compacted surface.
 3. The tree pit shall be a minimum of one foot larger on every side than the ball of the tree.
 4. If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.
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5. Each tree or shrub, shall be pruned in an appropriate manner, in accordance with accepted standard practice.
6. All trenches and shrub beds shall be cultivated to the lines shown on the drawings. The areas around isolated plants shall be cultivated to the full diameter of the pit.
7. Existing trees shall be preserved whenever feasible to meet the requirements of this ordinance through tree preservation credits.
8. All planting areas shall be mulched with a two-to-three inch layer of bark or other similar material to cover the planting area.

618. Alternative Methods of Compliance

a. Use of Alternate Plan, Material, or Methods

Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or front lot configuration, utility easements, unified development design, or unusual site conditions.

b. Approval of Alternate Plan

The Planning Board may approve an alternate plan which proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening, height, spread, and canopy of the planting at maturity.

c. Appeal

Decisions of the Planning Board regarding alternate methods of compliance may be appealed to the Town Board.

619. Plant Substitutions

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting may be approved by the Zoning Administrator if the following are true:

- a. There is no reduction in the quantity of plant material.
- b. There is no significant change in size or location of plant materials.

The new plants are of the same general category (i.e., shade tree, ornamental tree, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

620. Lighting

a. Applicability

1. Exterior lighting shall not be installed on the premises of single-family dwellings so as to shine excessively onto, or to cause glare when viewed from, surrounding residential properties or rights-of-way.
2. Lighting on premises other than single-family dwellings shall meet the standards b. through d. of this section.

b. Placement and Direction of Illumination

All lighting shall be arranged so that it does not directly shine beyond the boundaries of the property on which it is located, nor onto public rights-of-way or rights.

c. Height

Lighting supports shall be not more than twenty feet tall and light elements shall not be located higher than twenty feet from ground elevation, except where necessary to avoid hazardous conditions.

d. Fixture Type; Lighting Elements

Lighting fixtures, lenses, and luminaires shall meet the IESNA full cut-off classification. Wallpacks are prohibited, except for full-cutoff types. Exterior lighting shall be of color-neutral types, which includes non-filtered halogen, metal halide, and incandescent types.

621. Equipment and Service Areas

a. Screening Standard

For all non-residential buildings, the following screening requirement shall apply upon development or complete redevelopment of the site, or improvements costing more than 50% of the site's total assessed value before the improvements:

1. Projecting elements of mechanical equipment, utility meters, storage areas, waste collection receptacles, transformers, generators, propane gas tanks, rooftop mechanical equipment, and other utility or service hardware on the building, roof, or ground shall be
 - a. Screened with materials similar to the structure's cladding, or with masonry or HardiPlank-type materials, or
 - b. Located so as not to be visible to public view or to adjacent private view from non-industrial sites.
 2. In the TC and TR districts, such service and utility areas and elements shall be located along a rear alley if one is present, and only waste collection receptacles are required to be screened as described in 1.a.
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b. Abandoned Equipment

Abandoned mechanical equipment is prohibited and shall be removed.

ARTICLE VII: SIGNS

701. Intent

The purpose and intent of these sign regulations is to:

- a. Ensure the installation of safe and effective signage that promotes business activity, the aesthetic character of the Town and its extraterritorial jurisdiction, and the conveying of necessary information;
- b. Provide opportunities for neighborhoods, public uses, institutions, and commercial and non-commercial establishments to be identified in an effective, equitable manner;
- c. Promote public safety by reducing hazards associated with distracting, excessive, or confusing signage;
- d. Establish and enhance community character through signage that fits with the visual character of the Town and its scale of development, including the public preferences expressed in the Town's 2030 Long-Range Community Plan;
- e. Provide for flexibility in the amount, type, and scale of signage depending on the context of the development and the surrounding area; and
- f. Facilitate efficient, thorough, consistent, and effective enforcement of the sign regulations.

702. General Provisions

a. Signs Must Comply

No sign or sign structure may be erected, posted, hung, painted, rehung, repainted, repaired, replaced, or altered in any district except in compliance with the provisions of this ordinance.

b. Removal of Signs That Violate Ordinance

It shall be a violation to fail to remove any sign installed, created, erected, or maintained in violation of this ordinance, or for which a sign permit with any defined period has lapsed.

c. Removal of Sign Copy Upon Discontinuance of Activity

Upon the discontinuance of a business or activity on a site, all sign copy that advertises the same shall be removed, or obscured in a manner consistent with these regulations, within 90 days of the date of discontinuance.

d. Compliance with Building Code

Signs and sign structures shall meet all requirements of the building code that is in effect at the time of their installation in the Town of Bailey. If a code is not in effect, the North Carolina State Building Code shall apply.

703. Signs and Rights-of-Way

a. Vision Clearance

No sign shall be erected or constructed so as to interfere with vision clearance at any street or road right-of-way. Vision clearance is defined by the sight triangle described in Section 311 or by an actual, demonstrable obstacle to safe vision from a location where persons or vehicles can be reasonably expected to need a clear view of the street or road in order to enter, exit, or travel thereon.

b. Signs in Public Rights-of-Way

No sign except those erected by public entities for governmental or civic purposes shall be permitted in any public right-of-way. Notwithstanding, signs in the TC and TCE districts are permitted in the portion of the public right-of-way devoted to sidewalks, so long as a clear zone 36 inches across and 7 feet high measured from the sidewalk surface exists for safe pedestrian passage.

c. Distance from Street Right-of-Way

Except for signs described in Section 703.b, every sign shall be located at least 5 feet distant from every street right-of-way.

704. Illumination

a. Illumination of signs shall only be by ambient illumination, internal illumination which shall transmit only through translucent materials and not directly through transparent materials nor so that any direct ray of light is cast past the edges of the sign, or spotlighting directed downward and solely toward the sign's surface so that no direct ray of light is cast past the edges of the sign.

b. Internally illuminated signs are allowed only in non-residential districts.

c. LCD, LED, and plasma displays are prohibited.

705. Measurements

For purposes of the requirements of this ordinance, measurements shall be calculated as follows.

a. Height

The height of freestanding signs shall be measured from the elevation of the ground at the point of contact with the sign or its support, provided that the grade of the site is not artificially altered to increase the allowable height of the sign. For sloping sites, the applicable point of contact shall be the point having the highest elevation.

b. Area

The area of a sign shall be the area of the combination of not more than two of the following geometric shapes: right-angle rectangles, circles, half-

circles, that together encompass the entire sign, excluding the base or apron, supports, or other structural members unless some part of the message appears on them, in which case that element shall be included in the area calculation.

For a sign with two sides, such as a typical ground sign or projecting sign, the maximum area requirement is for each face of one side of the ground sign, where the sign faces are back to back and the message identical on each side. However, if the messages are not the same on each side, or if more than one side is visible at a time, the area of all sides, measured together, shall not exceed the maximum area requirement.

706. Maintenance

Every sign shall be maintained in good repair, including correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the sign, replacement of defective lighting if the sign is illuminated, secure attachment to sign structures or buildings as applicable, and stable vertical alignment of freestanding signs.

707. Substitution of Messages

Any sign authorized to exist by this ordinance may contain, in place of any other message or copy, any noncommercial message. A noncommercial message is material or copy that does not advertise a business operated for profit, product, commodity or service for sale or lease, or other business or commercial interest or activity.

708. Prohibited Signs

In addition to other applicable requirements and prohibitions of this ordinance, the following signs are prohibited:

- a. Signs with moving, revolving, or rotating parts, or which move or give the illusion of movement, or which have lights or illumination or copy components which flash, move, rotate, blink, flicker, change copy more than once per day, vary in intensity or color, or use intermittent electrical pulsations; except that units displaying time and temperature, and not larger than 4 square feet, may alternate time and temperature displays not more than once every two seconds.
 - b. Signs that obstruct the view of traffic signs or devices; or which could be confused with any authorized traffic sign, signal, or device; or which make use of the words “stop,” “look,” “danger” or any other word, phrase, symbol, shape, color, or character typical of traffic signs or official signs placed by a unit of government, in such a manner as to resemble a traffic-related sign or device or an official sign placed by a unit of government.
 - c. Signs which obstruct openings required to be left uncovered or unobstructed by other laws or regulations, such as building or housing codes.
-

- d. Strings or sequential arrangements of multiple light bulbs or light-emitting devices in connection with commercial premises, except in the TC district. LCD, LED, and plasma displays, and other similar displays that rely on readily changeable internal illumination are prohibited in all districts.
- e. Signs that are roof-mounted, or wall-mounted signs which extend above the wall of a structure.
- f. Off-premises signs, other than those off-site directional signs specifically allowed in Table 710.
- g. Snipe signs, except those temporary signs specifically provided for in Table 710. A snipe sign in a public right-of-way shall be deemed an article of litter abandoned thereon and may be removed by any person and disposed of in the manner of trash.
- h. Signs mounted on vehicles that are in motion or permanently or temporarily placed at a site so as to function as an on- or off-premise sign, except that advertising not projecting beyond the surface of commercial vehicles in regular use in the actual conduct of the business advertised is allowed and not considered a sign.
- i. Signs not listed in the Table of Allowed Signs, unless otherwise specifically allowed by this ordinance.

