

**TITLE XV: BUILDING AND LAND USE REGULATIONS**

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## CHAPTER 150: BUILDING REGULATIONS

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## **ADOPTION OF REGULATORY CODES BY REFERENCE**

### **§ 150.01 APPLICABILITY OF CODES.**

(A) The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, renewal, use and occupancy of every building or structure or any appurtenances connected or attached to such

building or structure.

(2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof.

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(3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel-burning equipment and appurtenances thereof.

(4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

(B) The adoption of this chapter and the codes herein adopted by reference shall constitute a resolution within the meaning of G.S. § 143-138(e) mating the regulatory codes herein adopted applicable to dwellings and outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.

('82 Code, Ch. 4, Art. I, § 11)

**§ 150.02 BUILDING REGULATIONS AND STANDARD FIRE CODE REGULATIONS.**

The North Carolina State Building Code and Fire Code, as adopted by the North Carolina Building Code Council as amended from time to time, is hereby incorporated by reference into this code as if fully set forth herein, and Appendices B, C and D are specifically adopted and incorporated herein by reference.

(Ord. 12-03, passed 4-10-12)

**§ 150.03 ELECTRICAL CODE ADOPTED.**

The latest edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference and amending the 1971 edition of the National Electrical Code of the National Fire Protection Association, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference, as fully as though set forth herein, as the electrical code for the town.

('82 Code, Ch. 4, Art. I, § 13)

**§ 150.04 HEATING CODE ADOPTED.**

The latest edition of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference, as fully as though set forth herein as the heating code for the town.

('82 Code, Ch. 4, Art. I, § 14)

**§ 150.05 PLUMBING CODE ADOPTED.**

The latest edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference, as fully as though set forth herein, as the plumbing code for the town.

('82 Code, Ch. 4, Art. I, § 15)

**§ 150.06 RESIDENTIAL BUILDING CODE ADOPTED.**

The latest edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Inspector's Association, and as published by the North Carolina Building Code Council and as amended, is hereby adopted by reference, as fully as though set forth herein, as the residential building code for one- and two-family residential buildings in the town.

('82 Code, Ch. 4, Art. I, § 16)

***FIRE LIMITS***

**§ 150.20 FIRE LIMITS.**

(A) All lands included within the boundaries of the following described and mapped limits shall be and constitute the Elizabethtown Fire District:

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Beginning at a Point, the Intersection of the center lines of Broad Street and Courthouse Drive; thence Southwestwardly with the center line of Courthouse Drive to a point at the intersection of the center lines of Courthouse Drive and King Street; thence Westwardly with the center line of King Street to a point at the intersection of the center lines of King Street and Ben Street; thence Northwardly with the center line of Ben Street to a point in said center line Northwardly from and 250 feet normal to the center line of Broad Street; thence Eastwardly, 250 feet North of and parallel to Broad Street to a point where the eastern property line of a 16' Wide Alley, also the western property line of State Employees Credit Union as set out in Deed Book 332 -Page 577, intersects said line; thence with the said projection of said property line South 19 degrees 40 minutes 00 seconds West (S 19°40'00" W), a distance of 13.25 feet to a point, the Northwestern corner of Lands of State Employees Credit Union; thence with old property lines of Lands of State Employees Credit Union and then with Wallace Leinwand as set out in Deed Book 382 - Page 923, South 70 degrees 20 minutes 00 seconds East (S 70°20'00" E), a distance of 82.98 feet to a point marked by an old iron; thence with an eastern line of Wallace Leinwand, also a line of Lands of Town of Elizabethtown as set out in Deed Book 291, Page 78 South 19 degrees 47 minutes 33 seconds West (S 19°47'33" W), a distance of 85.00 feet to a point; thence with a line between Lands of Wallace Leinwand and Town of Elizabethtown South 70 degrees 20 minutes 00 seconds East (S 70°20'00" E), a distance of 88.00 feet to a point in a western line of Lands of Michael James Cox and wife Sheila B. Cox as set out in deed recorded in Deed Book 473 - Page 475; thence with said line of Cox, also a line of Lands of Town of Elizabethtown North 19 degrees 47 minutes 33 seconds East (N 19°47'33" E), a distance of 98.25 feet to a point marked by an old iron; thence with the northern line of Cox, also a line of Lands of Town of Elizabethtown South 70 degrees 20 minutes 00 seconds East (S 70°20'00" E), a distance of 30.00 feet to a point marked by an old iron; thence with an eastern line of Cox, also a line of Lands of Town of Elizabethtown as set out in Deed Book 265 - Page 469, South 19 degrees 47 minutes 32 seconds West (S 19°47'32" W), a distance of 88.23 feet to a point;

thence a line to and with the northern line of Lands of Robert D. C. Meeker, Jr. as set out in Deed Book 309 - Page 880 South 70 degrees 20-minutes 00 seconds East (S 70°20'00" E), a distance of 32.86 feet to a point in the western line of Lands of Elizabethtown Florist, Inc. as set out in Deed Book 319 - Page 909; thence with said line North 19 degrees 47 minutes 32 seconds East (N 19°47'32" E), a distance of 3.22 feet to a point, the Northwestern corner of Lands of Elizabethtown Florist, Inc.; thence with the northern line of Lands of Elizabethtown Florist, Inc., also a line with Lands of Town of Elizabethtown as set out in Deed book 286 - Page 114 South 70 degrees 02 minutes 00 seconds East (S 70°02'00" E), a distance of 29.42 feet to a point; thence with a line between Lands of Elizabethtown Florist, Inc. and Lands of Wallace Leinwand South 18 degrees 48 minutes 02 seconds West (S 18°48'02" W), a distance of 22.85 feet to a point; thence a line through Lands of Wallace Leinwand, 92 feet northwardly from and parallel to the northern margin of Broad Street South 70 degrees 20 minutes 00 seconds East (S 70°20'00" E), a distance of 43.35 feet to a point in the western line of Lands of Timothy L. and Patricia Baldrige; thence with said line North 19 degrees 52 minutes 00 seconds East (N 19°52'00" E), a distance of 24.00 feet to a point marked by an old nail at the northwestern corner of said Lands of Baldrige; thence with the Northern line of said Lands of Baldrige, and then Lands of Charles W. Brown and wife Mary A. Brown and then Lands of Eugene Anderson and John P. Melvin South 70 degrees 02 minutes 00 seconds East (S 70°02'00" E), a distance of 101.90 feet to a point, the northeastern corner of said Lands of Eugene Anderson and John P. Melvin on the western margin of Poplar Street; thence continue South 70 degrees 02 minutes 00 seconds East (S 70°02'00" E) along said line, a distance of 50.00 feet to a point in the center of Poplar Street; thence with the center of Poplar Street North 19 degrees 12 minutes 35 seconds East (N 19°12'35" E), a distance of 83.34 feet to a point lying 250 feet normal to the centerline of Broad Street; thence eastwardly 250 feet north of and parallel to Broad Street to a point in the Western property line of Lands of Lewis D. Smith as set out in description in Deed Book 379 Page 587, said property line being also the Eastern line of lands set out as Tract 2 on Survey Map

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for Louise K. Parker as recorded in Deed Book 276 Page 981; thence Southwardly with said line between lands of Lewis D. Smith and Louise K. Parker, approximately 250 feet to a point in the center line of Broad Street; thence Westwardly with the center line of Broad Street to the Point of Beginning.

(B) Any parcel or lot of land upon which the erection of any structure is proposed, which proposed building or other structure lies only partially within the above-described and mapped district, shall be considered entirely included within the fire district for the purpose of this section.  
(Ord. 03-05, passed 12-1-03)

#### **§ 150.21 TYPE V AND VI CONSTRUCTION IN SECONDARY FIRE ZONES.**

(A) Type V Construction and Type VI Construction as defined by the North Carolina State Building Code, §§ 606 and 607, respectively, shall be permitted by the Building Inspector in all Secondary Fire Zones; provided the proposed structure meets other applicable requirements of law and the North Carolina State Building Code.

(B) All Type V and Type VI Construction permitted under this section shall be allowed only in the erection of free-standing, detached buildings located not less than 20 feet from any property line of the tract on which the said building is being erected, except adjoining a public street or not less than 20 feet from any other building or structure on the same tract of land. In the event that any addition to a building originally erected under this exemption or other improvements thereto is proposed, which would bring the completed structure or any portion thereof closer than 20 feet to the property line or closer than 20 feet to any other building on the same tract of land, the entire structure must then comply with code requirements as if this exemption had never existed.  
(’82 Code, Ch. 4, Art. I, § 10.1) (Ord. passed 9-2-82; Am. Ord. passed 12-3-86)

### ***PERMIT REQUIREMENTS***

#### **§ 150.30 PERMIT FEES.**

For the permit and inspection of every new building, or old building repaired or altered, the Inspector shall charge and collect an inspection or permit fee before issuing the building permit. The fee or fees shall be as established from time to time by resolution of the Town Council. A separate fee will be charged for each such inspection or reinspection.  
(’82 Code, Ch. 4, Art. I, § 6)

#### **§ 150.31 REGISTRATION OF CONTRACTORS.**

Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor or electrical contractor within the town or having his place of business in the county and conducting business within the town shall register at the office of the Building Inspector, giving his name and place of business.  
(’82 Code, Ch. 4, Art. I, § 7)

#### **§ 150.32 PAYMENT OF LICENSE TAXES.**

All contractors and subcontractors performing building operations in the town, who are subject to the requirements and fees set forth in Chapter 110, and who neglect, fail or refuse to procure and pay for the license tax applicable to them [see § 110.36] shall be denied construction permits or completion permits, as the case may be, for building, plumbing, electrical or other work performed or to be performed, as the case may be.  
(’82 Code, Ch. 4, Art. I, § 8)

#### **§ 150.33 BOND REQUIRED FOR REMOVAL OR DEMOLITION OF PROPERTY.**

In all cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of



\$500 shall be posted by the property owner or his contractor at the time of application for permit to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his contractor to completely demolish, remove and clear the premises after 30 days' notice by the Building Inspector shall be cause for forfeiture of the bond.  
(82 Code, Ch. 4, Art. I, § 9)

***ABANDONED BUILDINGS***

**§ 150.45 DEFINITIONS.**

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

***ABANDONED.*** As applied to a building, shall mean unoccupied by persons for the purpose in which the building was intended to be used.

***ABANDONED STRUCTURE INSPECTOR.***  
The officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.

***BUILDING.*** Means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter.

***OWNER.*** The holder of the title in fee simple and every mortgagee of record.

***PARTIES IN INTEREST.*** All individuals, associates, and corporations who have interests of record in a dwelling or structure and any who are in possession thereof.

***STRUCTURE.*** That which is built or constructed.  
(Ord. passed 8-5-91; Am. Ord. 04-02, passed 2-2-04; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.46 SCOPE.**

The provisions of this subchapter shall apply to every type of building, including any appurtenances attached thereto, wherever it might be situated in the corporate limits.  
(Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.47 DUTIES OF THE ABANDONED STRUCTURE INSPECTOR.**

The Abandoned Structure Inspector shall be the Town Manager or his or her designee and is hereby designated to enforce the provisions of this subchapter. It shall be the duty of the Abandoned Structure Inspector to:

(A) Locate abandoned structures within the town and determine which structures are in violation of this subchapter.

(B) Take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures.

(C) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter.

(D) Perform such other duties as may be prescribed herein or assigned to him by the Town Council.  
(Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.48 POWERS OF THE ABANDONED STRUCTURE INSPECTOR.**

The Abandoned Structure Inspector is authorized to exercise such powers as may be necessary to carry out the intent and provisions of this subchapter, including the following powers in addition to others herein granted:



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(A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter.

(B) To enter upon premises for the purpose of making inspections.

(C) To administer oaths and affirmations, examine witnesses and receive evidence.

(D) To designate such other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of this subchapter. (Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents.

(3) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in such structure.

(4) The use of such structure on nearby grounds or facilities by children as a play area.

(5) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating. (Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

### § 150.49 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

(1) The attraction of insects or rodents.

(2) Conditions creating a fire hazard.

(3) Dangerous conditions constituting a threat to children.

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this chapter, the Abandoned Structure Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floor, walls, ceilings or roof which might attract or admit rodents and insects or become breeding places for rodents and insects.

### § 150.50 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice and hearing.* Whenever a petition is filed with the Abandoned Structure Inspector by at least five residents of the town charging that any structure exists in violation hereof or whenever it appears to the Abandoned Structure Inspector upon inspection that any structure exists in violation hereof, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of the building, and parties in interest in such structure, a complaint stating the charges and containing a notice that a hearing will be held before the Abandoned Structure Inspector at a place therein fixed, not less than ten days, nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Abandoned Structure Inspector.

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(B) *Procedures after hearing.* After such notice and hearing, the Abandoned Structure Inspector shall state in writing his determination whether such structure violates this subchapter. If the Abandoned Structure Inspector determines that the structure is in violation, he or she shall state in writing his or her finding of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) (1) *Failure to comply with order; in persona remedy.* If the owner of any structure shall fail to comply with an order of the Abandoned Structure Inspector within the time specified therein, the Abandoned Structure Inspector may submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Abandoned Structure Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner or a structure to comply with an order of the Abandoned Structure Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph, the Abandoned Structure Inspector shall submit to the Town Council an ordinance ordering the Abandoned Structure Inspector, to cause such structure to be removed or demolished, as provided in the original order to the Abandoned Structure Inspector and pending such removal or demolition, to placard such structure as provided by G.S. § 160A-443.

(D) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Abandoned Structure Inspector shall have the right, within 30 days after issuance of the order to petition the superior court for a temporary injunction restraining the Abandoned Structure Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).  
(Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.51 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the Abandoned Structure Inspector shall be served upon persons either personally or by certified or registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Abandoned Structure Inspector in the exercise of reasonable diligence, the Abandoned Structure Inspector shall make an affidavit to that effect, and serving of such complaint or order upon such person may be made by publication in a newspaper having general circulation in the town at least once, no later than the time at which personal service is required under § 150.50. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.52 IN REM ACTION BY ABANDONED STRUCTURE INSPECTOR PLACARD.**

(A) After failure of an owner of a structure to comply with an order of the Abandoned Structure Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 150.50(C), the Abandoned Structure Inspector shall proceed to cause such structure either to be repaired or else removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds of Bladen County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05) Penalty, see § 10.99

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**§ 150.53 COST OF LIEN ON PREMISES.**

As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Abandoned Structure Inspector pursuant to this subchapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the cost collected as provided by G.S. Ch. 160A, Art. 10. (Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**§ 150.54 ALTERNATIVE REMEDIES.**

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process, and the enforcement of any other remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (Ord. passed 8-5-91; Am. Ord. 2005-02, passed 8-1-05)

**ADMINISTRATION****§ 150.65 BUILDING INSPECTOR.**

The Town Council shall appoint some qualified person or enter into other inspection arrangements as allowed under G.S. § 160A-413 to perform inspection duties as prescribed by the building code laws of the state and this chapter. ('82 Code, Ch. 4, Art. I, § 1) (Am. Ord. 2005-02, passed 8-1-05)

**§ 150.66 DEPUTIES.**

All duties imposed by this chapter upon the Building Inspector may be performed by a deputy appointed by such Inspector. ('82 Code, Ch. 4, Art. I, § 2) (Am. Ord. 2005-02, passed 8-1-05)

**§ 150.67 RECORD OF INSPECTIONS.**

The Building Inspector shall keep the following records in a book indexed and kept so that it will show readily by reference:

(A) All such buildings as are approved; that is, the name and residence of the owner, location of building, how it is to be occupied, date of inspection, what defects and when remedied, and the date of the building certificate.

(B) A record which shall show the date of every general inspection, defects discovered and when remedied.

(C) A record which shall show the date, circumstance and origin of every fire that occurs, the name of owner and occupant of the building in which the value originates, the kind and value of property destroyed or damaged.

(D) A record of inspection of electrical wiring and certificate issued. ('82 Code, Ch. 4, Art. I, § 4) (Am. Ord. 2005-02, passed 8-1-05)

**§ 150.68 INSPECTION REPORTS.**

The Building Inspector shall report before February 15 of each year the number and dates of general and quarterly inspections during the year ending December 31 upon blanks, and shall furnish such other information and make such other reports as shall be called for by the Insurance Commissioner. ('82 Code, Ch. 4, Art. I, § 5) (Am. Ord. 2005-02, passed 8-1-05)



## CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

*Legal Status Provisions*

### *General Provisions*

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- 151.02 Findings of fact
- 151.03 Statement of purpose
- 151.04 Objectives
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- 151.06 Lands to which this chapter applies
- 151.07 Basis for establishing the special flood hazard areas
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- 151.37 Standards for floodplains without established base flood elevations
- 151.38 Floodways and non-encroachment areas

a  
**GENERAL PROVISIONS**

c

e

151.51 Effect upon outstanding floodplain

**§ 151.01 STATUTORY AUTHORIZATION.**

d

The Legislature of the State of North Carolina has in G.S. Ch. 143, Art. 21, Part 6; G.S. Ch. 160A, Art. 19, Parts 3, 5, and 8; and G.S. Ch. 160A, Art. 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

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(Ord. CO-2006-07, passed 8-7-06)

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**§ 151.02 FINDINGS OF FACT.**

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(A) The floodprone areas within the jurisdiction of the Town of Elizabethtown are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

151.99 Penalty

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(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in floodprone areas of uses vulnerable to floods or other hazards.  
(Ord. CO-2006-07, passed 8-7-06)

### § 151.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within floodprone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.  
(Ord. CO-2006-07, passed 8-7-06)

### § 151.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize, prolonged business losses and interruptions;

(E) To minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in floodprone areas;

(F) To help maintain a stable tax base by providing for the sound use and development of floodprone areas; and

(G) To ensure that potential buyers are aware that property is in a special flood hazard area.  
(Ord. CO-2006-07, passed 8-7-06)

### § 151.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**ACCESSORY STRUCTURE** (**APPURTENANT STRUCTURE**). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban **ACCESSORY STRUCTURES**. Pole barns, hay sheds and the like qualify as **ACCESSORY STRUCTURES** on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**ADDITION (TO AN EXISTING BUILDING)**. An extension or increase in the floor area or height of a building or structure.

**APPEAL**. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

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**AREA OF SPECIAL FLOOD HAZARD.** See **SPECIAL FLOOD HAZARD AREA (SFHA)**.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the **BFE** has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides.

**BUILDING.** See **STRUCTURE**.

**CHEMICAL STORAGE FACILITY.** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**DISPOSAL.** As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

**ELEVATED BUILDING.** A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**ENCROACHMENT.** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).** An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

**FLOOD INSURANCE.** The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, issued by the Federal

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Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

**FLOOD INSURANCE STUDY (FIS).** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The **FLOOD INSURANCE STUDY** report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**FLOOD PROOFING.** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**FLOOD ZONE.** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source.

**FLOODPLAIN ADMINISTRATOR.** The individual appointed to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT.** Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations; special purpose ordinances, and other applications of police power which control development in floodprone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**FLOODPRONE AREA.** See **FLOODPLAIN**.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**FREEBOARD.** The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the **FREEBOARD** establishes the regulatory flood protection elevation.

**FUNCTIONALLY DEPENDENT FACILITY.** A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**HAZARDOUS WASTE FACILITY.** As defined in G.S. Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**HIGHEST ADJACENT GRADE (HAG).** The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

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**HISTORIC STRUCTURE.**

(1) Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a certified local government (CLG) program; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program.

(2) Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**LOWEST ADJACENT GRADE (LAG).** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**LOWEST FLOOR.** Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE.** The building value, not including the land value and that of any accessory structures or other improvements on the lot. **MARKET VALUE** may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

**MEAN SEA LEVEL.** For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the original version of the community's flood damage prevention ordinance and includes any subsequent improvements to such structures.

**NON-ENCROACHMENT AREA.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

**POST-FIRM.** Construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

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**PRE-FIRM.** Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map for the area.

**PRINCIPALLY ABOVE GROUND.** At least 51% of the actual cash value of the structure is above ground.

**PUBLIC SAFETY and/or NUISANCE.** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE (RV).** A vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD PROTECTION ELEVATION.** The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

**REMEDY A VIOLATION.** To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages,

implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

**SALVAGE YARD.** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**SOLID WASTE DISPOSAL FACILITY.** Any facility involved in the disposal of solid waste.

**SOLID WASTE DISPOSAL SITE.** As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**SPECIAL FLOOD HAZARD AREAS (SFHA).** The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 151.07.

**START OF CONSTRUCTION.** Includes substantial improvement, and means the date the building permit was issued provided the **ACTUAL START OF CONSTRUCTION**, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The **ACTUAL START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling

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units or not part of the main structure. For a substantial improvement, the **ACTUAL START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**VARIANCE.** A grant of relief from the requirements of this chapter.

**VIOLATION.** The failure of a structure or other development to be fully compliant with the

community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 151.20 through 151.24, and §§ 151.35 through 151.38, is presumed to be in **VIOLATION** until such time as that documentation is provided.

**WATER SURFACE ELEVATION (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur. (Ord. CO-2006-07, passed 8-7-06)

**§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs) if applicable, of the Town of Elizabethtown and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability. (Ord. CO-2006-07, passed 8-7-06)

**§ 151.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Bladen County dated January 5, 2007, which are adopted by reference and declared to be a part of this chapter. (Ord. CO-2006-07, passed 8-7-06)

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**§ 151.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 151.07. Fence, gazebo, flagpole are classified under this and if it is flood resistant, out of a floodway, or if it is a pavement accessory.

(Ord. CO-2006-07, passed 8-7-06)

**§ 151.09 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(Ord. CO-2006-07, passed 8-7-06)

**§ 151.10 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions of this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. CO-2006-07, passed 8-7-06)

**§ 151.11 INTERPRETATION.**

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. CO-2006-07, passed 8-7-06)

**§ 151.12 WARNING; DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Elizabethtown or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. CO-2006-07, passed 8-7-06)

**ADMINISTRATION**

**§ 151.20 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Planning Director or designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this chapter.

(Ord. CO-2006-07, passed 8-7-06)

**§ 151.21 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following

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specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 151.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 151.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 151.07;

(e) The base flood elevation (BFE) where provided as set forth in §§ 151.07, 151.21(U) and (V), or 151.37;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(g) Certification of the plot plan by a registered land surveyor or professional engineer. (OPTIONAL,)

(2) Proposed elevation and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed;

(3) If flood proofing, a flood proofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood proofing measures.

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with § 151.36(D)(4), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like);

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 151.36(F) and (G) are met;

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(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development per available data specified in § 151.07.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(8) Limitations of below BFE enclosure uses (if applicable), (i.e., parking, building access and limited storage only). No utilities in garage, (i.e., washer/dryer).

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of certification of compliance/occupancy.

(2) *Flood proofing certification.* If non-residential flood proofing is used to meet the regulatory flood protection elevation requirements, a flood proofing certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood proofed design elevation of the reference level and all

attendant utilities, in relation to mean sea level. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 151.36(C).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions.* The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/flood proofing certification requirements specified in division (C)(1) and (2) above:

- (a) Recreational vehicles meeting requirements of § 151.36(F)(1);
- (b) Temporary structures meeting requirements of § 151.36(G); and
- (c) Accessory structures less than 150 square feet meeting requirements of § 151.36(H). (Ord. CO-2006-07, passed 8-7-06)

**§ 151.22 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.38.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 151.38.

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood proofed, in accordance with § 151.21(C).

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(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 151.21(C).

(I) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 151.21(C) and 151.36(B).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter.

(K) When base flood elevation (BFE) data has not been provided in accordance with § 151.07, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 151.37(B)(2), in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 151.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection.

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial



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jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of § 151.23.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with § 151.07, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

(Ord. CO-2006-07, passed 8-7-06)

§ 151.23 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner’s last known address or by personal service, stating:

(1) That the building or property is in violation of this chapter;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be

heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. CO-2006-07, passed 8-7-06)

§ 151.24 VARIANCE PROCEDURES.

(A) The Board of Adjustments as established by the Town of Elizabethtown, hereinafter referred to as the “Appeal Board,” shall hear and decide requests for variances from the requirements of this chapter.



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(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the court, as provided in G.S. Ch 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependant facilities if determined to meet the definition as stated in § 151.05, provided the provisions of division (1)(2), (3) and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development provided it meets the requirements stated in this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter; and

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under § 151.05 as a functionally dependant facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

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(I) *Conditions for variances.*

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the special flood hazard area.

(3) The reference level of any structure is elevated or flood proofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The Town of Elizabethtown has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.  
(Ord. CO-2006-07, passed 8-6-07)

***PROVISIONS FOR FLOOD  
HAZARD REDUCTION***

**§ 151.35 GENERAL STANDARDS.**

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, and the like), hot water heaters, and electric outlets/switches.

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(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(I) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 151.24(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to § 151.07.

(K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (Ord. CO-2006-07, passed 8-6-07) Penalty, see § 151.99

#### § 151.36 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in §§ 151.07 or 151.22((K)), the following provisions, in addition to § 151.35 are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.05.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.05. Structures located in A, AE and A1-30 Zones may be flood proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls





substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood proofing elevation shall be in accordance with § 151.21(C). A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.21(C), along with the operational and maintenance plans.