709. Items Not Regulated As Signs

The following items are not regulated as signs for purposes of this ordinance, so long as they pose no hazard to the public; do not block visibility or impair traffic safety; create no nuisance to neighboring properties; and do not, by their size, effect, and purpose, function as signs and tend to circumvent the sign regulations herein:

- a. Street address numbers on the premises they identify;
 - b. Markers at residences which indicate house or apartment numbers or names of residential occupants;
 - c. Names of periodicals on newspaper tubes mounted at a private postal delivery address;
 - d. Boundary survey markers, benchmarks, and public sidewalk inscriptions;
 - e. Memorials and monuments, commemorative markers and tablets, cornerstone inscriptions, grave markers, and tombstones, when cut into masonry or cast of metal and affixed permanently;
 - f. Religious or non-commercial symbols on non-profit institutional sites;
 - g. Garden markers, decorative yard banners, welcome signs, and similar residential garden ornaments;
 - h. Flag displays by the occupant of residential property;
 - i. Holiday decorations with no commercial message;
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- j. Sponsorship markers on public benches, clocks, fountains, or similar street furniture on public rights-of-way;
- k. Menus displayed at restaurants, of not more than 4 square feet and of a typeface size intended to be read from not more than 2 feet away;
- l. Bulletin boards not more than 9 square feet for non-profit or public institutions or places of assembly;
- m. Scoreboards on sporting fields, having not more than 25% of their area bearing sponsorship messages and directed so as to be primarily viewable to spectators and not viewers off the site;
- n. Flag displays on commercial, industrial, or institutional property, of not more than three governmental, institutional, or commemorative flags, each no larger than 15 square feet, nor more than one flag of each design;
- o. Ordinary warning or directive notices for private property such as “Beware of Dog,” “No Trespassing,” “No Soliciting,” “Deliveries in Rear,” etc.

710. Table of Allowed Signs

a. Applicability

Signs and their associated elements and installation shall comply with Table 710, which provides requirements and standards for permitted signs in each row for the type of sign listed in that row. These include maximum allowed area in square feet, maximum allowed height in feet, allowed illumination, other requirements, the zoning districts where the sign type is permitted and any district-specific limitations, and the permit type required. Additional regulations are given in the notes to the table. All of these requirements apply in addition to other applicable requirements of this ordinance and the provisions of this article.

b. Permits Required

Prior to the installation of any sign for which a permit is required as indicated in Table 710 and the other provisions herein, the applicant shall apply for and obtain a permit. The indication “Admin” in the “Permit Requirement” column of the table means that the sign is reviewed administratively and requires a zoning permit pursuant to Section 405.c.

Table 710: Allowed Signs

Type of Sign	Max Area (square feet)	Max Height (feet)	Allowable Illumination	Other Requirements	Districts Where Permitted	Permit Type
Awning sign	Shall occupy no more than 80% of the area of the surface on which it is displayed, up to a limit of .75 SF per linear foot of building frontage	Not more than 12 feet above the ground surface	Ambient	Shall be silk-screened or sewn; shall be located only on vertical valance portion of awning, and not on awning's top or angled surface	TC, TCE, CO	Admin
Banners	150% of allowed area of the permanent sign for the same site		Ambient	Temporary only for opening of new establishment or, in CI, for a special event. May remain for no more than 4 weeks.	TC, TCE, CO, I, CI	Admin
Canopy, suspended, or projecting signs	In CO: 2 In TC & TCE: 4	None	Ambient Projecting signs may have ambient, external, or internal	May project no more than 9 feet from wall. 1 such sign per street face, or 2 per establishment, whichever is less. Bottom of sign shall be minimum 8 feet above sidewalk level. In a shopping center or multi-tenant complex in CO, each tenant may have up to 1 canopy or suspended sign, but projecting signs are not allowed.	TC, TCE, CO	Admin
Construction site placards	10	6	Ambient	Allowed only while construction is taking place on the premises	All	Admin
Directional signs to not-for-profit institutions, off-site	6	4	Ambient	Not more than 4 off-site signs total per institution and not more than 2 signs on any street	All	Admin
Entrance and exit signs to residential neighborhoods and institutional uses	10 for sign area; 32 for surface of monument	4	Ambient External	4 feet for monument sign 8 feet for pole sign Shall comply with design requirements for monument or pole sign	All	Admin

ARTICLE VII: SIGNS
Section 710. Table of Allowed Signs

Type of Sign	Max Area (square feet)	Max Height (feet)	Allowable Illumination	Other Requirements	Districts Where Permitted	Permit Type
Farmstand signs or farm, nursery, or greenhouse signs	16	6	Ambient External	May only advertise the business located, or products grown, on the premises	R-40	Admin
Ground sign (monument type)	1 square foot per linear foot of building frontage, to a maximum of 64	8 (4 feet in TC)	Ambient External Internal	May have pole or monument sign, but not both. Limited to 1 such sign per public street frontage per property, and 2nd street frontage must be at least 150 feet long for second sign to be allowed. Shall comply with design requirements for monument signs. Ground signs for shopping centers >5000 square feet floor area shall be located in a planted bed maintained in living condition. Outparcels in shopping centers are not allowed principal ground signs.	CO, I, CI In TCE, are allowed for buildings in existence as of the effective date of this ordinance In TC, allowed only if it replaces a ground sign in existence as of the effective date of this ordinance	Admin
Ground sign (pole type)	.75 square foot per linear foot of building frontage, to a maximum of 50 (16 in TC)	12 (8 in TC)	Ambient External Internal	May have pole or monument sign, but not both. Limited to 1 such sign per public street frontage per property, and 2nd street frontage must be at least 150 feet long for second sign to be allowed. If site is oriented to corner of two frontages, may choose 1 pole sign with max. area of 64 square feet, instead of 2 signs. Shall comply with design requirements for pole signs. Ground signs for shopping centers >5000 square feet floor area shall be located in a planted bed maintained in living condition. Outparcels in shopping centers are not allowed principal ground signs.	CO, CI In TCE, are allowed only for buildings in existence as of the effective date of this ordinance	Admin
Incidental sign	2	3		Exception to area limitation: signs warning that cars parked illegally may be towed may comply with statutory minimum of 4 square feet	All	None
Political campaign signs	20	None	Ambient	None	All	None

ARTICLE VII: SIGNS
Section 710. Table of Allowed Signs

Type of Sign	Max Area (square feet)	Max Height (feet)	Allowable Illumination	Other Requirements	Districts Where Permitted	Permit Type
Portable signs (<i>defined to include signs on vehicle or trailer device</i>)	32	6	Ambient Internal	10-day limit. Limited to 2 instances per calendar year in connection with a civic use or not-for-profit institution.	CI	Admin
Professional sign	2	10	Ambient External	One per establishment	All	None
Real estate signs for individual dwellings	6		Ambient	Not more than 2 per single-family dwelling	All	None
Real estate signs, other than for individual dwellings	12 for premises or sites of 1 acre or less; 32 for premises or sites of greater than 1 acre	6	Ambient	Where topography, vegetation, or other circumstances limit visibility, the Zoning Administrator may make special provisions to allow reasonable visibility, but in no case shall a sign be located in the public right-of-way	All	Admin
Sandwich board signs	10	4	Ambient	One sign per occupancy having direct public access onto any public or private sidewalk where sign is placed. Shall comply with design requirements for sandwich board signs.	TC, TCE, CO	None
Service station signs				Service station signs are regulated according to sign type (monument, wall, pole, window, etc.) Pump canopy signs are considered wall signs.		
Temporary directional signs for garage sales and similar events on residential property	4	None	Ambient	Must be posted no more than 48 hours in advance and removed within 24 hours of end of event	All	None
Temporary signs for farm or estate auctions, agricultural crop sales, or periodic charitable or civic events	20 off-site 32 on-site (20 in residential districts)	6	Ambient	Not more than 2 off-site, total Not more than 1 on-site per street frontage Maximum period 45 days in a calendar year	On-site: All Off-site: CO, I	Admin
Traffic, safety, warning, or other official signs (governmental or public utility)	None	None	Ambient External Internal	None	All	None

ARTICLE VII: SIGNS
Section 710. Table of Allowed Signs

Type of Sign	Max Area (square feet)	Max Height (feet)	Allowable Illumination	Other Requirements	Districts Where Permitted	Permit Type
Wall signs	1 per linear foot of building frontage, up to a maximum of 32 square feet or 5% of the wall façade area, whichever is greater	No part shall exceed height of vertical wall face on which mounted	Ambient External Internal	Shall only be mounted flat against the wall of a building. Shall not be directly painted on any wall. Shall be mounted only on a part of wall that is free of windows, doors, or other architectural elements. Only one wall sign per building side.	C, CO, I, TCE	Admin
Wall signs (on downtown buildings or on new construction in TCE)	1.25 per linear foot of building frontage	No part shall exceed height of vertical wall face on which mounted	Ambient External Internal	Shall be placed on the Inset Sign Area (signboard), if one exists on the building, or on the cornice above the first floor (if the cornice has a wide flat area suitable for signage) May not be painted directly on the wall	TC, TCE	Admin
Window signs	Shall not exceed 25% of the glass area on which displayed	N/A	Ambient (In TC and TCE, may have neon lighting)	May be placed only on the inside of windows.	TC, TCE, CO, I	None

Notes to Table 710:

1. Internally illuminated signs are allowed only in non-residential districts.
2. Total allowed signage area: In the TC and TCE districts, each property is allowed a total aggregate sign area not to exceed 1.5 square feet for each linear foot of building frontage. Buildings located on corner lots fronting two streets (excluding alleys) and multi-story buildings are allowed a maximum sign area not to exceed 2 square feet for every linear foot of building frontage.

711. Design Requirements

a. All Signs

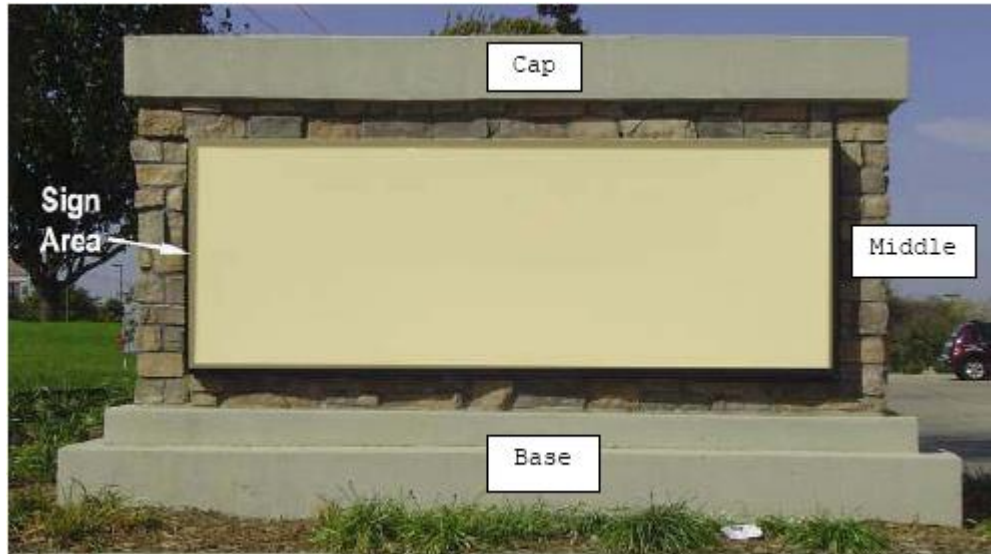
Every electrical conduit and junction box serving any sign shall be concealed.

b. Monument Signs

Monument signs are intended to serve a wider range of aesthetic and architectural purposes than pole signs. Consequently, the following design requirements are established for monument signs.

1. General

As in traditional building design, monument signs shall have a base, middle, and cap. The following illustration shows a monument sign having these architectural characteristics.



2. Sign Structure Materials

Monument sign structures shall be constructed of materials that are similar to or complementary to the principal building on the premises. Only the following material shall be used in sign structure construction: Brick, whether painted or unpainted; wood; concrete, stone, manufactured stone having a natural appearance, or genuine stucco; metal; glass.

3. Sign Copy Materials

Sign copy materials may consist of the sign structure materials listed above. For internally illuminated monument sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

c. Pole Signs

1. General

Pole signs shall be supported by two posts or suspended from a single post. Examples are indicated in the following illustrations:



2. Materials

Pole signs shall be constructed of materials that are similar to or complementary to the principal building on the premises. Only the following material shall be used: Brick, whether painted or unpainted; wood; concrete, stone, manufactured stone having a natural appearance, or genuine stucco; metal. For internally illuminated sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

d. Sandwich Board Signs

1. Location

Sandwich board signs are intended to inform and orient pedestrians to business locations and available products and services. Consequently, such signs shall be placed on the sidewalk directly in front of the establishment with which they are associated and shall be oriented to communicate information primarily to pedestrian traffic on that sidewalk and not to vehicular traffic. Four feet of sidewalk clearance shall be provided along at least one side of the sign to allow for unobstructed pedestrian access. Sandwich board signs shall be moved to an indoor location for storage during times when the associated businesses are not open for customers.

2. Materials and Construction

Sandwich board signs shall be constructed of black anodized aluminum, black wrought-iron, wood, or vinyl. They shall have a

display area within a wood or metal frame, or they may be constructed of durable metal, vinyl, or wood, without a frame.

3. Message Display Area

Permanent messages shall be applied to the display area with paint, metal, or durable vinyl, or shall consist of carved wood or cut metal lettering or images. Changeable message display areas may be constructed of chalkboard style materials, durable plastic (such as a “dry erase” board), or similar materials, provided the message areas is either black, dark green, or white in color and that the changeable message is applied using erasable chalk or erasable ink in a handwritten application. No fluorescent color shall be used for any background or message, including lettering and images.

4. Examples

Examples that meet these standards are indicated in the following illustrations.



712. Definitions Related to Sign Regulations

The following terms shall have the meanings indicated.

Ambient lighting: Illumination of a sign by general lighting existing in the area of the sign, but originating from a source that serves other purposes unrelated to the sign, such as a street light, exterior illumination of walkways and parking areas, or sunlight.

Awning sign: A sign incorporated into or attached to an awning.

Canopy sign: A sign that hangs or projects below a canopy or shelter over a sidewalk or other walkway connecting commercial establishments. A sign that is attached to a structural canopy over fuel pumps is a wall sign for purposes of this ordinance.

External lighting: Illumination from a light source directed at the sign surface from outside the sign. This term includes halo lighting of individual letters where backlighting is installed between the back of a letter and the sign face.

Ground sign: A freestanding sign mounted on the ground, rather than to a structure, fence, or wall. Ground signs are either monument signs or pole signs.

Incidental sign: An informational sign, and whose message pertains to the use of the site on which it is located, such as "no parking," "entrance," "loading only," "telephone," hours of operation, and other similar information and directives, and not having any commercial message beyond that.

Internal lighting: Lighting that originates from a source inside a translucent sign face and illuminates the surface of the sign from within.

Monument sign: A freestanding sign supported by a structure that is at least as wide as the sign to which it is attached.

Off-premises sign: Also known as a billboard or outdoor advertising, a sign which contains information about an establishment, business, commodity, activity, or service not conducted, sold, or offered upon the premises where such sign is located, and which is not otherwise specifically allowed or regulated in Table 710.

Pole sign: A freestanding sign supported by a structure consisting of not more than two poles or pillars.

Portable sign: Any sign placed on a self-supporting portable or movable frame, vehicle, trailer, or other movable device, not affixed permanently to a supporting surface, and not included in the definition of another type of sign under this ordinance.

Professional sign: A sign identifying the occupant of a professional office, such as a physician, accountant, or other professional service provider, along with the type of services provided, and which is wall-mounted flat against or perpendicular to the wall surface.

Projecting sign: Any sign attached to a building wall and extending laterally more than 18 inches from the face of such wall.

Real estate sign: A sign displayed on the premises and calling attention to the sale or lease of real property or structures, a model home, an open house, work being done on the site by a contractor, or the like.

Sandwich board sign: A temporary freestanding sign mounted on a folding or fixed A-frame or similar frame, designed to be moved from place to place by a person without mechanical assistance, and designed and displayed to provide information to pedestrians.

Sign: Any communications method, device, structure, or fixture that uses a symbol, number, motion, lighting, trademark, graphic, written copy, or combination of these (along with any background material, coloring, shapes, or other trim also so serving) to promote the sale of a product, commodity, or service, or to provide direction to or identification of a neighborhood, premises, event or facility, unless entirely enclosed by a fence or wall such that it cannot be seen off the premises on which located.

Signboard: On a traditional downtown commercial building, a portion of the building traditionally set apart for containing a sign copy identifying the establishment located in the building. On a masonry building, this will usually consist of a narrow, long horizontal rectangle formed by indentation of the masonry or brick just above the first floor.

Sign copy: Any graphic design, letter, numeral, symbol, figure, device or other media used separately or in combination that is intended to advertise, identify, or notify, including the panel or background on which such media is placed. Sign copy is also referred to herein as "copy."

Sign face: The surface on which the copy, graphic, symbol, or other form of message is placed.

Snipe sign: A sign of any size, or any material, including paper, cardboard, wood, or metal, when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, light fixture, utility or other pole, fence, traffic control device, or to the ground, on public rights-of-way or on private property, and which is not otherwise expressly defined or permitted by this ordinance.

Suspended sign: A sign that is suspended from the underside of a horizontal plane surface projecting from a building.