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 151.05.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of § 151.36(D)(1), (2) and (3).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;



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(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(b) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(F) *Recreational vehicles.* Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(G) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal the structure; and



(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures.*

(1) When accessory structures (sheds, detached garages, and the like) are to be placed within a special flood hazard area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;

(e) Accessory structures shall be firmly anchored in accordance with § 151.35(A);

(f) All service facilities such as electrical shall be installed in accordance with § 151.35(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with division (D)(3) above.

(2) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with § 151.21(C). (Ord. CO-2006-07, passed 8-7-06) Penalty, see § 151.99

**§ 151.37 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED EASE FLOOD ELEVATIONS.**

Within the special flood hazard areas designated as approximate Zone A and established in § 151.07, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to §§ 151.35 and 151.36, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(1) If base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or flood proofed in accordance with standards in § 151.22(K) and (L).

(2) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per § 151.07 to be utilized in implementing this chapter.

(3) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in § 151.05. (Ord. CO-2006-07, passed 8-7-06) Penalty, see § 151.99

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**§ 151.38 FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 151.07. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 151.35 and 151.36, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

(1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If division (A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of § 151.36(C); and

(2) The no encroachment standard of division (A) above.

(Ord. CO-2006-07, passed 8-7-06) Penalty, see § 151.99

**LEGAL STATUS PROVISIONS**

**§ 151.50 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.**

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted January 5, 2007 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town Elizabethtown enacted on January 5, 2007 as amended, which are not reenacted herein are repealed.

(Ord. CO-2006-07, passed 8-6-07)

**§ 151.51 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before August 7, 2006; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

(Ord. CO-2006-07, passed 8-7-06)



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**§ 151.99 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or

imprisoned for not more than 30 days, or both. Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Elizabethtown from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. CO-2006-07, passed 8-7-06)



## CHAPTER 152: SUBDIVISION REGULATIONS

Section

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### **GENERAL PROVISIONS**

#### **§ 152.01 FOREWORD: BACKGROUND**

**INFORMATION.**

(A) Most urban expansion takes place in the form of land subdivision created by private

developers for residential, business and industrial users.

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Subdivision of land will be explained in the text of this chapter. Generally, the great bulk of subdivision activity is for residential use and takes place in the growing corridors of existing communities.

(B) The streets, blocks, and lots are among the most permanent features of an urban community. Rarely can past development errors be corrected. The town does not spend large sums of money correcting past errors, while allowing similar errors to be made in new subdivisions that are located within the city's jurisdiction.

(C) Land subdivision regulation is one of the most important tools for carrying out plans for the development of the town area. Land development plans calling for the location of future streets, parks and schools can be incorporated into plans for new subdivisions. It is customary to require the dedication, without cost to the community, of public street right-of-way and open space land. The reservation of sites for public buildings or for later public acquisition is also a frequent practice.

(D) The use of subdivision regulations also protects the community in other ways. Streets that are properly designed and adequately paved will require a minimum amount of maintenance. Requirements for installing essential utilities, paving streets and providing other improvements will discourage the premature and excessive subdivision of land, which would inevitably, result in scattered development and increase the cost of governmental operation. Properly subdivided land stabilizes property values and thus strengthens the local tax base.

(E) The subdivision chapter will bring the developer, the local decision-maker and the homeowners to a common ground of understanding in an urban environment. *Special note:* The developer should consult any locally adopted area thoroughfare plan, and hazard mitigation plan. Reference to these plans by the developer will assist in proper street design and subdivision location. (Ord. 00-01, passed 4-3-00)

### § 152.02 TITLE.

This chapter shall be known and may be called as the "Subdivision Regulations of the Town of Elizabethtown, North Carolina," and may be referred to as the subdivision regulations. (Ord. 00-01, passed 4-3-00)

### § 152.03 PURPOSE.

(A) The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the town. It is further designed to provide for:

- (1) The orderly growth and development of the town;
- (2) The coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways within proposed subdivisions with existing or planned street and highways and with other public facilities;
- (3) The dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of right-of-way or easements for street and utility purposes; and
- (4) The distribution of population and traffic in such a manner that will mitigate hazards, avoid congestion and overcrowding, and will create conditions that substantially promote the public health, safety and the general welfare.

(B) This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land. (Ord. 00-01, passed 4-3-00; Am. Ord. CO-2006-01, passed 3-6-06)

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**§ 152.04 AUTHORITY.**

This chapter is hereby adopted under the authority and provisions of G.S. §§ 160A-371 through 160A-376.  
(Ord. 00-01, passed 4-3-00)

**§ 152.05 JURISDICTION.**

The regulations contained herein, as provided in G.S. Chapter 160A, Article 19, shall govern each and every subdivision within the town and its extraterritorial jurisdiction as shown on the official extraterritorial boundary map.  
(Ord. 00-01, passed 4-3-00)

**§ 152.06 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word “lot” shall include the words “plot”, “parcel”, or “tract”. The word “structure” shall include the word “building”. The phrase “used for” shall include the meaning “designed for”.

**BLOCK.** A piece of land bounded by visible physical barriers such as streets, parks, railroad right-of-ways, streams, and the like.

**BUFFER STRIP.** A strip of land used for plantings designed for the purpose of reducing adverse effects of adjacent land uses which may not be compatible with the use on a particular piece of property, such as reducing noise, pollution, or blocking glaring lights or visual clutter.

**BUILDING SETBACK LINE.** A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

**DEDICATION.** A gift by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed,

dedication must be made by written instrument, and is completed with an acceptance.

**EASEMENT.** A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

**FLOOD HAZARD AREA.** That area indicated in the town’s Hazard Mitigation Plan that is prone to flooding and is delineated on the town’s flood plain map.

**GRADE.** The slope of a road, street, or other public way, specified as a percentage.

**HALF STREET.** A street whose centerline coincides with a subdivision plat boundary, with one-half the street right-of-way width being contained within the subdivision plat. Also, an existing street to which the parcel of land to be subdivided abuts on only one side.

**LOT.** A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

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

**LOT, DOUBLE FRONTAGE.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**LOT, INTERIOR.** A lot other than a corner lot with only one frontage on a street.

**LOT OF RECORD.** A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Bladen County prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.



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**LOT, REVERSED FRONTAGE.** A lot on which the frontage is at right angles or approximately right angles (interior angles less than one 135°) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

**LOT, SINGLE-TIER.** A lot which backs upon a limited access highway, a railroad, a physical barrier or another type of land use and to which access from the rear is usually prohibited.

**LOT, THROUGH.** A continuous (through) lot, which is accessible from both streets upon which it fronts.

**MONUMENTS.** Markers placed on or in the land, which are metal pins not less than three-fourths inch in diameter and 18 inches long or concrete monuments four inches in diameter or square and three feet long.

**NONRESIDENTIAL SUBDIVISION.** A subdivision whose intended use is other than residential, such as commercial or industrial.

**OFFICIAL MAPS or PLANS.** Any maps or plans officially adopted by the Town Council.

**OPEN SPACE.** An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

**PLANNED UNIT DEVELOPMENT.** A development comprising of two or more buildings, such as a group of apartments, where the land is not subdivided into the customary streets and lots, and where commonly owned open space is provided.

**PLANNING BOARD.** The Planning Board of the town.

**PLAT.** A map or plan of a parcel of land, which is to be or has been subdivided.

**PRIVATE DRIVEWAY.** A roadway serving two or fewer lots, building sites or other divisions of land and not intended for public ingress and egress.

**PRIVATE STREET.** Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated to the Town of Elizabethtown or the State of North Carolina and that is not maintained by the town or the state.

**PROPERTY OWNERS' ASSOCIATION.** An incorporated organization operating under land agreements through which:

(1) Each lot owner is automatically a member;

(2) Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

**PUBLIC SEWAGE DISPOSAL SYSTEM.** A single system of sewage collection, treatment, and disposal serving two or more dwelling units or other properties which has been approved by the County Health Department and the appropriate state agency, as provided by law.

**PUBLIC WATER SYSTEM.** Any water supply system furnishing potable water to ten or more residences or businesses, or combination of residences and businesses approved by the appropriate state agency, as provided by law.

**RECREATION AREA or PARK.** An area of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features and accommodates such activities.

**RESERVATION.** A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

**RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another specific use. The usage of the term **RIGHT-OF-WAY** for land platting purposes shall

mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not include within the dimensions or areas of such lots or parcels.

**STREET.** A right-of-way or easement 50 feet or more in width containing a roadway which provides or is used primarily for vehicle circulation.

(1) **LOCAL STREET.** Any link not part of a higher order urban system which primarily serves to provide direct access to abutting land and access to higher systems.

(2) **MAJOR THOROUGHFARES.** Consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(3) **MINOR THOROUGHFARES.** Important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

(4) **PRIVATE STREET.** Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated to the Town of Elizabethtown or the State of North Carolina and that is not maintained by the town or the state.

(5) **PUBLIC STREET.** A street consisting of a publicly dedicated right-of-way and a roadway maintained by the town and the state.

(6) **TRAVELWAY.** That portion of a right-of-way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

(7) The word **STREET** shall include public or private street unless otherwise indicated.

**SUBDIVIDER.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**SUBDIVISION.** All divisions of a tract or parcel of land into two or more lots, buildings sites or other divisions when one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within these definitions, nor be subject to any regulations enacted pursuant to this chapter:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in this chapter.

(2) This division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

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

**SUBDIVISION, MAJOR.** Any subdivision of land not meeting the definition of a minor subdivision.

**SUBDIVISION, MINOR.** Any subdivision that involves no new public streets or roads, no right-of-way dedication, no utility extension, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed.

(Ord. 00-01, passed 4-3-00; Am. Ord. 03-08, passed 11-3-03; Am. Ord. CO-2006-01, passed 3-6-06)

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**§ 152.07 ACCEPTANCE OF STREETS.**

The town shall maintain no public street, nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until the town has approved such final plat.

(Ord. 00-01, passed 4-3-00; Am. Ord. 03-08, passed 11-3-03)

**§ 152.08 THOROUGHFARE PLANS.**

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.

(Ord. 00-01, passed 4-3-00)

**§ 152.09 SCHOOL SITES ON LAND USE PLAN.**

If the Town Council and Planning Board and Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the Subdivision Administrator shall immediately notify the Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Planning Board does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.

(Ord. 00-01, passed 4-3-00)

**§ 152.10 ZONING AND OTHER PLANS.**

Similarly, proposed subdivision must comply in all respects with the requirements of the zoning regulations in effect in the area to be subdivided, and any other officially adopted plans.

(Ord. 00-01, passed 4-3-00)

**§ 152.11 NO PERMITS OR SERVICES UNTIL FINAL PLAT APPROVAL.**

No building permit shall be issued and no street lighting, water, or sewer shall be extended to or connected with any subdivision upon any land within the town or its extraterritorial jurisdiction unless and until the requirements of this chapter have been met and the final plat approved.

(Ord. 00-01, passed 4-3-00; Am. Ord. CO-2006-01, passed 3-6-06) Penalty, see § 152.99

**§ 152.12 PREREQUISITE TO PLAT RECORDATION.**

After the adoption of this chapter the County Register of Deeds may record no subdivision until a final plat has been approved and certified for recordation by the Subdivision Administrator.

(Ord. 00-01, passed 4-3-00)

***PLAT REQUIREMENTS: REVIEW PROCEDURE*****§ 152.25 GENERAL PROCEDURE FOR PLAT APPROVAL.**

(A) After the effective date of this chapter, no plat of any subdivision of land within the town or its extraterritorial jurisdiction shall be filed or recorded until it has been submitted to and approved by the town, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator and attested by the Town Clerk.



(B) The Register of Deeds shall not file or record a plat of a subdivision of land located within the town or its extraterritorial jurisdiction that has not been approved in accordance with these provisions, complete with all appropriate certifications, nor shall the Clerk of Superior Court direct the recording of a plat if the recording would be in conflict with this section.

(Ord. 00-01, passed 4-3-00; Am. Ord. 00-07, passed 8-7-00)

**§ 152.26 STATEMENT BY OWNER.**

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the town.

(Ord. 00-01, passed 4-3-00)

**§ 152.27 EFFECT OF PLAT APPROVAL ON DEDICATIONS.**

Pursuant to G.S. § 160A-374, the approval of a plat shall not be deemed to constitute or effect the acceptance by the town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(Ord. 00-01, passed 4-3-00)

**§ 152.28 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.**

Pursuant to G.S. § 160A-372, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place.

(Ord. 00-01, passed 4-3-00)

**§ 152.29 REVIEW OF MAJOR AND MINOR SUBDIVISIONS.**

(A) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in this chapter. Major subdivisions shall be reviewed in accordance with the procedures beginning in § 152.31. Minor subdivisions shall be reviewed in accordance with the provisions in § 152.30.