Temporary sign: A sign, other than a banner or a portable sign, that is placed for a temporary period of time in connection with an event, and not permanently affixed to the ground nor to a building or structure that requires a building permit.

Wall sign: A sign attached directly to and generally parallel with the façade of a building, or on a structural canopy overhanging fuel pumps.

Window sign: A sign attached to a display window or door window that is intended to be viewed from the exterior.

ARTICLE VIII: NONCONFORMITIES

801. **Definition**

Nonconformities are lots, structures, uses of open land, and uses of structures which were lawfully established and in existence at a time prior to the enactment or amendment of this ordinance, but which are no longer in conformance with all the applicable provisions of this ordinance due to its enactment or later amendment.

802. **Application**

Nonconformities are subject to the following limitations and controls in order to carry out the intent of this ordinance while accommodating the reasonable use and enjoyment of private property and balancing the rights of owners of nonconforming properties with those of neighboring property owners. It is the intent of this section to discourage increase in the degree of nonconformance.

803. **Nonconforming Lots**

a. **Definition**

A nonconforming lot is a lot for which a plat or description has been recorded in the with the county Register of Deeds, which was lawfully created and complied with all applicable zoning and subdivision standards at the time of its recordation, but due to the later enactment or amendment of this ordinance, no longer conforms to the dimensional requirements for the district in which it is located.

b. **Multiple Adjoining Lots**

Notwithstanding any other provision of this ordinance, if two or more nonconforming adjoining lots are in single ownership when this ordinance is adopted or at any time thereafter, for purposes of this ordinance they shall be considered together as a single lot, or several lots so long as each lot so considered meets the minimum permitted dimensions for the district in which it is located. "Adjoining" in this context means that the lots are not divided by a public street or public alley established at or before the effective date of this ordinance. The further use and development of the lots, as considered together, shall comply with the provisions of this ordinance, and no portion of the lots considered together shall be sold, apportioned, divested or used in a manner that diminishes compliance with this ordinance.

c. **Use of Nonconforming Lot**

1. A nonconforming lot may be used for any of the uses permitted by this ordinance for the district in which it is located, provided that:
 - a. No dimensional requirement is reduced below the minimum specified in this ordinance by more than 20 percent (except that, in

the case of a detached dwelling, the side setback may be further reduced to as little as 5 feet); and

- b. The county health department approves the reduction if on-site water or wastewater facilities are involved.
2. A nonconforming lot within a residential or mixed-use district may be used for a single-family residence if the lot contains a minimum area of 6000 square feet and the lot is served by water and sewer utilities. This provision does not apply when the lot is one of multiple adjoining lots in single ownership to which subsection b. above applies.
3. If the application of subsections 1 and 2 above still does not allow any economic use to be made of the property due to the limitations imposed by dimensional standards, the owner may seek a variance pursuant to the applicable procedures and standards in this ordinance; however, no variance shall be granted that would violate fire or building code standards.

804. Nonconforming Structures

a. Definition

A nonconforming structure is a structure lawfully existing prior to the time of adoption or amendment of this ordinance, which complied with all applicable zoning and subdivision standards at the time of its construction, but due to the later enactment or amendment of this ordinance, no longer conforms to the yard, height, lot area, lot coverage or other dimensional requirements of this ordinance.

b. Limitations

Nonconforming structures may continued to be used, and may be enlarged or added to, provided there is no increase in the degree of nonconformity with this ordinance.

A nonconforming detached dwelling that encroaches into a side yard setback may be extended lengthwise along the dwelling's side wall plane, subject to the following:

1. No such encroachment may extend into any front or rear yard.
2. The extension may be no closer to the side lot line than the existing wall being extended.
3. No portion of a dwelling that is less than 3 feet from a side lot line or within 10 feet of a dwelling on an adjacent property may be extended under this provision.

c. Damage

A nonconforming structure that has been damaged by natural causes or hazard up to a maximum of 50 percent of its assessed value just prior to the damage may be repaired and used as before, if repairs are initiated within one calendar year and completed within two calendar years of the damage.

If the structure has been damaged in excess of 50 percent of its assessed value, the structure may be reconstructed only in compliance with all applicable requirements of this ordinance.

805. Nonconforming Open Uses of Land

a. Definition

A non-conforming open use of land is a use of land where the only structures on the lot are incidental and accessory to the open use of the land, and which use of land complied, at the time it was established, with all applicable standards regarding the use of land, but due to the later enactment or amendment of this ordinance, no longer conforms to the allowable uses in the district in which it is located.

b. Limitations

1. Change of use

A nonconforming open use of land shall not be changed to any but conforming uses. After a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.

2. Relocation

A nonconforming use may not be relocated to another site unless it complies with the regulations of the district to which it is relocated.

3. Enlargement

A nonconforming open use of land shall not be enlarged to cover more land than was occupied by the use on the effective date of this ordinance or amendment thereto, except that nonconforming cemeteries may expand to the boundaries of the property owned by the operators of the cemetery as of the date of the ordinance adoption or amendment that first made the use of the land for a cemetery nonconforming.

4. Use After Discontinuance

When any nonconforming open use of land is discontinued for a period in excess of 180 days, future use of the land shall be limited to those uses permitted in the district in which the land is located and in conformance with the other requirements of this ordinance. Vacancy, inactivity, or non-use of the land, regardless of the intent of the owner or tenant to continue the use, shall constitute discontinuance under this provision.

806. Nonconforming Uses of Structures

a. Definition

A non-conforming use of a structure is a use of a structure which lawfully existed prior to the time of adoption or amendment of this ordinance, and which complied with allowable uses of land at the time of its establishment,

but due to the later enactment or amendment of this ordinance is not in conformance with the allowable uses permitted in the district in which the site is located.

b. Limitations

1. Change of Use to Another Nonconforming Use

Any existing nonconforming use of a structure may not be changed to another nonconforming use, except that the Board of Adjustment may permit as a Conditional Use a change in nonconforming use if the Board finds that such new use would be more in character with the uses permitted in the district than the existing use. The Board of Adjustment may apply conditions to the new use that will improve its compatibility with surrounding uses and uses permitted in the district. The use of the structure shall not thereafter revert to the previous nonconforming use.

2. Relocation

A structure occupied by a nonconforming use may not be moved off the lot or lots on which it is located unless, when relocated, it complies with the provisions of this ordinance including those of the district in which it is relocated.

3. Change of Use to a Conforming Use

Once a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

4. Extension or Enlargement

A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use.

5. Maintenance and Repair

Maintenance and repairs necessary to keep a structure containing a nonconforming use in sound condition are allowed.

6. Use After Discontinuance

When any nonconforming use of a structure has been discontinued for a period of 180 days, the structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy, inactivity, or non-use of the structure for the nonconforming use, regardless of the intent of the owner or tenant to continue the use, shall constitute discontinuance under this provision.

7. Reconstruction of Damaged Structures

a. Not an Owner-Occupied Residence

Any structure (other than an owner-occupied residence) containing a nonconforming use, which structure has been damaged to 50 percent of its assessed value just prior to the damage, may be

repaired and used as before, if repairs are initiated within one calendar year and completed within two calendar years of the damage. If the structure has been damaged in excess of 50 percent of its assessed value, the use of the structure and site must thereafter conform to this ordinance.

b. Owner-Occupied Residence

An owner-occupied residence which is a non-conforming use may be repaired and used as before regardless of the extent to which it is damaged, if repairs are initiated within one calendar year and completed within two calendar years of the damage.

807. Nonconforming Signs and Manufactured Housing

a. Nonconforming Signs

1. Definition

Nonconforming signs are those signs which complied, at the time they were established, with all applicable standards, but due to the later enactment or amendment of this ordinance, no longer conform to the standards of this ordinance.

2. Limitations

a. Removal

No nonconforming sign shall be erected again after removal.

b. Discontinuance

Once any nonconforming sign has been discontinued from use for a period of 180 days, the sign shall not thereafter be used or restored except in conformance with this ordinance. Regardless of the intent of the owner or tenant to continue the use of the sign, discontinuance for purposes of this provision shall consist of any of the following which occur for a continuous 180-day period: Vacancy or inactivity of the premises to which the sign's copy refers; lack of electrical service to a sign that is designed to use electricity; or failure to maintain the sign such that it becomes substantially degraded or damaged.

However, a nonconforming sign structure shall be allowed to be re-used if (1) the sign structure has been maintained in good repair throughout the period of discontinuance, (2) the only change necessary for re-use is the replacement of sign copy or sign face, and (3) the replacement of the sign copy or face takes place not longer than two years after the start of the period of discontinuance.

c. Repair

A nonconforming sign that is damaged while in use may be repaired if the cost of repair does not exceed the cost of replacing the sign with a conforming sign. In addition, if the damage was

ARTICLE VIII: NONCONFORMITIES

Section 807. Nonconforming Signs and Manufactured Housing

due to natural hazard causes, the repairs shall only be allowed if initiated within 180 days of and completed within one calendar year of the date of damage.