(B) However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the abbreviated procedure. The abbreviated procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by any subsequent owner, or individual having an option on, or individual having any legal interest in the original subdivision at the time the subdivision received final plat approval, unless this restriction is waived by the Town Council.

(Ord. 00-01, passed 4-3-00)

**§ 152.30 REVIEW OF MINOR SUBDIVISIONS.**

(A) *Sketch plan for minor subdivisions: requirements for developer.*

(1) Prior to submission of a final plat, the subdivider shall submit to the Subdivision Administrator two copies of a sketch plan of the proposed subdivision containing the following information:

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(a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

(b) The boundaries of the tract and the portion of the tract to be subdivided;

(c) The total acreage to be subdivided;

(d) The existing and proposed use of the land within the subdivision and the exiting uses of landing adjoining it;

(e) The existing street layout and right-of-way width;

(f) Proposed lot layout and size of lots;

(g) The name, address, and telephone number of the owner;

(h) The name, if any, of the proposed subdivision;

(i) Streets and lots of adjacent developed or plated properties;

(j) The zoning classification of the tract and of adjacent properties;

(k) A statement from the County Health Department that a copy of the sketch plan has been submitted to them, if a septic tank system or other onsite water or wastewater system is to be used in the subdivision.

(2) Submission of the sketch plan shall be accompanied by a filing fee as required in § 152.35 of this chapter. The fee schedule shall be set by the Town Council and available in the town hall.

(3) The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter and the Zoning Ordinance. The Subdivision Administrator shall advise the subdivider or his authorized agent of the

regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat.

(4) One copy of the sketch plan shall be retained by the Subdivision Administrator, and one copy shall be returned to the subdivider or his authorized agent.

### (B) *Final plat for minor subdivisions.*

(1) Upon approval of the sketch plan by the Subdivision Administrator the subdivider may proceed with the preparation of the final plat in accordance with the requirements of this chapter.

(2) The subdivider shall submit the final plat, so marked, to the Subdivision Administrator for final plat approval within 15 working days.

(3) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, which cost shall be born by the applicant. The final plat shall conform to the provisions for plats, subdivision, and mapping requirements set forth in G.S. § 47-30 and the *Manual of Practice for Land Surveying in North Carolina*.

(4) Three copies of the final plat shall be submitted. One of these shall be an original linen or mylar tracing, according to the requirements of § 152.34, and one shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the *Manual of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the Bladen County Register of Deeds.

(5) The final plat shall meet the specifications in § 152.34 of this chapter and the checklist table provided in the Appendix.

(6) The following signed certificates shall appear on all three copies of the final plat:

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(a) *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Elizabethtown and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Notary Expires

(b) *Certificate of survey and accuracy.*

In accordance with the *Manual of Practice for Land Surveying in North Carolina*:

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form:

State of North Carolina,                      Bladen County,  
Town of Elizabethtown

I hereby certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book

\_\_\_\_\_, Page \_\_\_\_\_, of the Bladen County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; and that this plat was prepared in accordance with G.S. § 47-30, as amended.

Witness my original signature, registration number, and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Registered Land Surveyor

Official Seal or Stamp

Registration Number

(Notarized)

Following the review by the Subdivision Administrator, the Final Plat shall be approved, conditionally approved with modifications to bring the plat into compliance, or disapproved with reason, within 45 days of its first consideration of the plat.

During the review of the Final Plat the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the Final Plat (if agreed to by the Town Council). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

If the Final Plat is approved, such approval shall be shown on each copy of the plat by the following signed certificate:

(c) *Certificate of approval for recording.*

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Elizabethtown, North

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Carolina and that this plat has been approved for recording in the office of the Bladen County Register of Deeds within 60 days of the date below.

Subdivision Administrator  
 Elizabethtown, North  
 Carolina

\_\_\_\_\_   
 Date

If the Final Plat is disapproved the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the Final Plat does not comply. One copy of such statement of reasons and two copies of the plat shall be returned to the subdivider. If the Final Plat is disapproved, the subdivider may make such changes as will bring the Final Plat into compliance and resubmit same for reconsideration, or appeal the decision to the Board of Adjustments.

If the Final Plat is approved, one original reproducible copy shall be filed with the Register of Deeds. One original reproducible copy and one print shall be retained by the Subdivision Administrator for his records.

The subdivider shall file the approved Final Plat with the Register of Deeds of Bladen County within 60 days of the approval; otherwise such approval shall be null and void.  
 (Ord. 00-01, passed 4-3-00; Am. Ord. 04-1-A, passed 1-5-04)

**§ 152.31 REVIEW OF MAJOR SUBDIVISIONS.**

The sequence of actions prescribed in this section shall be followed sequentially and may be combined only at the discretion of the Planning Board. The actions include the following steps:

(A) Pre-application discussion – Subdivider and Subdivision Administrator.

(B) Existing features plan (site analysis) submission.

(C) On-site walkabout by Subdivision Administrator and applicant.

(D) Pre-submission conference.

(E) Sketch plan submission, review and approval.

(F) Preliminary plat submission, review, and approval.

(G) Final plat submission, review, and approval.  
 (Ord. 00-01, passed 4-3-00)

**§ 152.32 ELEMENTS OF THE PRELIMINARY PLAN PROCESS.**

(A) *Pre-application discussion.* A pre-application discussion is strongly encouraged between the applicant, the site designer(s), and the Subdivision Administrator. The purpose of this informal meeting is to introduce the applicant and the site designer(s) to the town’s zoning and subdivision regulations and procedures and to discuss the applicant’s objectives in relation to the town’s official policies and ordinance requirements.

(B) *Existing features plan (site analysis).* Plans analyzing each site’s special features are required for all proposed subdivisions, as they form the basis of the design process for house locations, lot lines, street alignments, and conservation areas. The subdivider or his/her representative shall bring a copy of the existing features plan to the on-site walkabout. Detailed requirements for the existing features plan shall include, at the minimum:

(1) Contour lines based at least upon topographical maps published by the U.S. Geological Survey;

(2) The location of severely constraining elements such as steep slopes (over 25%), wetlands, watercourses, intermittent streams and 100-year floodplains, and all rights-of-way and easements;

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(3) The location of significant features such as woodlands, treelines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.

(C) *On-site walkabout.* After the existing features plan has been prepared, the Subdivision Administrator shall schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize the Subdivision Administrator with the property's special features, and to provide him an informal opportunity to offer guidance to the applicant regarding the potential house locations, street alignments, and the tentative location of conservation areas.

(D) *Pre-submission conference.* Prior to the submission of the sketch plan or preliminary plat, the applicant shall meet with the Subdivision Administrator to discuss how the severely constraining elements and the significant features, which were identified in the Existing Features Plan, could be applied to the design and layout of the proposed subdivision. At the discretion of the Subdivision Administrator this conference may be combined with the on-site walkabout.

(E) *Sketch plan.*

(1) After the pre-submission conference, a sketch plan shall be submitted for all proposed subdivisions. A sketch plan is drawn to illustrate the initial thoughts about a conceptual layout for house sites, street alignments, and conservation areas – taking into account the special conditions identified in the existing features plan. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. Prior to the preliminary plat submission, the applicant shall submit to the Subdivision Administrator two copies of the sketch plan of the proposed subdivision containing the following information:

(a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

(b) The boundaries of the tract and the portion of the tract to be subdivided;

(c) The total acreage to be subdivided;

(d) The location of all potential conservation areas, using the existing features plan. These areas consist of wetlands, floodplains, slopes over 25%, soils susceptible to slumping, and noteworthy natural, scenic, and cultural resources.

(e) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(f) The proposed street layout with approximate pavement and right-of-way widths;

(g) Proposed lot layout and size of lots;

(h) The name, address, and telephone number of the owner;

(i) The name, if any, of the proposed subdivision;

(j) Streets and lots of adjacent developed or platted properties;

(k) The zoning classification of the tract and of adjacent properties;

(l) A statement from the County Health Department that a copy of the sketch plan has been submitted to them, if a septic tank system or other onsite water or wastewater system is to be used in the subdivision.

(2) The Subdivision Administrator shall review the sketch plan for general compliance with the requirements and goals of this chapter and the Zoning

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Ordinance. The Subdivision Administrator shall advise the applicant, or his authorized agent, of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(3) One copy of the sketch plan shall be retained by the Subdivision Administrator and one copy shall be returned to the applicant or his authorized agent.

(Ord. 00-01, passed 4-3-00)

### § 152.33 PRELIMINARY PLAT FOR MAJOR SUBDIVISIONS.

#### (A) *Submission procedure.*

(1) For every subdivision within jurisdiction established by § 152.05 of this chapter, which does not qualify for the abbreviated procedure, the subdivider shall submit a preliminary plat, which shall be approved by the Planning Board before any construction, or installation of improvements may begin.

(2) Three copies of the preliminary plat, including two black or blue line prints and one original linen or mylar tracing, as well as any additional copies which Planning Board determines are needed to be sent to other agencies shall be submitted to the Planning Department at least 21 days prior to the next regularly scheduled Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat.

(3) Preliminary plats shall meet the specifications in § 152.34 and shall be drawn to a scale of not less than one inch equals 100 feet and on sheet size of 14" x 21", 18" x 24", or 24" x 36". Plats may be placed on more than one sheet with appropriate match lines.

(4) The filing fee as required in § 152.35 of this chapter shall accompany submission of the preliminary plat. The fee schedule shall be set by the Town Council and available at the town hall.

(B) *Review by other agencies.* Concurrent with submission of the preliminary plat to the Subdivision Administrator, the subdivider shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including but not limited to the district highway engineer as to proposed streets, highways, and drainage systems, the County Health Director as to proposed water and sewerage systems, the North Carolina Department of Environment, and Natural Resources, Land Quality Section as to the erosion control requirements; the County Board of Education as to proposed school sites, if any, and any other agency or official designated by the Planning Board for review and recommendation. The Subdivision Administrator will advise the subdivider concerning which agencies are applicable for a given plat.

#### (C) *View procedure.*

(1) The Subdivision Review Committee shall review the plat for compliance with regulations and good planning practices and the Subdivision Administrator shall present the plat and the Committee's recommendations to the Planning Board.

(2) The Subdivision Review Committee will include the Subdivision Administrator, Building Inspector, if available, Public Works Director (if street dedication or construction or utility extension or distribution lines are involved), the highway engineer, or his representative, (if the subdivision is located in the extraterritorial area and involves street dedication or construction), the Chief of Police and Fire Chief, (if the subdivision is located inside the corporate limits and includes 50 or more residential lots), and three members of the Planning Board (two of whom are from inside town and the third is from extraterritorial jurisdiction [ETJ]).

(3) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting, which follows at least 21 days after the plat is submitted and it receives comments from the appropriate agencies. Additionally, all preliminary plats for proposed subdivisions with private street(s) must be approved by Town Council.

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(4) The Planning Board shall review the preliminary plat along with the recommendations of the Subdivision Review Committee and, in writing, recommend approval, conditional approval with conditions to bring the plat into compliance, or disapproval with reasons within 45 days of its first consideration of the plat. Failure of the Planning Board to make a written recommendation within this time period shall be deemed as approval by the Planning Board.

(5) During its review of the preliminary plat the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the plat (if agreed to by the Town Council). If substantial errors are found, the cost shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(6) If the Planning Board disapproves the plat, the reasons therefore shall be stated, in writing, and submitted, along with the original and four prints of the plat, to the subdivider who may make the recommended changes and submit a revised plat for Planning Board approval without paying an additional filing fee.

(7) If the Planning Board approves the preliminary plat conditionally, the conditions and reasons thereof shall be stated, in writing, and, if necessary, the Planning Board may require the subdivider to submit a revised plat. Resubmission of a revised plat does not require an additional filing fee. Resubmission must be made within 60 days and submitted at least one week prior to the board meeting.

(8) If the Planning Board approves the preliminary plat, such approval shall be noted on the three copies of the plat. One print and one original reproducible drawing of the plat shall be returned to the subdivider, or his agent, and one copy of the print shall be retained by the Subdivision Administrator.

(9) Approval of the preliminary plat is authorization for the subdivider to proceed with the construction of the necessary improvements in preparation for the final plat.

*(D) Pre-sale or pre-lease of unrecorded lots permitted upon approval of preliminary plat.*

(1) The subdivider, upon approval of the preliminary plat, may enter into contracts to sell or lease the lots shown on the approved preliminary plat, provided that the contract does all of the following:

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

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

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

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

(2) The provisions of this division (D) shall not prohibit any owner or his or her agent from entering into contracts to sell or lease land by

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reference to an approved preliminary plat for which a final plat has not been properly approved under this chapter or recorded with the Office of the Bladen County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the requirements of this chapter and recorded in the Office of the Bladen County Register of Deeds.