A nonconforming sign that is damaged after having been discontinued from use for a period of 180 days as defined in b. above may not be repaired except to bring it into conformity with all provisions of this ordinance.

b. Nonconforming Manufactured Housing

Individual manufactured homes which constitute a nonconforming use or structure in the district in which they are located may remain, but if any such manufactured home is removed from the lot on which it is located, notwithstanding any other provision of Town ordinance or law it shall lose its status as a nonconformity and the same or another manufactured home may not be placed on the lot. This provision applies to all manufactured homes, whether located in manufactured home parks or on individual lots.

ARTICLE IX: ENFORCEMENT

901. **General**

This ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by the General Statutes, Chapter 160A and other related provisions, and any other remedy provided by law. At the election of the Town, violations shall subject the violator to civil and criminal penalties. The provisions for enforcement and penalty herein, both procedural and substantive, are in lieu of Section 10.99 of the Town Code (General Penalty).

902. **Remedies and Penalties**

In addition to or in lieu of the other remedies and penalties described in this article, the Zoning Administrator may do any or all of the following:

- a. Deny, withhold, or refuse to renew permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements until an alleged violation is corrected and civil penalty along with any court-ordered costs is paid in full. This provision shall apply to a property or site whether or not the current owner or applicant for the permit or other approval is responsible for the violation;
- b. Deny, withhold, or refuse to renew a business or privilege license, permit, or other form of approval in the Town's authority to grant, where the violation is related to an activity and site that is the subject of the license or approval;
- c. Recommend or request that another Town official or other government agency, authority, or unit deny, withhold, or refuse to renew a license or permit, where the violation is related to an activity and site that is the subject of the license or permit.

903. **Persons Authorized to Enforce**

The Zoning Administrator is authorized to enforce this ordinance. Other persons or officials may be authorized by the Town Board or designated by the Zoning Administrator as necessary and convenient to enforce the provisions of this ordinance.

904. **Necessary Inspection**

The Zoning Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

905. **Responsible Parties**

The term "violator" as used in this section includes the actual or record owner of the property on which the violation occurs, and any person or entity having control or use of the property who by action or failure to act causes the violation to exist or continue. In acting to enforce this ordinance the Town shall not be

obligated to pursue all violators but may pursue solely or in combination any number of violators; for example, an owner of property, a person having control over rental premises, a person making permissive use of property, or any other violator or combination of violators.

906. Procedure

The process for enforcement of this ordinance is as follows.

a. Report or Knowledge; Investigation

Upon cause to believe there is a violation of this ordinance, the Zoning Administrator shall investigate the matter and determine whether a violation exists. The Zoning Administrator shall document the conditions that constitute a violation.

b. Notice of Violation

If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for the violation, indicating the nature of the violation and ordering the correction of the violation within a stated time frame.

In the case of any sign illegally placed in a public street right-of-way, the Administrator shall be authorized to remove and dispose of the sign immediately without notice. The Zoning Administrator, in his or her discretion, may also or in the alternative serve the owner with a civil citation and penalty.

No penalty shall be assessed to a violator until the violator has been notified of the violation in accordance with this section.

1. Service of Notice

The Zoning Administrator shall cause a Notice of Violation to be issued to the violator and served on the violator or the violator's agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Town or as obtained from the violator or his agent. The official serving the notice of violation shall keep a record describing the date of service and the means by which the service was made. The violator is deemed to have been served upon the mailing or personal service of the notice of violation.

2. Contents of Notice

The notice of violation shall:

- a. Describe the violation;
 - b. Identify the provisions of the ordinance that are violated;
 - c. Direct the violator to cease the violation;
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- d. Specify the period of time within which the violation must cease or be abated, beginning upon receipt of the notice of violation;
- e. Specify that if the violation continues beyond the specified time period, a second notice of violation will include a civil citation assessing a civil penalty, together with costs, attorney fees, and such other relief as provided by law; and
- f. Inform the violator of the violator's appeal rights and the time frame for appeal.

c. Appeal from Notice of Violation

1. Forms

The Town Clerk shall make appeal forms and instructions for filing an appeal available at the office of the Town Clerk.

2. Timely Appeal

To be valid, an appeal from a notice of violation must be filed within 10 business days after the service date of the notice of violation as indicated on the affidavit of service. An appeal is deemed filed when it is received by the Town Clerk. Unless the appeal is filed within the required time period, it shall not be considered, and the right of appeal for the violation, the notice of violation, the civil citation, and any civil penalty assessed for the violation is forfeited.

3. Procedure

Appeals are heard as provided in Section 403.c.

4. Extensions Allowed

Where the Zoning Administrator or Board of Adjustment determines that the period of time stated in the original notice of violation is not sufficient for abatement based upon the work required, the Zoning Administrator or Board of Adjustment may amend the notice of violation to provide for additional time. The Zoning Administrator or Board of Adjustment shall state the basis for the time allowed and shall consider the need to apply the ordinance evenhandedly and reasonably. The violator shall have the burden of demonstrating that the violation cannot be corrected within the time period specified in the notice of violation due to circumstances beyond the control of the violator or property owner.

d. Correction Within Allowed Time Period

If the violation is corrected within the time period specified in the notice of violation, or within the extension of time granted as provided in Section 906.c.4, then the Town shall take no further action against the violator.

e. Civil Citations

If the Zoning Administrator determines that the violator has failed to correct the violation within the time period stated in the notice of violation, the Zoning Administrator may cause to be issued a civil citation. The civil

citation shall be served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator or his agent.

1. Citation Contents

The civil citation shall direct the violator to immediately cease the violation, shall inform the violator of the penalty amount, and shall direct the violator to make payment at Town Hall within 10 days of the date of service of the civil citation, or in the alternative to make payment by mail postmarked within 10 days of that date of service.

2. Additional Civil Citations

Additional civil citations in the amount of fifty dollars may be issued for each day the same or similar violation continues until the prohibited activity is ceased or abated.

3. Separate and Distinct Offense

Each day the violation continues or occurs constitutes a separate and distinct offense for which a civil penalty may be imposed.

4. Penalty Amount

During the first ten calendar days beyond the initial time period allowed for correction in the Notice of Violation, each offense shall be subject to a penalty of fifty dollars. After ten calendar days, the penalty for each offense shall increase to one hundred dollars.

f. Repeat Violations

1. What Constitutes Repeat Violation

Any violation reoccurring on the same property under the same owner more than once within a two-year period shall be considered a repeat violation, provided the reoccurrence is a violation of the same section of this ordinance and the Town issued a Notice of Violation for the earlier violation.

2. Repeat Violations Subject to Immediate Civil Citations

A repeat violation shall be considered to be a continuation of the initial violation and shall be subject to civil citations without further notice. Each day a repeat violation continues or occurs constitutes a separate and distinct offense for which the violator shall be subject to a civil penalty of two hundred fifty dollars.

907. Judicial Enforcement

a. Civil Proceedings

1. Civil Penalty Recoverable by Town

If the violator fails to respond to a civil citation within 10 days of its service, and pay the civil penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division

of the North Carolina General Court of Court of Justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law. Under normal circumstances the Zoning Administrator shall refer the matter to the Town Attorney for such an action.

- 2. Applying to the Court for Order; Equitable Remedies Available**
Violations of this ordinance may be enforced by injunction and order of abatement, in the appropriate General Court of Justice having jurisdiction to issue such orders. The Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The matter shall be governed as set forth in N.C.G.S. 160A-175 and any other relevant statutory provisions. The institution of an action for injunctive or other relief under this section shall not relieve any party to the proceeding from any civil or criminal penalty prescribed by this article for violations.