(Ord. 00-01, passed 4-3-00; Am. Ord. 04-1-B, passed 1-5-04; Am. Ord. CO-2006-01, passed 3-6-06)

#### **§ 152.34 FINAL PLAT FOR MAJOR SUBDIVISIONS.**

(A) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted or reviewed by the Planning Board unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only the portion of the preliminary plat, which the subdivider proposes to record and develop at that time. Such portion shall conform to all requirements of this chapter.

(B) *Improvements guarantees.*

(1) *Agreement and security required.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat

approval, the Town Council may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. The subdivider shall be allowed to choose which security or combination of securities that he or she wishes to provide from the choices provided below. The town shall not have the authority to dictate which form of security will be accepted as an improvement guarantee, and shall be required to offer a range of options of types of improvements guarantees from which the subdivider may choose. Once the agreements are signed by both parties and the security required herein is provided, the final plat may be approved, if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees not exceeding 1.2 times the entire cost. Portions of the security deposit may be released as work progresses.

(a) *Surety performance bond(s).* The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The bond(s) shall be payable to the town and shall be in an amount equal to 1.2 times the entire cost of installing all required improvements, as estimated by the town. The duration of the bond(s) shall be until such time as the improvements are accepted by the town.

(b) *Cash or equivalent security.*

1. The subdivider shall deposit cash, a certified check payable to the town, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the Town Council. The amount of deposit shall be equal to 1.2 times the cost of installing all required improvements, as estimated by the town.

2. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the town a copy of an agreement between the financial institution and himself guaranteeing the following:

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A. That the escrow account shall be held in trust until released by the town and may not be used or pledged by the subdivider in any other matter for the term of the escrow; and

B. That in the case of a failure on the part of the subdivider to complete said improvements the financial institution shall, upon notification by the Town Council, and submission by the Council to the financial institution of an engineer’s estimate of the amount needed to complete the improvements, immediately either pay to the town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

(2) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment the town, at its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.

(3) *Release of guarantee security.* The Town Council may release a portion of any security posted as the improvements are completed and approved by the Town Manager. When the Town Manager approves said improvements, and then the Council shall immediately release any security posted.

(C) *Submission procedure.*

(1) “The subdivider shall submit the final plat, so marked, to the Subdivision Administrator who will forward it to the Planning Board for review”.

(2) The final plat shall be prepared by a Registered Land Surveyor currently licensed and

registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. § 47-30 and the *Manual of Practice for Land Surveying in North Carolina.*

(3) Three copies of the final plat shall be submitted. Two of these shall be black or blue line prints and one shall be an original linen or mylar tracing meeting the standards of § 152.39. Material and drawing medium for the original shall be in accordance with the *Manual of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the Bladen County Register of Deeds.

(4) The final plat shall meet the specifications in § 152.34 and must be of a size suitable for recording with the County Register of Deeds. It must be at the same scale and meet the same sheet size requirements as the preliminary plat. Plats may be placed on more than one sheet with appropriate match lines.

(5) The following signed certificates shall appear on all three copies of the final plat:

(a) *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Elizabethtown and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the Town of Elizabethtown.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary

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(b) *Certificate of survey and accuracy.*

In accordance with the *Manual of Practice for Land Surveying North Carolina:*

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map, which were not actually surveyed, must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form:

State of North Carolina, Bladen County,  
Town of Elizabethtown

I hereby certify that this map was (draw by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book , Page \_\_\_\_, of the Bladen County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_, Page \_\_\_\_; and that this plat was prepared in accordance with G.S. 47-30, as amended. Witness my original signature, registration number, and seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

Registered Land Surveyor

Registration Number

(Notarized)

The certificate of the Notary shall read as follows:

“North Carolina, \_\_\_\_\_ County.”

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal this \_\_\_\_ day of \_\_\_\_\_, 20, .

Notary

Seal or Stamp

Expiration

(c) *Certificate of approval for recording.*

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Elizabethtown, North Carolina and that this plat has been approved for recording in the office of the Bladen County Register of Deeds within sixty (60) days of the date below.

Subdivision Administrator

Elizabethtown, North Carolina

Date



(d) *Certificate of approval of the design and installation of streets, utilities, and other required improvements.*

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Elizabethtown has been received and that the filing fee for this plan, in the amount of \$ has been paid.

Subdivision Administrator  
Elizabethtown, North Carolina

Date

(e) *Certificate of approval for private streets.*

I hereby certify that I understand that the Town shall assume no liability for damages to roadway for providing services on private street(s). I understand that the Town will not accept private street(s) into the public system until constructed to Town standards. Furthermore, I hereby certify that a Property Owner’s Association has been created to maintain minimum standards for private street(s).

\_\_\_\_\_  
Date

Owner

\_\_\_\_\_  
Notary

Notary Expires

(D) *Review procedure.*

(1) The Subdivision Review Committee or the Planning Board shall review the final plat at or before its next regularly scheduled meeting and shall approve or disapprove the plat with reasons within 45 days of its first consideration of the plat. During its

review of the final plat the Review Committee or the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the plat (if agreed to by the Town Council). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(2) If the final plat is disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. A copy of this statement, along with the original and three prints of the plat, will be submitted to the subdivider who may make the recommended changes and submit a revise plat for approval or may directly appeal to the Town Council. Resubmission of a revised plat does not require an additional filing fee. Resubmission must be made within 60 days and submitted at least one week prior to the board or committee meeting.

(3) If the final plat is approved conditionally, the conditions and reasons thereof shall be stated, in writing, and, if necessary, the Review Committee or Planning Board may require the subdivider to submit a revised plat.

(4) Whenever a street or right-of-way dedication is involved the Town Council must approve the final plat. If approved by the Review Committee or Planning Board such a plat shall be considered by the Town Council at its regularly scheduled meeting.

(5) Upon approval of the final plat by the Town Council, Review Committee, or Planning Board in the absence of a street or right-of-way dedication, copies shall be distributed as follows. One original tracing and one print of the plat shall be filed with the Town Clerk. Two prints shall be returned to the subdivider, one print shall be retained by the Subdivision Administrator, one print shall be retained by the Town Council or Planning Board, whichever is appropriate, for its records, and one print shall be forwarded to the Register of Deeds to be used as a check print against the recorded plat. One original tracing shall be filed with the Register of Deeds by the applicant.

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(6) The subdivider shall file the approved final plat with the County Register of Deeds within 60 days of Planning Board approval; otherwise such approval shall be null and void.

(Ord. 00-01, passed 4-3-00; Am. Ord. 00-07, passed 8-7-00; Am. Ord. 04-1-B, passed 1-5-04; Am. Ord. CO-2006-01, passed 3-6-06)

**§ 152.35 CONTENTS OF PRELIMINARY AND FINAL PLATS.**

The preliminary and final plats shall depict or contain the information indicated in the checklist table provided in the Appendix at the end of this chapter.

(Ord. 00-01, passed 4-3-00)

**§ 152.36 FILING FEE.**

At the time of submission of the preliminary plat for major subdivisions and at the time of submission of the sketch plan for minor subdivisions, the subdivider shall pay to the Town Clerk a nonrefundable service filing fee as adopted by the Town Council and available in the town hall. This service fee is used to partially defray the cost to the town of processing the subdivisions.

(Ord. 00-01, passed 4-3-00; Am. Ord. 00-07, passed 8-7-00)

**§ 152.37 VACATION OF PLATS.**

(A) Any plat or any part of any plat must be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public right in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public right in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A), (B) and (C) of this section by all owners of the lots in such plat joining in the execution of such writing.

(Ord. 00-01, passed 4-3-00)

**§ 152.38 RESUBDIVISION PROCEDURE.**

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(Ord. 00-01, passed 4-3-00)

***DESIGN STANDARDS AND REQUIREMENTS:  
DEDICATIONS AND RESERVATIONS***

**§ 152.49 GENERAL POLICY REQUIREMENTS.**

(A) (1) Land subject to flooding as denoted in the town's flood plain maps and land deemed by the Planning Board to be uninhabitable for other reasons including, but not limited to, slopes in excess of 25%, slumping soils, wetlands, habitats for endangered species, and historic/archeological sites, shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravated the flood hazard. Such land within a plan shall be set aside for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

(2) Past records of flood levels shall be used to determine sufficient area from the centerline

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of streams to provide adequate protection from the most severe flood of record.

(B) Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further subdivision.

(C) Where a proposed residential subdivision contains or is adjacent to a major highway, it shall be planned so as to avoid having lots fronting on the highway in such a manner as to derive their access from said highway, preferably by providing a marginal access street for these lots or by backing the lots to the highway.

(D) Where a proposed subdivision contains or is adjacent to a railroad right-of-way, it shall be planned so as to avoid having residential lots front on a street, which parallels and is adjacent to the railroad right-of-way.

(E) Subdivision showing reserve strips controlling access to public ways will not be approved except when the control and disposition of land comprising such strips is placed within the town's jurisdiction under conditions meeting the approval of the Subdivision Administrator.

(F) All subdivided land shall be part of a usable and numbered lot or it shall be reserved as permanent open space. All major subdivisions shall be required to reserve a minimum of 5% or more of the gross land area as permanent open space, subject to the review of the Planning Board.

(G) If the entire area shown on an approved preliminary plat is not to be recorded at the same time as one unit, but instead, sections or units of the entire subdivision are to be recorded at subsequent time intervals, then the unit boundaries shall be so designated as to permit each unit recorded to function independently of the unit to follow it in the proposed recording schedule of the subdivider. Temporary turnarounds shall be constructed by the developer, as required by the town, at the ends of streets, which are presently dead-end, but are planned as through streets when the adjacent unit ultimately recorded.

(H) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer, and soils expert determine that the land is suitable for the purpose proposed.

(I) The names of the subdivision and street shall not duplicate nor closely approximate the names of any existing subdivision or streets within the town or its extraterritorial jurisdiction. The Town Council has final say regarding names.  
(Ord. 00-01, passed 4-3-00)

**§ 152.50 UTILITIES.**

(A) Utilities described in this section shall include, but not be limited to water and sewer lines, electrical distribution systems, and telephone and cablevision facilities. The utility companies shall be provided with copies of the preliminary plat by the subdivider and shall be expected to work with the subdivider in designing the utilities plan for the subdivision. Underground installation of utility lines is required unless the Subdivision Administrator determines that circumstances exist that make this requirement impractical.

(B) *Requirements for participation in residential development incentive program.* The developer must meet the following criteria in order to qualify for incentives listed in §§ 152.50(C)(3), (C)(4) and 152.52(G):

(1) Development must be contiguous to or within the town limits and have a signed or valid annexation petition if applicable. Annexation petition must be approved before incentive application is considered.

(2) The developer must have town-approved engineering plans and as-built specifications.

(3) The development must be classified as a major subdivision defined as greater than five acres of land and seven or more lots. Seven or more lots must be developable for residential use.

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(4) Funds are available in the town's current fiscal year budget.

(5) Incentive application must be approved prior to or in conjunction with the final plat.

(6) All developable lots must front a public street built to town standards.

(C) *Creation of water and sewer development account.*

(1) Annually the Town Council may allocate funds it deems appropriate to an account within the Utility Fund for the town's participation in water and sewer development, expansion and improvement.

(2) The town will pay for the extension of water/sewer lines up to a diameter of eight inches for a maximum distance of 300 feet.

(3) The town will reimburse developers all water and sewer tap fees within major subdivisions of seven or more lots for a period of seven years. Rebates will be given after the house is occupied and water and sewer service has been established with the town.

(4) As an incentive to encourage the subdivider to select the neo-traditional option for street right-of-way and paving widths, the town will assume up to 10%, or a maximum of \$50,000 (whichever is less), of the installation costs for the required water and sewer lines in subdivisions approved for development within the town limits. This is in addition to § 152.50(C)(2) and (3).

(D) *Connection to public water and sewer lines.*

(1) Each lot in all subdivisions, within the corporate limits of the town shall be provided with an extension of the municipal water and sanitary sewer systems.

(2) No subdivision shall be connected to the public water and sewer system(s) and no neo-traditional reimbursements will be made until all

requirements of this chapter have been met and all required improvements have been installed in accordance with the final plat for the entire subdivision, or for the current and all previous phases, if the subdivision is a phased development.

(E) *Where public water and sewer is not available.* All lots in subdivisions not connected to the town water and sewer systems shall have a suitable source of water supply and sanitary sewage disposal which complies with the regulations of the appropriate agencies.