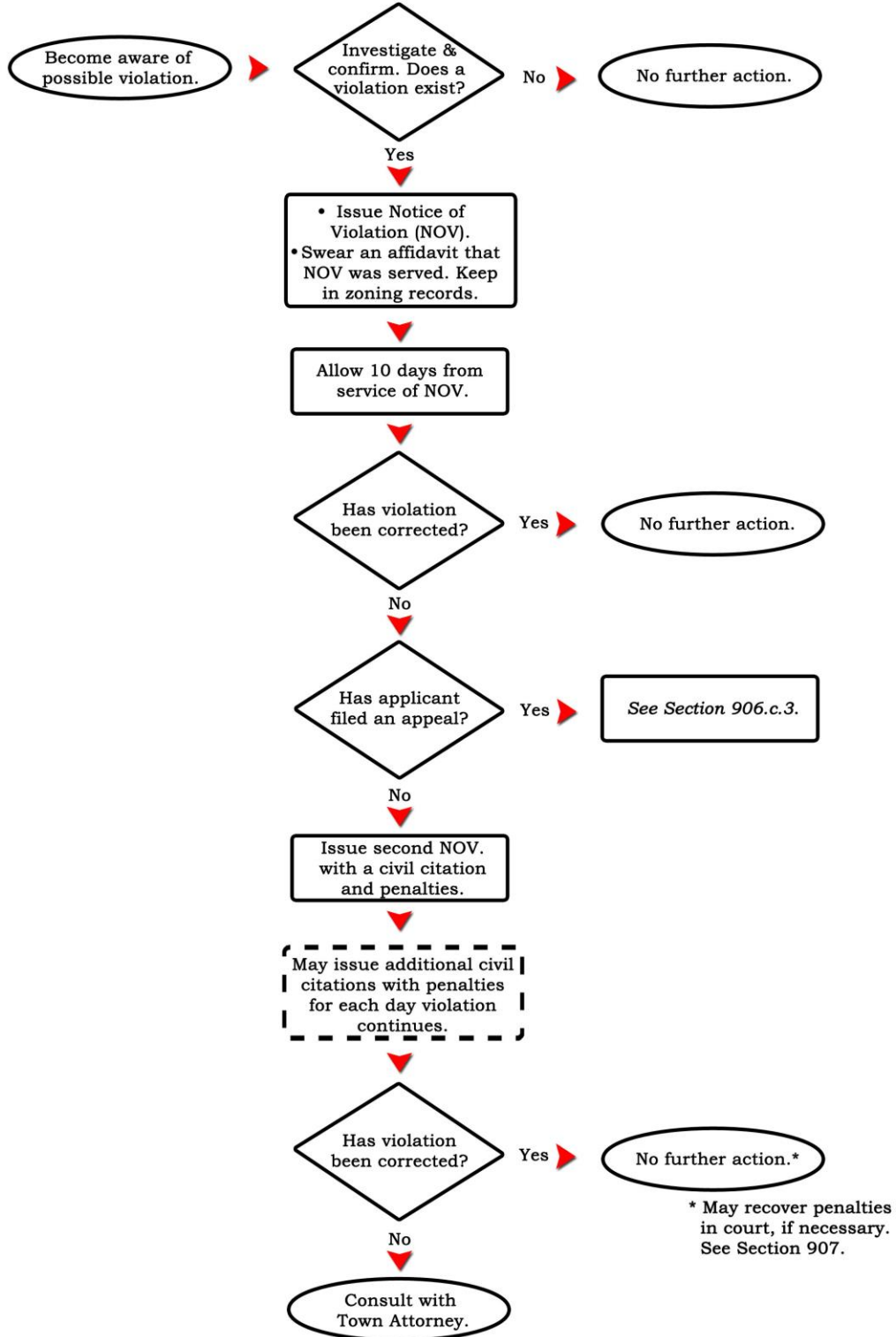
b. Criminal Penalties

Violations of this ordinance shall constitute a misdemeanor. Upon conviction of violation of this ordinance, the violator shall be punished for each offense by a fine not to exceed five hundred dollars (\$500) and/or imprisonment for a period not to exceed 30 days. Each day's continuing violation is a separate and distinct offense.

908. Reference Flow Chart

For ease of reference purposes, this article is accompanied by a flow chart on the following page to show the basic steps for enforcing the ordinance. In case of conflict between the diagram below and the text of the ordinance, the text of the ordinance shall control.

ARTICLE IX: ENFORCEMENT
Section 908. Reference Flow Chart



ARTICLE X: DEFINITIONS

1001. Generally

For the purpose of interpreting and applying this ordinance, certain terms are defined in this article or elsewhere in this ordinance. Signage terms are defined in Article VII: Signs. Other words shall have their ordinary dictionary meaning. In addition to the specific definitions in this ordinance, rules of interpretation and construction are set forth in Article I: General and Legal Provisions, Article IV: Administration and Procedures, and elsewhere as may be provided in this ordinance.

1002. Definition of Certain Terms

The following terms shall have the meaning indicated.

1003. Accessory use

A use or activity that is necessary and customarily associated with, clearly incidental and subordinate to, and related in character to a principal use that (1) exists on the same site and (2) is allowed in the zoning district.

1004. Accessory building or structure

A building or structure that is all of the following: (1) on the same site with a principal use or structure, (2) of a nature customarily incidental or subordinate to that principal use or structure, and (3) of a character related to that principal use or structure.

1005. Adult establishment

Any principal or accessory structure or use, which meets the definition of adult establishment as set forth in N.C. Gen. Stat. 14-202.10, but excluding “Massage and Bodywork Therapy.”

1006. Alley

A strip of land or an easement over land, owned publicly or privately, that provides or is intended to provide access to the back or side of properties abutting on a street.

1007. Assisted living or congregate living facility

An establishment offering housing in private suites having bathing and kitchen facilities and limited care and providing non-health related services for senior citizens such as assistance with daily activities, social activities, security, meal service, housekeeping, and transportation, but not including nursing care or services of health professionals.

- 1008. Auction house**
A building, structure, or enclosure where goods are sold by auction to the highest bidder.
- 1009. Bed & breakfast homestay**
An establishment operated in the residence of the operator providing overnight accommodations to the public, containing not more than five guest rooms, and providing food service only to overnight guests.
- 1010. Building**
Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure for persons, business, industry, animals, or chattels. The term “building” is included in the term “structure.”
- 1011. Catering kitchen and/or reception hall**
A catering kitchen and reception hall has two components. A catering kitchen means a commercial enterprise where food is prepared for the purpose of serving distinct, intermittent special events that are conducted on or off the site where the catering kitchen is located. Reception hall means a commercial enterprise where special events or gatherings such as banquets, receptions, weddings, or showers are held, for compensation. A reception hall might include outdoor and indoor areas for reception, seating, and dining, as well as restrooms, an office, and food service and preparation areas accessory to the use. A reception hall is distinct from a restaurant in that events at a reception hall are limited to guests rather than the general public. A reception hall is distinct from a private club in that events are scheduled individually in advance, rather than having ongoing regular hours of operation.
- 1012. Child care center**
An establishment which provides care for six or more children in a residence, or three or more children in a building other than a residence.
- 1013. Church or place of worship**
A site and its buildings used primarily for religious worship and related religious services by a tax-exempt religious group. A manse, rectory, parsonage, or parsonage associated with a church is considered a single-family dwelling for purposes of this ordinance.
- 1014. Condominium**
A dwelling in a development of 2 or more dwelling units in one or more buildings designed and constructed for unit ownership as permitted by the North Carolina Unit Ownership Act.
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- 1015. Consignment shop**
A retail establishment which accepts, on consignment, individual items from their owners, for re-sale on the premises. Consignment means that items are accepted by the shop on provision that payment for the item by the shop to the consigner is expected only on completion of sale of the item to a retail customer of the shop, and that unsold items are returned to the one consigning. Records are kept of each individual item, its owner, and sale, with proceeds conveyed to the owner after the sale. The transactions at a consignment shop occur entirely indoors. A consignment shop is not a place where donations of used goods are made to the establishment, or where used goods are sold without the proceeds being individually accounted for to the donor of the goods. A pawn shop meeting the definition of North Carolina state law is not a consignment shop.
- 1016. Continuing care facility**
An establishment which provides senior citizens with a continuum of care services, include independent and/or congregate care living; assisted living; and skilled nursing care.
- 1017. Convenience store**
An establishment, not exceeding 2000 square feet of gross floor area, offering for retail sale primarily convenience and snack foods, beverages, ice, and frequently or recurrently needed sundry items for travel and household use, but which is not a full-service grocery or dry goods store.
- 1018. Craft or artisan production**
The indoor manufacture of custom, unique, or limited-run items (including but not limited to the items listed in the definition of “manufacturing, ordinary”) in a small-scale process occupying less than 2000 square feet.
- 1019. Development**
The initiation, construction, change, or enlargement of any use or structure; the disturbance of land through dredging, filling, grading, paving, drilling, excavation, the removal of ground cover, or an increase in impervious cover; the increase in the intensity of use of land through expansion of activity or the addition of establishments or dwellings; the deposition of waste or solid or liquid refuse on a site; or the division of land into two or more parcels.
- 1020. Development site**
The site on which development occurs.
- 1021. Disaster operations**
Temporary activities and structures necessitated by a natural disaster, or other health and safety emergency, occurring in the local area.
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- 1022. Dish antenna**
Any combination of one or more antennae designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, including amplifier for magnifying signals and cable for carrying the signals into the interior of the building. This definition does not include structures used for commercial or institutional two-way communication, such as radio, television, telephone, and other telecommunication facilities.
- 1023. Dog grooming**
An establishment that provides dog grooming services without any outdoor component. Dog grooming does not include overnight kennel or boarding services or doggie day care.
- 1024. Drive-through component for a use permitted in the district**
Any operation or activity that involves service provided to a parked or idling vehicle in which the customer is situated. Examples include every kind of drive-up service or sale windows, drop-off or pick-up service directly to and from vehicles of clients or customers, drive-through bank lanes, food service uses in which service is provided directly to customers in parked cars, take-out windows (but not the incidental provision of take-out orders to patrons at a counter or register point inside the building), and drive-through or self-service car wash bays. Gas pumps and island are specifically excluded from this definition, and are regulated instead as convenience stores with fuel sales, service stations, filling stations, or truck stops.
- 1025. Dwelling, or dwelling unit**
A building or portion thereof containing living, sleeping, housekeeping, cooking, and sanitary facilities that are designed, arranged, or used for permanent living quarters exclusively for one person or household living as a single family. The term shall not include a motel, hotel, guest house, or other structure designed for transient residence, nor shall it include a vehicle.
- 1026. Dwelling, multi-family**
The use of a site for three or more dwelling units, within one or more buildings that are not manufactured homes, and where each dwelling is not on its own individual lot. Multi-family dwelling includes apartments and condominium residential units not on their own individual lots, but does not include manufactured homes or townhouses.
- 1027. Dwelling, single-family detached**
A dwelling that is situated on its own lot, is not attached structurally to any other dwellings, and is not a manufactured home of any kind.
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- 1028. Electrical substation**
The principal use of land for and electrical generation, distribution, or switching station.
- 1029. Entertainment establishment, indoor**
An establishment offering entertainment or games of skill to the general public for a fee or charge and where the activity takes place indoors. Examples include bowling alleys and movie theaters, but not any kind of gambling parlor, sweepstakes operation, or adult establishment.
- 1030. Entertainment establishment, outdoor**
An establishment offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, not otherwise set forth in this ordinance. Examples include batting cages, golf driving ranges, and miniature golf.
- 1031. Equipment sales**
The sale and offering for sale of heavy equipment at retail or wholesale, such as air conditioning supplies and equipment; industrial or commercial equipment; or electrical equipment and supplies.
- 1032. Family**
One or more persons occupying a premises and living together as a single housekeeping unit, provided that no housekeeping unit shall contain more than 5 persons unless they are related by blood, marriage, civil union, adoption, guardianship, or foster care, or unless it is a family care home.
- 1033. Family care home**
A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.
- 1034. Family child care home**
An establishment in a residence, licensed by the N.C. Division of Child Development, that provides care for 5 or fewer preschool-age children, and up to an additional 3 school-age children. Preschoolers living in the home are counted in the total, but the provider's own school-age children are not counted.
- 1035. Farmers market**
An establishment, indoor or outdoor, offering for sale farm produce primarily grown within 100 miles of the site.
- 1036. Farmstand, on-site**
The retail sale of farm products on the property where they were produced.
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- 1037. Fence**
An outdoor barrier made of wire, wood, metal, plastic, vinyl, or similar non-masonry material.
- 1038. Floor area**
For purposes of calculating the area devoted to a use, floor area shall be the total of the number of square feet of floor area bounded by the exterior faces of a structure, on each story of a building, plus the number of square feet of unenclosed space devoted to the conduct of the use, but not including accessory use buildings or areas.
- 1039. Future Land Use Map (FLUM)**
The map contained in the Bailey 2030 Long-Range Community Plan and described in the plan text as a guide for implementing the plan and evaluating rezoning, subdivision, and other requests.
- 1040. Garden apartments**
A type of multi-family residential use in which multiple dwellings are housed in one or more buildings, and each dwelling has a ground-floor entrance or upper-floor exterior entrance, and a deck, porch, patio, yard or other outdoor space adjacent to that dwelling and dedicated or set apart for the use of the occupants of that dwelling. Garden apartments are typically offered for rental occupancy.
- 1041. Home occupation**
The incidental use of a dwelling unit by its resident for gainful employment involving the manufacture, provision, or sale of goods and/or services, when performed in compliance with this ordinance, but not including principal uses classified in this ordinance.
- 1042. Industrial services**
Operations of an industrial scale providing primarily non-manufacturing services, such as dry cleaning plants, industrial laundries, large-scale or wholesale service and repair operations, heavy equipment repair, and the like.
- 1043. Junk yard**
The use of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, including the storage of automobiles or other vehicles or dismantling of such vehicles or machinery or parts thereof.
- 1044. Kennel**
An establishment where dogs are sold or offered for sale, boarded, bred, groomed, or trained, typically with fenced or enclosed spaces, areas, or runs for individual animals. Kennels may be indoor only, or indoor/outdoor. Kennel does not include
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the keeping of household pets in lawful numbers and in accordance with applicable local or state rules.