(Ord. 00-01, passed 4-3-00; Am. Ord. 00-3, passed 5-1-00; Am. Ord. 04-1-B, passed 1-5-04; Am. Ord. CO-2006-01, passed 3-6-06) Penalty, see § 152.99

**§ 152.51 STREETS; GENERAL STANDARDS.**

(A) *Street layout.*

(1) In any new subdivision the street layout shall conform to the arrangement, width and location indicated by an official plan or map for the town. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

(2) Residential collector and local streets and roads shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

(3) The proposed street layout shall be made according to good land planning practice for the type development proposed and shall be coordinated with the street system of the surrounding areas. The arrangements of streets in new subdivision shall make provision for the continuation of the principal existing streets in adjoining subdivisions or, when adjoining property is not subdivided, their proper projection insofar as they may be necessary for vehicular

circulation in the future. The street and alley

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arrangement must be so designated as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. When a new subdivision adjoins subdivided land, the new streets shall be carried to the boundaries of the tract proposed to be subdivided, except where it is determined by the Planning Board that certain streets may not be required to be so extended.

(4) Proposed streets should be adjusted to the contour of the land so as to produce usable lots and streets shall be kept to a minimum.

(B) *Intersections.*

(1) Intersection of local streets with major streets shall be kept to a minimum.

(2) An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the NC Division of Highways.

(3) All connections of private streets to public streets must be approved by the NCDOT or Town Council prior to preliminary plat approval.

(C) *Cul-de-sacs.*

(1) As a feature of subdivision design, cul-de-sacs should be discouraged and kept to a minimum. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless an exception is granted by the Planning Board.

(2) Permanent dead-end streets shall not exceed 400 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurement shall be from the point where the centerline of the dead-end street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sacs.

(D) *Half-streets.*

(1) The dedication of half-streets of less than 50 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

(2) However, in circumstances where more than 50 feet of right-of-way is required, a partial width right-of-way, not less than 50 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(E) *Alleys.*

(1) Alleys may be required in all blocks along the rear line of business property, in multiple-family residential or industrial blocks, if, in the opinion of the Planning Board, alleys are needed to service these areas.

(2) All dead-end alleys shall be provided with a turnaround in accordance with town standards.

(3) Sharp changes in alignment and grade shall be avoided. All alleys shall be designed in accordance with North Carolina Department of Transportation standards.

(4) No alley shall have access from a major street or highway, but shall have its access points confined to minor, lightly traveled streets.

(F) *Street names and signs.*

(1) Proposed streets, which are obviously in alignment with other existing and named

streets, shall bear the assigned name of the existing streets.

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(2) In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the town and the ETJ irrespective of the use of a suffix such as a street, road, drive, place, court, and the like. Street names shall be subject to the approval of the Town Council.

(3) The subdivider shall be required to provide and erect metal street name signs to town or county standards, as appropriate, at all intersections and at any other point within the subdivision deemed necessary by the town. Subdividers shall assume the total cost of all new signs in addition to any installation costs involved.

(G) *Street dedication.*

(1) All public streets inside the corporate limits of the town shall be dedicated to the town and all public streets in the extraterritorial area shall be constructed to the standards necessary for acceptance into the state highway system or the standards in this chapter, whichever is stricter in regard to each particular item, and shall be added to the state system, if eligible. If such a public street is not eligible for acceptance into the state system, due to an inadequate number of lots or residences, it shall, nevertheless, be dedicated to the public.

(2) All public streets shall be built to the standards of this chapter and all other applicable standards of the town and/or the North Carolina Department of Transportation.

(H) *Street lights.* All subdivisions within the corporate limits of the town shall have streetlights installed, according to town policy.

(I) *Street trees.*

(1) Developers are encouraged to plant deciduous shade trees along both sides of all streets in new subdivisions. Such trees should be planted within the right-of-way areas and be spaced no more than 40 feet apart.

(2) Developers who choose to exercise the “bonus option” for street right-of-way and paving widths, described in § 152.52(A) (1), shall be required to plant deciduous shade trees along both sides of all streets in new subdivisions. Such trees shall be planted within the right-of-way areas and be spaced no more than 40 feet apart.

(J) *Disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. § 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street shall be included with the final plat.

(K) *Access to adjacent properties.* Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided. In areas subdivided and recorded prior to the adoption of this ordinance (such as, lots of record) which do not have direct access to a public road or highway, a private drive or roadway may provide access for further division meeting the definition of a minor subdivision in *and only if* a permanent easement for such drive or roadway, with a minimum right-of-way width of 20 feet, is recorded with the Register of Deeds and depicted as such on the final plat.

(L) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Roads, Minimum Construction Standards and the standards of this ordinance, whichever are stricter in regard to each particular item.

(M) *Private streets.*

(1) Private streets shall be allowed within the jurisdiction of this chapter only if they meet the following criteria:

(a) All private streets shall be designated as such on the preliminary and final plats.

(b) A right-of-way maintenance agreement, satisfactory to the Town Manager, must be recorded by a property owners' association in the office of the Register of Deeds to ensure proper maintenance. The agreement shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. In addition, all property transfer instruments must contain reference to that agreement, as well as a statement indicating that the private street does not meet public standards for maintenance and will not be considered for maintenance unless improved by the property owners' association to those standards. This agreement shall also specify that unless the street is privately maintained in condition for safe passage of public service and emergency vehicles, the town may provide such maintenance, with charges therefor becoming a lien on the properties served, dividing among them proportionate to their assessed tax valuation.

(2) A legally responsible organization such as a property owners' association shall be established to maintain a private street(s). Documents to assure private responsibility of future maintenance and repair by property owners' association shall be provided to the town prior to final plat approval. (Ord. 00-01, passed 4-3-00; Am. Ord. 03-08, passed 11-3-03; Am. Ord. 04-1-B, passed 1-5-04) Penalty, see § 152.99

(A) (1) *Rights-of-way and pavement widths.*

<i>Type of Streets</i>	<i>Right-of-Way Widths</i>	<i>Pavement Widths</i>
All streets located within the extra-territorial jurisdiction of the town	50 feet	30 feet <sup>1</sup> 20 feet <sup>2</sup>
Local or minor residential streets, marginal access streets, and cul-de-sacs within the town limits:		
Standard option	50 feet	30 feet <sup>1</sup> 22 feet <sup>2</sup>
Bonus option <sup>3</sup>	40 feet	20 feet
Alleys	22 feet	18 feet

**§ 152.52 STREETS: DESIGN STANDARDS.**

In general the design of all public streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as described in its publication "Subdivision Road Minimum Construction Standards." However, within the town limits, a subdivider may choose the option of constructing public streets, from the following list of standards, which have narrower rights-of-way and pavement widths than those required by the Department of Transportation.

1 Curb and gutter section measured face to

2 Shoulder section, with four-foot

3 In return for the reduced standards for

(2) Public street design shall include provisions for proper drainage (see § 152.57). This requirement may be partially waived where suitable alternative treatments are available and agreed to by the Subdivision Administrator and the designing engineer.

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(B) *Grades.* Public street grades shall be as follows:

- (1) Street grades shall be not more than 10% or less than .5%.
- (2) Grades approaching intersections shall not exceed 5% for a distance of not less than 100 feet from the centerline of the intersection.
- (3) Street grades shall be established wherever practical in such a manner as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.
- (4) All changes in street grades shall be connected by a vertical curve of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major and collector streets, and one-half this minimum for all other streets.

(C) *Horizontal curves.*

(1) When a continuous street centerline deflects at any point by more than 10°, a circular curve shall be introduced having a radius of a curvature on said centerline of not less than the following:

<i>Type of Street</i>	<i>Radius of Curvature</i>
Major streets and highways	500 feet
Collector streets	300 feet
Minor streets	150 feet

(2) Proper superelevation shall be provided for curves on major streets and highways.

(3) *Tangents.* A tangent of not less than 100 feet in length shall be provided between curves.

(D) *Grading.* All public streets shall be cleared and graded to a sufficient width so as to provide

adequate shoulders and pedestrian ways. Finished grades, cross-section, and profile shall be in accordance with town standards.

(E) *Paving (public street).* Road base and paving shall be installed in accordance with town specification and standards.

(1) There shall be a minimum of six inches of sand clay base on all public streets. More than six inches of base may be required if deemed necessary by the Subdivision Administrator.

(2) There shall be a minimum of one and one-half inches of approved paving material on all public streets. More than one and one-half inches of paving may be required if deemed necessary by the Subdivision Administrator. The paving requirements for streets intended for dedication to and maintenance by the North Carolina Department of Transportation shall be in accordance with the construction standards of the North Carolina Department of Transportation, Division of Highways.

(F) *Intersections.* Street intersections shall be laid out as follows:

(1) Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than a 75° angle.

(2) Minor or collector street intersections with a major highway shall be at least 800 feet apart measured from centerline to centerline.

(3) Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of a intersection of less than 90°, a greater radius may be required. Where a street intersects a highway, the design standards of the North Carolina Department of Transportation will apply.

(4) Proper sight line shall be maintained at all intersections of streets. Measured along the centerline, there shall be a clear sight triangle of 150 feet for major streets and 75 feet on all streets from the point of intersection, unless the Zoning Ordinance

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specifies differently. This shall be indicated on all plans. No building or obstruction shall be permitted in this area.

(G) *Sidewalks.* When a subdivider selects the neo-traditional option for street rights-of-way and pavement widths, described in § 152.52(A)(1), he shall be required to construct sidewalks on both sides of the streets. Should the developer choose the neo-traditional option, then the town shall participate in one-half the sidewalk construction cost. Where the subdivider chooses the traditional option for street rights-of-way and pavement widths, described in § 152.52 (A)(1), he may still be required, by the Planning Board, to construct sidewalks on one or both sides of the streets in areas likely to be subject to heavy pedestrian traffic, such as near schools and shopping areas. Sidewalks shall be constructed to a minimum width of four feet and shall consist of a minimum thickness of four inches of concrete – six inches at driveway crossings. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Wherever possible, sidewalks should be separated from the edge of the street pavement by a minimum distance of four feet.

(H) *Wheelchair ramps.* In accordance with G.S. § 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow. (Ord. 00-01, passed 4-3-00; Am. Ord. 00-03, passed 5-1-00; Am. Ord. 03-08, passed 11-3-03) Penalty, see § 152.99

**§ 152.53 BLOCKS.**

Blocks shall be laid out with special attention given to the type of use contemplated, zoning requirements, needs for vehicular and pedestrian circulation, control and safety of street traffic,

limitations and opportunities of topography, and convenient access to water areas.

(A) Intersecting streets shall be laid out as such intervals that block lengths are not more than 800 feet nor less than 400 feet, except where, in the opinion of the Planning Board, existing conditions justify a modification of this requirement.

(B) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required, to separate residential development from through traffic or nonresidential uses.

(C) Pedestrian ways or crosswalks, not less than ten feet in width, shall be provided near the center and entirely across any block 800 feet or more in length, or at the end of a cul-de-sac, where deemed essential, in the opinion of the Planning Board, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, transportation or other similar facilities.

(D) Block numbers shall conform to the town or county street numbering system, as appropriate. (Ord. 00-01, passed 4-3-00) Penalty, see § 152.99

**§ 152.54 LOTS.**

(A) (1) All lots shall conform to the area and bulk requirements set forth in the town Zoning Ordinance. Whenever there is a discrepancy between the minimum standards or dimensions noted herein and those contained in the zoning ordinance, building codes or other official regulations, the highest or most restrictive standards shall apply.

(2) Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the Zoning Ordinance. It is not sufficient merely for the average lot to meet zoning requirement.

(B) General standards for lots shall be as follows:

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(1) Lot size, shapes and location shall be made with due regard to topographic conditions, contemplated use and the surrounding area.

(2) Every lot shall front or abut on a street for a minimum distance of 50 feet.

(3) Corner lots for residential use shall have an extra width of ten feet to permit adequate building setback from side streets.

(4) Double frontage and reverse frontage lots shall be avoided except where necessary to separate residential development from through traffic or nonresidential uses.

(5) Side lot lines shall be substantially at right angles or radial to street lines.

(6) Flag-shaped lots shall only be permitted in those cases where the minimum area, width, depth and street frontage requirements of the zone in which the property is located is complied with.

(7) Lots shall meet any applicable requirements of the County Health Department.

(C) All lots which are located within the territorial jurisdiction of the town and which have public water and sewer service provided shall conform to the area and bulk requirements set forth in Chapter 51. Where public water and/or sewer service is not provided, the following requirements shall apply:

(1) Where public water but not public sewer is provided, said lot shall have an area of not less than 15,000 square feet; a mean lot width of not less than 100 feet; and a mean lot depth of not less than 125 feet.

(2) Where neither public water nor public sewer is provided, said lot shall have an area of not less than 20,000 square feet; a mean lot width of not less than 120 feet; and a mean lot depth of not less than 150 feet.

(Ord. 00-01, passed 4-3-00; Am. Ord. 03-08, passed 11-3-03) Penalty, see § 152.99

#### § 152.55 EASEMENTS.

(A) *Utility easements.* Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 12 feet in width, or wider as required by the companies or agencies involved, such as, telephone, gas, or electric power. A ten foot wide utility easement shall be reserved for future public utilities along each side of all private streets.