1045. Live-work unit

A dwelling used, by at least one resident of the dwelling, both for residential purposes and for a workplace as a principal use which (1) consists of any non-residential use allowed in the zoning district where it is located, (2) exceeds the definition of home occupation, and (3) is conducted pursuant to a valid business license associated with the premises.

1046. Lot

A single lot of record, which constitutes a parcel of land intended as a unit for transfer of ownership or for development or both.

1047. Lot of record

A lot which is part of a subdivision or described by metes and bounds, and is recorded in the Office of the Register of Deeds of the appropriate county.

1048. Manufactured home

A building designed to be used as a single family dwelling unit composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly on the building site, constructed and labeled indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

1049. Manufactured home, Class A

A dwelling unit that: (i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and (ii) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and (iii) meets or exceeds the construction standards of the US Department of Housing and Urban Development, and (iv) conforms to the development standards of Section 528 of this ordinance.

1050. Manufactured home, Class B

A manufactured home ten years old or less at the time of permitting that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a Class A manufactured home, but meets the development standards of Section 529 of this ordinance.

- 1051. Manufactured home, modular**
A dwelling unit that: (1) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the site on its own chassis; and (2) is constructed in accordance with the North Carolina Uniform Residential Building Code.
- 1052. Manufactured home park**
Any site or tract of land, of unified ownership or ownership by persons or entities so closely affiliated as to effectively consist of unified ownership, upon which two or more sites or spaces are provided for manufactured homes to be used as residences on the site, whether or not a charge is made for the service, and where an ownership interest in the sites is not conveyed to the owners or occupants of the homes.
- 1053. Manufacturing, ordinary**
The manufacturing of appliances; clothing and clothing accessories; electrical equipment and supplies; farm equipment and supplies; food and beverage manufacturing; furniture; glass and ceramic; hardware; heating and air conditioning equipment; ice; jewelry; machinery; medical supplies; metal and wood products; musical instruments; office supplies and equipment; optical equipment; paint; pharmaceuticals; plumbing items; scientific equipment; tools and measuring devices; bottling plants, commercial bakeries, food processing and canning facilities; and similar operations.
- 1054. Manufacturing, heavy**
The manufacturing of chemicals; clay, stone, concrete, or cement products; fertilizer; manufactured or modular homes; and tanneries.
- 1055. Massage therapy**
A personal service business providing massage and bodywork therapy in which all persons providing service are licensed by the North Carolina Board of Massage and Bodywork Therapy.
- 1056. Medical office**
An establishment providing diagnostic and outpatient medical care, which is staffed by health care practitioners licensed for practice by the state. Medical clinic does not include a hospital or inpatient clinic. A medical or dental laboratory incidental to the primary use is allowed as an accessory use to a medical office.
- 1057. Mixed-use district or Mixed-use zoning district**
The TC, TCE, CO, and CI zoning districts of this ordinance.
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- 1058. Nursing care facility**
An establishment where, for compensation, providing or offering care for 3 or more persons for illness (other than a contagious disease or sociopathic or psychopathic behavior) which is not of sufficient severity to require hospitalization, or who require further institutional care after being discharged from a hospital or clinic, other than a mental hospital. Patients in a nursing care facility usually require domiciliary care in addition to medical care.
- 1059. Outdoor industrial operations**
Any industrial use having a significant outdoor component of operations, including stockpiling, movement, chemical or physical processing, or treatment of materials or products. The offloading and delivery of materials or items by distributors to an industrial site, and the loading or placement of stable or finished items out of doors prior to their delivery off the site, does not of itself constitute outdoor industrial operations.
- 1060. Outdoor storage yard**
The storage of items outside of an enclosed building as a principal use or part of a principal use of land. This definition does not include accessory uses, such as the allowed outdoor display of yard and garden merchandise in conjunction with a retail use, or sidewalk displays as an accessory use to retail uses in the TC and TCE districts. This definition also does not include heavy equipment sales, farm equipment sales, or motor vehicle sales, which are separately treated. This definition does not include junkyard or vehicle salvage yard.
- 1061. Park, active**
A public place with improved facilities for active recreation, such as playing fields, ball or game courts, tracks, climbing equipment, and the like.
- 1062. Park, passive**
A public place provided for passive recreation, such as undeveloped land or minimally improved lands that may have any of the following features: landscaped areas, natural areas, ornamental garden, open lawns or fields other than improved playing fields, picnic areas, water body, or trail.
- 1063. Parking lot, stand-alone**
A parking lot located on a separate parcel or lot from the use which it serves.
- 1064. Principal structure**
A main or primary building in use, or designed for, a main or principal use on the lot in question. Exterior porches, decks and any part of the building that is not fully enclosed by solid walls are not considered part of the principal structure.
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- 1065. Principal use**
A primary use of a premises which is not accessory to any other use on the premises and constitutes a main use of the lot in question. There may be more than one principal use occurring on a single property. A principal use occurs indoors, unless the use customarily occurs outdoors, or the definition of the use explicitly mentions that it occurs outdoors.
- 1066. Recreation, resource-based**
Outdoor recreation based on agricultural or natural resources, such as fishing ponds that charge admission, pick-your-own farms, riding trails and stables, corn mazes, hayrides, tent or pop-up camping (no hookups) and the like. Resource-based recreation does not include motorized recreation, ballfields, RV campgrounds, or racetracks.
- 1067. Recreational vehicle (RV)**
A vehicle or trailer-mounted vehicle attachment designed for human occupancy as temporary sleeping or travel quarters, including without limitation, a pop-up camper, travel trailer, camper or motor home.
- 1068. Recycling collection station**
An installation having collection containers where members of the public may bring non-hazardous household recyclable items or materials such as metal, glass, plastic, paper, or cardboard, but not appliances, vehicles, or other similar large items.
- 1069. Recycling plant**
An installation where non-hazardous recyclable materials such as metal, glass, plastic, paper, or cardboard, but not vehicles or heavy equipment, are brought and separated, converted, baled, or processed into materials for re-use or re-sale. A recycling collection station is not a recycling plant.
- 1070. Residential district *or* Residential zoning district**
The R-40, TR, MHP, R-20, R-10 and MR zoning districts of this ordinance.
- 1071. Restaurant**
A commercial establishment whose primary purpose is serving meals to patrons for consumption on the site.
- 1072. Retail service establishment**
An indoor establishment for the provision of retail services to consumers, including shoe repair, dry cleaning, dressmaking & alterations, drapery services, appliance repair, video rentals, consumer printing/copying, photographic studios, key and lock, upholstery, tanning salons, barber shops, nail and beauty salons, travel agencies, and optical shops.
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- 1073. Retail store**
An indoor establishment for the retail sales of goods to consumers, including art, art/craft supplies; clothing and clothing accessories; home furnishings and accessories, new or antique; groceries; hardware; leather goods; medical supplies and equipment; office supply; paint, wallpaper, and interior decorating items; pet supply. Retail store does not include pawn, thrift, or secondhand stores or flea markets. A consignment shop meeting the definition in this ordinance is a retail store. A convenience store is a particular type of retail use which is separately defined and treated under this ordinance.
- 1074. Right-of-way**
A strip of land or an easement over land, owned publicly or privately, which affords a principal means of access to abutting property.
- 1075. Rural-based business**
A business that directly serves rural customers to supply rural or resource-based needs and requires a location in a rural area, including portable sawmill, livestock veterinarian, equine services, farm equipment supply, farm machinery repair, crop storage facility or gin, and other similar businesses, but not including any uses covered by other specific uses listed in the use table.
- 1076. Seasonal outdoor sales**
An outdoor display area offering for sale Christmas trees or pumpkins. Seasonal outdoor sales do not consist of non-agricultural items or items that a retail establishment ordinarily sells. Seasonal outdoor sale does not include temporary BBQ or similar food plate sales; these types of events shall only take place as accessory uses on the site of the sponsoring non-profit institution (see Section 501.e.7).
- 1077. Self-storage facility**
An establishment providing for indoor storage of materials, vehicles or goods that allows for access to multiple secure individual storage areas that are each individually assigned to customers. A self-storage facility does not include a hazardous materials storage facility or an indoor wholesale and distribution facility. A self-storage facility may also provide for outdoor storage of vehicles or boats, within the standards provided in this ordinance.
- 1078. Senior housing**
A residential setting with individual private dwellings, each having its own kitchen and bath facilities, that is age-restricted to adults over 50 years of age. Possible formats for senior housing may include patio homes, cottage homes, condos, apartments, or townhouses; depending on the specific format(s), the applicable use-specific standards for multi-family housing, townhouses, single-family detached dwelling, or other type shall apply, in addition to any other applicable standards. Senior housing does not include other residential
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accommodations listed in the Table of Allowed Uses such as assisted living facility, nursing care facility, or family care home.