(B) *Drainage easements.* Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or frontage roads may be required in connection therewith.

(C) *Public maintenance.* Lakes, ponds, creeks, flood plains and similar areas will be accepted for maintenance by the town only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. Such areas must be approved by the Planning Board before approval of the final plat.

(D) *Gated/controlled subdivisions.* All gated or controlled access subdivisions within the jurisdiction of this chapter must provide continuous accessibility to subdivision for provision of public service and emergency vehicles.

(Ord. 00-01, passed 4-3-00; Am. Ord. 04-1-B, passed 1-5-04) Penalty, see § 152.99

#### § 152.56 BUFFER STRIPS.

It is recommended that in residential districts a buffer strip of at least 50 feet in depth, in addition to the normal lot depth required, be provided adjacent to all railroads, limited access highways and commercial developments. This strip shall be part of the platted lots, but shall have the following restriction lettered on the face of the plat: "This strip reserved for the

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planting of evergreen shrubs and/or trees by the owner; the building of structures hereon is prohibited.”; or in the case of commonly-owned property, shall be deeded to the homeowners’ association.”

(Ord. 00-01, passed 4-3-00) Penalty, see § 152.99

**§ 152.57 STORM WATER DRAINAGE.**

The subdivider shall provide a surface water drainage system constructed to town standards and to North Carolina Department of Transportation standards as reflected in the “Handbook for the Design of Highway Surface Drainage Structures”, or the current equivalent, subject to review by the town engineer. The following shall apply:

(A) No surface water shall be channeled or directed into a sanitary sewer.

(B) Where feasible, in the opinion of the Subdivision Administrator, the subdivider shall connect to an existing storm drainage system by providing all grading and all structures necessary to carry the water to the storm drainage system. Drainage and construction of drainage structures shall conform to town specifications and standards.

(C) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system, approved and accepted by the town, shall be designed and constructed to protect the development from water damage.

(D) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, Chapter 113A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4 and any locally adopted erosion and sedimentation control ordinances.

(E) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance.

(F) Where drainage ditches are provided and grades exceed 4%, the ditches shall be paved in accordance with town standards.

(G) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(H) All storm water infrastructure information shall be included on preliminary plat to be approved by the town and shall not exceed the maximum capacity of existing public infrastructure. (Ord. 00-01, passed 4-3-00; Am. Ord. 04-1-B, passed 1-5-04) Penalty, see § 152.99

**IMPROVEMENTS**

**§ 152.65 IMPROVEMENT COSTS.**

Prior to approval of the final plat, the following improvements shall be installed, bonded for or otherwise guaranteed according to § 152.31. The subdivider or developer shall assume the entire cost of all improvements, whether they be sewer line, water line extensions or street paving, listed in this section, unless he shall qualify for and select the “bonus option” for street right-of-way paving widths §§ 152.52 (A)(1) and 152.50 (B). Any professional service required in this chapter as a condition of approval of a subdivision plat, such as soil percolation tests, shall be also paid for by the subdivider.

(Ord. 00-01, passed 4-3-00) Penalty, see § 152.99

**§ 152.66 GENERAL IMPROVEMENT REQUIREMENTS.**

No construction or installation of improvements shall commence in a proposed major subdivision until the preliminary plat has been approved, or until the

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final plat has been approved in a minor subdivision, and all plans and specifications have been approved by the appropriate authorities. All proposed subdivision located within the territorial jurisdiction of the town shall comply with the following improvement requirements:

(A) *Permanent monuments and markers.*

Permanent monuments shall be placed at all block corners or at the tangent points of curves connecting intersecting street lines, at the points of curvature and tangency in curved street lines, at all corners in the exterior boundary of the subdivision and at such other points as may be necessary to make the retracing of the lines as shown upon the final plat thereof reasonably convenient. The location of all such monuments shall be clearly designated on said final plat. All lot corners shall be marked by permanent markers. Unless otherwise specified by this chapter, the “Manual of Practice for Land Surveying”, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors shall apply when conducting surveys for subdivisions, in placing monuments and markers, and the like.

(B) *Required improvements.* In addition to survey monuments and markers, other improvements must be completed prior to final plat approval, or their completion provided for as described in division (D) below. These required improvements include the construction of streets, storm drainage facilities, and public water and sewer lines; the planting of street trees; and the installation of street name signs.

(C) *Construction guarantee.* In lieu of completed improvements no final plat shall be approved or accepted for recording by the Register of Deeds until the required improvements have been constructed in a satisfactory manner and approved by the Subdivision Administrator or, in lieu of such prior construction, the Town Council may accept a bond with surety and condition satisfactory to the town, cash, a certified letter of credit from a local bank, in an amount equal to 120% of the estimated cost of the installation of the required improvements, whereby improvements may be made and utilities installed

without cost to the town or county in the event of default by the subdivider, owner, or contractor. (see § 152.33(B)). The owner of a subdivision shall require the contractor constructing streets, curbs, gutters, drainage facilities, water and sewer lines to give bond guaranteeing the work against defects for a period of one year from the date of completion of such construction.

(Ord. 00-01, passed 4-3-00) Penalty, see § 152.99

## **ADMINISTRATION AND LEGAL PROVISIONS**

### **§ 152.75 SUBDIVISION ADMINISTRATOR.**

The holder of the office of Zoning Administrator is hereby appointed to serve as Subdivision Administrator.

(Ord. 00-01, passed 4-3-00)

### **§ 152.76 VARIANCE.**

(A) The Zoning Board of Adjustment, after reviewing the recommendation of the Planning Board and after holding a public hearing, may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance and only to the extent that is absolutely necessary and not to an extent which would violate the intent of this chapter. In granting any variance, the Zoning Board of Adjustment shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the possible effect of the proposed subdivision upon traffic conditions in the vicinity.

(B) No variance shall be granted unless the Zoning Board of Adjustment finds all four of the following conditions to exist:

(1) Where because of severe topographic or other condition peculiar to the site, strict adherence to the provisions of this chapter would cause an

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unnecessary hardship and would deprive the applicant of the reasonable use of his land.

(2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this chapter.

(4) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.  
(Ord. 00-01, passed 4-3-00)

**§ 152.77 SEPARABILITY.**

Should any section or provisions of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.  
(Ord. 00-01, passed 4-3-00)

**§ 152.78 VESTED RIGHTS.**

A landowner submitting a preliminary or final plat for approval may declare he is seeking to acquire a vested right pursuant to G.S. § 160A-385.1 and the Zoning Ordinance by completing the appropriate form and following the procedure described in the Zoning Ordinance.  
(Ord. 00-01, passed 4-3-00)

**§ 152.79 DEVELOPMENT MORATORIA.**

The town may adopt temporary moratoria on any development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the

moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

(A) *Notice of public hearing.* Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Town Council shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the published newspaper notice and hearing requirements required for an amendment to the zoning ordinance.

(B) *Application of moratorium on existing/pending permits and approvals.* Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to development set forth in a site-specific or phased development plan approved pursuant to a granted vested right, or to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the town prior to the call for the public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

(C) *Contents of ordinance adopting moratorium.* Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

(1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the town and why those alternative courses of action were not deemed adequate.

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(2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(D) *Extension of moratorium.* No moratorium may be subsequently renewed or extended for any additional period unless the town shall have taken all reasonable and feasible steps proposed to be taken by the town in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in division (C), including what new facts or conditions warrant the extension.

(E) *Judicial review.* Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this division (E) shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the town shall have the burden of showing compliance with the procedural requirements of this section.

(Ord. CO-2006-01, passed 3-6-06)

## § 152.99 VIOLATIONS AND PENALTIES.

(A) *Violations.* After adoption of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the office of the County Register of Deeds (excepting the pre-sale and pre-release of unrecorded lots referencing an approved preliminary plat and subject to the requirements of § 152.33(D)), shall be guilty of a violation and guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty.

(B) *Criminal penalties.* The violation of any provision of this chapter shall subject the offender to criminal prosecution and, upon conviction, to fine and/or imprisonment set to the maximum allowed by G.S. § 14-4.

### (C) *Civil penalties.*

(1) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$500 per violation.

(2) A citation for said civil penalty shall be issued by the Police Department.

(3) Each citation for a civil penalty must be paid within 72 hours of issuance.

(4) The town, through its attorney or other official designated by the Town Council, may enjoin illegal subdivision transfer, or sale of land by action for injunction or ensure compliance through an order of abatement. If the violator fails or refuses to comply with an injunction or order of abatement within the time allowed by the court, he may be cited



for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement.

(D) *Denial of building permits.* The town may cause building permits to be denied for lots that have been illegally subdivided.

(E) *Continuing violation.* Each day's continuing violation of this chapter after notification of such violation shall be a separate and distinct offense and subject to additional fine or civil penalty.

(F) *Equitable remedies.* Notwithstanding division (C) above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(G) *Combination of remedies.* Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this ordinance by using any one, all, or a combination of remedies.  
(Ord. 00-01, passed 4-3-00; Am. Ord. CO-2006-01, passed 3-6-06)

## APPENDIX: CHECKLIST FOR PRELIMINARY PLAT AND FINAL PLAT

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
<b>The block containing:</b>		
Property designation	X	X
Location (including township, county and state)	X	X
Date or dates survey was conducted and plat prepared	X	X
A scale of drawing in feet per inch listing in words or figures	X	X
A bar graph	X	X
Name, address, registration number and seal on the registered land surveyor	X	X
The name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Corporate limits, township boundaries, county lines in the subdivision tract	X	X
The names, address and telephone number of all owners, mortgagees, land planners, architects, and professional engineers responsible for the subdivision	X	X
The registration numbers and seals of the professional engineers	X	X
North arrow and orientation	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	X
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of the existing boundary lines of adjoining lands	X	X
The names or owners of adjoining properties	X	X
The names of any adjoining subdivision of record or proposed and under review	X	X
Minimum building setback lines	X	X
The zoning classification of the tract to be subdivided and adjoining properties	X	X



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**Subdivision Regulations**

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Existing property lines on the tract to be subdivided and on adjoining properties	X	X
Existing building or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X
Proposed lot lines, consecutively numbered lot and block numbers, and appropriate dimension	X	X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural features affecting the site	X	X
The exact location of the flood hazard, floodway and floodway fringe areas	X	X
Copy of protective covenants, any proposed deed restrictions, and property owners' association documents, if any	X	X
<b>The following data concerning streets:</b>		
Proposed streets, proposed thoroughfares in accordance with § 152.08	X	X
Rights-of-way, location and dimensions	X	X
Pavement widths	X	X
Approximate grades	X	X
Design engineering for data for all corners and curves	X	X
Typical street cross section	X	X
Street names	X	X
Street maintenance agreement in accordance with § 152.51(G) and (J)		X
If any street is proposed to intersect with a state maintained road and evidence that the subdivider has obtained approval from the NCDOT	X	



**Elizabethtown - Building and Land Use Regulations**

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Type of street dedication; all streets must be designated either “public” or “private.” Where public streets are involved which will be dedicated to the town, the subdivider must submit all street plans to the town approval. Where public streets are involved which will not be dedicated to the town, the subdivider must submit the following documents to the North Carolina Department of Transportation, District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicated by percent grade, PI station and vertical curve length on site plan layout (the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist); typical section indicating the pavement design, width and slope, width and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	X	X
<b>The location and dimensions of all:</b>		
Utility and other easements	X	X
Riding trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	X	X
Areas to be dedicated or reserved for public use	X	X
Areas to be used for purposes other than residential with the purpose of each stated	X	X
The future ownership (dedication or reservation for public use to government body, for owners to duly constituted homeowners’ association, or for tenants remaining in the subdivider’s ownership) of recreation and open space lands	X	
Sanitary sewers	X	X
Storm sewers	X	X
Water distribution lines	X	X
Natural gas lines	X	X
Telephone lines	X	X
Electric lines	X	X
Plans for individual water supply and sewage	X	X

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Profiles based upon mean sea level datum for sanitary sewers and storm sewers	X	

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**Elizabethtown - Building and Land Use Regulations**

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
<b>Site calculations including:</b>		
Acreage in total tract to be subdivided	X	X
Acreage in parks and recreation areas and other non-residential uses	X	X
Total number of parcels created	X	X
Acreage in the smallest lot in the subdivision	X	X
Linear feet in streets	X	X
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	X	X
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and set back line, including dimensions, bearings or deflection angles, radii, central angles and tangent distance for the centerline of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute		X
The accurate locations and descriptions of all monuments, markers and control points		X
A copy of the erosion control plan shall be submitted to the appropriate authority, if such a plan is required	X	X
Where streets are dedicated to the public but not accepted into the town or state system before lots are sold, a statement explaining the status of the street in accordance with § 152.51(J)		X
Certificates of approval, ownership and dedication, survey and accuracy, and Division of Highway's district engineer (if applicable)		X
<b>Additional documents:</b>		
Copy of contract for pre-sale or pre-lease of lots in unrecorded subdivision based on preliminary plat approval (in draft form) prepared in compliance with § 152.33(D), where subdivider intends to pre-sale or pre-lease lots prior to final plat approval	X	