1079. Service station or gasoline filling station

An establishment making retail sales of fuel to individual vehicle users. Other petroleum products and fluids and limited accessories such as replacement wipers and filters may be offered on an incidental basis. Diesel sales and light maintenance activities such as engine tune-ups, lubrication, and minor repair may also be provided on an incidental basis to the primary use of the establishment for retail gasoline sales. Service stations do not include truck stops or premises where heavy automobile maintenance activities occur, such as body work, engine overhauling, and painting.

1080. Shopping center

A structure or structures on a unified site in common control, containing bays or locations for three or more retail or retail services establishments, which is planned and constructed according to a unified plan as an entity with off-street parking and loading facilities provided on the site. A shopping center often includes one or more outparcels for uses such as fast-food restaurants or convenience stores with motor fuel sales.

1081. Site

A lot, tract, or parcel of land considered as one land unit for the purposes of this ordinance. For a single-family residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership or control with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For individually occupied non-residential properties, the site shall be the lot that is occupied. For multiple-occupancy non-residential properties, the site shall be all land included under any original site plan or development plan approval, whichever land area is larger.

1082. Special event, official

A temporary event, such as a street festival, community fair, or commemorative gathering, that is organized or sponsored primarily by the Town.

1083. Storage, indoor

The storing of items or materials, other than current stock for a retail business in operation on the premises or ordinary household storage for a residence on the premises, inside a structure. This term does not include self-storage units in self-storage facilities or general warehousing.

1084. Structure

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to

buildings, mobile homes, storage tanks, fences, signs, and swimming pools, but not including ordinary driveways, walkways, private recreational equipment such as swing sets, or retaining walls. The term “building” is included in the term “structure.”

- 1085. Studio, for art, craft, design, or architecture**
An indoor workplace or professional office for design professionals such as artists, architects, artisans, and designers.
- 1086. Telecommunication tower**
Commercial AM/FM radio, television, microwave, digital and cellular telephone transmission and reception towers, and structures necessarily associated with them on the site. This definition does not include dish antenna.
- 1087. Telecommunication tower, camouflaged or co-located**
A telecommunication tower designed to appear as, or is actually, an integral part of a permitted structure in the zoning district, such as existing buildings, water towers, or church steeples; or the placement of additional wireless transmission or reception equipment on a support structure that already contains wireless transmission or reception equipment, where the modification to the support structure increases the height of the structure by not more than 10% or 20 feet, whichever is greater, and does not constitute a “substantial modification” as defined by federal law and FCC rules.
- 1088. Temporary trailer**
A trailer or modular mobile unit placed on a construction site or real estate sales site for use as an office.
- 1089. Thrift or secondhand store**
An establishment where donated or secondhand goods are offered for sale, except an antique store or a use meeting the definition of consignment shop.
- 1090. Townhouse**
A dwelling that is constructed in a series or group, attached by one or more party walls to other dwellings, with property lines delineating a separate lot on which each dwelling stands.
- 1091. Upper-floor housing**
Residential dwelling unit(s) located above a ground floor that contains or is intended for non-residential uses.
- 1092. Utilities, minor**
Elements of public utility distribution, collection, or transmission networks, other than electrical power facilities, required by their nature to be relatively dispersed
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throughout the service area. Typical minor utilities include distribution lines and pumping stations, gas and water substations, water tanks and towers, sewage lift stations, and electrical substations. Minor utilities does not include electrical power facilities; recycling collection stations; recycling plants; water or wastewater plants or spray fields; communications towers; or sanitary or debris landfills.

1093. Vehicle repair

Premises where repair and maintenance of takes place, beyond the minor routine services provided at a service station, such as body work, engine overhauling, replacement and repair of major components (such as transmissions or suspensions), and painting.

1094. Veterinary clinic

An establishment for the care and treatment of animals admitted for daytime or overnight stay in order to obtain veterinary treatment for illnesses, diseases, or injuries.

1095. Wall

An outdoor barrier made of brick, stone, rock, concrete, block, or similar masonry material.

1096. Warehousing, general

The storing or keeping of raw materials or manufactured goods in anticipation of their export or distribution for sale. This term excludes the keeping of stock on its own site by an individual establishment for its own retail sale and the keeping of raw materials on site for its own use and production.

1097. Interpretation of Commonly Used Terms

All provisions, terms, and phrases contained in this ordinance shall be generally construed according to this ordinance's stated purpose and intent. The following specific principles shall also apply.

- a. Words used in the present tense include the future tense.
 - b. Words used in the singular number include the plural, and words used in the plural include the singular.
 - c. Words used in either gender include the other gender.
 - d. "Person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
 - e. "Lot" includes the words "plot," "parcel," and "tract."
 - f. The word "shall" is mandatory and not merely directory.
 - g. "Used", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used."
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ARTICLE X: DEFINITIONS

Section 1097. Interpretation of Commonly Used Terms

- h. "Town" or "the Town" means the Town of Bailey.
 - i. The words "Town Board," "governing body," and "Board of Commissioners" shall refer to the Board of Commissioners of the Town of Bailey.
 - j. The words "Planning Board" shall refer to the Planning Board of the Town of Bailey.
 - k. The words "Board of Adjustment" shall refer to the Board of Adjustment of the Town of Bailey, North Carolina, established by this ordinance.
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