(Ord. 00-01, passed 4-3-00; Am. Ord. 04-1-B, passed 1-5-04; Am. Ord. CO-2006-01, passed 3-6-06)

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## CHAPTER 153: ZONING CODE

### Section

#### *Planning and Zoning Commission*

- 153.01 Created
- 153.02 Composition
- 153.03 Appointment
- 153.04 Terms of office; vacancies
- 153.05 Qualifications and compensation
- 153.06 Removal of members
- 153.07 Organization
- 153.08 Rules; records; meetings; quorums
- 153.09 Powers and duties
- 153.10 Basic studies; cooperation of town officials; right of entry
- 153.11 Public hearings
- 153.12 Publicity and education
- 153.13 Committees, employees and expenditures
- 153.14 Conflict of interest
- 153.15 Comprehensive plan; public hearing thereon
- 153.16 Authority as to contributions
- 153.17 Annual report; analysis of expenditures and budget request

#### *Redevelopment Commission*

- 153.25 Redevelopment Commission; powers and duties

#### *Zoning Vested Right*

- 153.35 Purpose
- 153.36 Definition
- 153.37 Establishment of a zoning vested right
- 153.38 Approval procedures and approval authority
- 153.39 Duration
- 153.40 Termination
- 153.41 Voluntary annexation
- 153.42 Limitations

***PLANNING AND ZONING COMMISSION***

**§ 153.01 CREATED.**

The town hereby creates a Planning and Zoning Commission in accordance to G.S. Chapter 160A, Article 19.  
(’82 Code, Ch. 14, Art. II, § 21) (Ord. passed 6-1-81)

**§ 153.02 COMPOSITION.**

There shall be a Planning and Zoning Commission consisting of nine members. Seven members shall reside within the town or shall own or

operate a business within the town. Two members shall reside within the town's extraterritorial planning area or shall own or operate a business within the town's extraterritorial planning area.  
(’82 Code, Ch. 14, Art. II, § 22) (Ord. passed 6-1-81; Am. Ord. passed 6-6-86; Am. Ord. passed 11-5-90; Am. Ord. 97-8, passed 7-8-97)

**§ 153.03 APPOINTMENT.**

The seven members of the Planning and Zoning Commission that reside within the corporate limits of the town or that own or operate a business within the town shall be appointed by the Mayor and approved by the majority of the Town Council. The two members of the Planning and Zoning Commission that reside within the extraterritorial planning area or that own or operate a business within the town's extraterritorial planning area shall be appointed by the County Board of Commissioners. If, despite

good faith efforts, sufficient numbers of residents of the extraterritorial planning area cannot be found to fill the seats reserved for residents of such area, then the County Board of Commissioners may appoint other residents of the county (including residents of the town) to fill these seats. If the County Board fails to make these appointments within 90 days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.

('82 Code, Ch. 14, Art. II, § 23) (Ord. passed 6-1-81; Am. Ord. passed 11-5-90; Am. Ord. 97-8, passed 7-8-97)

#### **§ 153.04 TERMS OF OFFICE; VACANCIES.**

(A) Each in-town member of the Planning and Zoning Commission shall be appointed for a term of four years and the original appointments shall be made in the following manner: Two members for a term of one year; two members for a term of two years; two members for a term of three years; two members for a term of four years. At the expiration of the terms of all the members first appointed, all new or reappointed members shall be for a full term of four years. Vacancies occurring otherwise shall be for the unexpired term and shall be made by the Mayor with the approval of the Town Council.

(B) Each out-of-town member shall be appointed for a term of four years and the original appointments shall be made in the following manner: One member for a term of two years; one member for a term of four years. At the expiration of the terms of all the members first appointed, all new or reappointed members shall be for a full term of four years. Vacancies occurring otherwise shall be for the unexpired term and shall be made by the County Board of Commissioners.

(C) If an in-town member moves outside the town or ceases to own or operate a business within the town, or if an extraterritorial area member moves outside the planning jurisdiction or ceases to own or operate a business within the town's extraterritorial planning area, the Town Council for in-town members

or the county for out-of-town members may, at their respective discretion, elect to appoint a replacement. ('82 Code, Ch. 14, Art. II, § 24) (Ord. passed 6-1-81; Am. Ord. passed 11-6-90)

#### **§ 153.05 QUALIFICATIONS AND COMPENSATION.**

(A) The members of the Planning and Zoning Commission shall be persons of recognized experience and qualifications and shall hold no other official position.

(B) All members of the Planning and Zoning Commission shall serve as such without compensation. ('82 Code, Ch. 14, Art. II, § 25) (Ord. passed 6-1-81)

#### **§ 153.06 REMOVAL OF MEMBERS.**

(A) Members may, after public hearing, be removed from the Planning and Zoning Commission by the Mayor for inefficiency, neglect of duty or malfeasance in office.

(B) The membership of any member who is absent from four consecutive meetings, or whose percentage of attendance over any period of 12 consecutive months is less than 60% shall automatically be terminated, unless such absence is excused by the full Planning and Zoning Commission for good sufficient cause. ('82 Code, Ch. 14, Art. II, § 26) (Ord. passed 6-1-81)

#### **§ 153.07 ORGANIZATION.**

(A) The Planning and Zoning Commission shall elect a Chairperson, Vice-Chairperson, Secretary and other such officials as may be necessary, from among its members, to serve for a period of one year with eligibility for re-election.

(B) The Planning and Zoning Commission shall hold a meeting for the election of officers at the first meeting in April of each year. ('82 Code, Ch. 14, Art. II, § 27) (Ord. passed 6-1-81)

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**§ 153.08 RULES; RECORDS; MEETINGS; QUORUMS.**

The Planning and Zoning Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions and recommendations, which record shall be a public record. The Commission shall hold at least one quarterly meeting, and all of its meetings shall be open to the public. For the purpose of taking official action required by this subchapter, there shall be a quorum of five in-town members when considering matters that affect property located within the town limits including all zoning text matters, and a quorum of six members when considering matters that affect property located outside of the town limits and within the town's extraterritorial planning area.  
('82 Code, Ch. 14, Art. II, § 28) (Ord. passed 6-1-81; Am. Ord. passed 11-5-90; Am. Ord. 94-5, passed 11-7-94; Am. Ord. CO-2006-02, passed 4-3-06)

**§ 153.09 POWERS AND DUTIES.**

(A) It shall be the function and the duty of the Planning and Zoning Commission to make comprehensive surveys and studies of existing conditions and probable future development, and prepare such plans for physical, social and economic growth as will best promote the public health, safety, morals, convenience of the general welfare as well as efficiency and economy in the development of the town and its territorial jurisdiction.

(B) In general, the Planning and Zoning Commission shall have the power and duty to:

(1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions.

(2) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area.

(3) Establish principles and policies for guiding action in the development of the area.

(4) Prepare and recommend to the Town Council ordinances in accordance with the comprehensive plan.

(5) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area.

(6) Keep the Town Council and the general public informed and advised as to these matters.

(7) Prepare and recommend for adoption a zoning code and map.

(8) Prepare and recommend for adoption subdivision regulations and to administer such regulations.  
('82 Code, Ch. 14, Art. II, § 29) (Ord. passed 6-1-81; Am. Ord. passed 11-6-90)

**§ 153.10 BASIC STUDIES; COOPERATION OF TOWN OFFICIALS; RIGHT OF ENTRY.**

(A) The Planning and Zoning Commission may collect maps and aerial photographs of man-made and natural features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use and such other information as is important or likely to be important in the preparation of a comprehensive planning area and its various parts.

(B) In addition, the Planning and Zoning Commission may make special studies on the location, condition and adequacy of specific facilities, which may include, but are not limited to studies of housing, commercial and industrial facilities, parks, playgrounds and recreational facilities, public and private utilities and traffic, transportation and parking facilities.

(C) All town officials shall, upon request, furnish to the Planning and Zoning Commission such available records or information as it may require in its work. The Commission or its agents may, in the performance of its official duties, enter upon lands to make examination of surveys and maintain necessary movements thereon.

('82 Code, Ch. 14, Art. II, § 30) (Ord. passed 6-1-81)

#### **§ 153.11 PUBLIC HEARINGS.**

The Planning and Zoning Commission may conduct such public hearings as may be required to gather information necessary for drafting, establishment and maintenance of comprehensive plans. Before the Town Council adopts any such plan, it shall hold at least one public hearing thereon. ('82 Code, Ch. 14, Art. II, § 31) (Ord. passed 6-1-81)

#### **§ 153.12 PUBLICITY AND EDUCATION.**

The Planning and Zoning Commission shall have the power to promote public interest in an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine. ('82 Code, Ch. 14, Art. II, § 32) (Ord. passed 6-1-81)

#### **§ 153.13 COMMITTEES, EMPLOYEES AND EXPENDITURES.**

The Planning and Zoning Commission is authorized to appoint such committees and employees, and to authorize such expenditures as it may see fit, subject to limitations of funds provided for the Planning and Zoning Commission by the Town Council. ('82 Code, Ch. 14, Art. II, § 33) (Ord. passed 6-1-81)

#### **§ 153.14 CONFLICT OF INTEREST.**

In the event that any member shall have a personal interest of any kind in a matter then before the Planning and Zoning Commission, such member should disclose his interest and be disqualified from voting upon the matter, and the secretary shall so record in the minutes that no vote was cast by such member.

('82 Code, Ch. 14, Art. II, § 34) (Ord. passed 6-1-81)

#### **§ 153.15 COMPREHENSIVE PLAN; PUBLIC HEARING THEREON.**

The Planning and Zoning Commission may conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one public hearing thereon.

('82 Code, Ch. 14, Art. II, § 35) (Ord. passed 6-1-81)

#### **§ 153.16 AUTHORITY AS TO CONTRIBUTIONS.**

The Planning and Zoning Commission is authorized to receive contributions from private agencies and organizations or from individuals in addition to any sums which may be appropriated for its use by the Town Council. It may accept and disburse such contributions for special purposes or projects subject to any specific conditions which it deems acceptable, whether or not such projects are included in the approved budget, special contributions are subject to the approval of the Town Council.

('82 Code, Ch. 14, Art. II, § 36) (Ord. passed 6-1-81)

#### **§ 153.17 ANNUAL REPORT; ANALYSIS OF EXPENDITURES AND BUDGET REQUEST.**

The Planning and Zoning Commission shall annually submit to the Town Council a written report of its activities, an analysis of the expenditures to date for the current fiscal year, and its requested budget of



funds needed for operation during the ensuing fiscal year.  
('82 Code, Ch. 14, Art. II, § 37) (Ord. passed 6-1-81)

**REDEVELOPMENT COMMISSION**

**§ 153.25 REDEVELOPMENT COMMISSION; POWERS AND DUTIES.**

(A) The Town Council recognizes that blighted areas as defined in G.S. § 160A-503(2) exist within the corporate limits of the town. The redevelopment of such areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the town.

(B) The Town Council desires to assign the administration of redevelopment policies, programs and plans to its Community Development Department.

(C) This section will remain in force until the Town Council desires to designate, including any future abolishment of said papers, duties, and responsibilities of a Redevelopment Commission to another alternate organization created pursuant to §§ 160A-504 or 160A-505.  
('82 Code, Ch. 14, Art. I, § 2) (Res. passed 3-19-84)

**ZONING VESTED RIGHT**

**§ 153.35 PURPOSE.**

The purpose of this subchapter is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.  
(Ord. passed 10-7-91)

**§ 153.36 DEFINITION.**

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

**APPROVAL AUTHORITY.** The Town Council, Board of Adjustment or other board or official designated by ordinance as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

**PROPERTY OWNERS' ASSOCIATION.** An incorporated organization operating under land agreements through which:

- (1) Each lot owner is automatically a member;
- (2) Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

**SITE SPECIFIC DEVELOPMENT PLAN.** A plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits or approvals: Zoning permit or subdivision permit. Notwithstanding the foregoing, neither a variance, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

**STREET.** A right-of-way or easement 50 feet or more in width containing a roadway, which provides or is used primarily for vehicular circulation.

**STREET LINE.** The dividing line between a street right-of-way or easement and the contiguous property.

**STREET, PRIVATE.** Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated to the Town of Elizabethtown or the State of North Carolina and that is not maintained by the town or the state.



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***STREET, PUBLIC.*** A street consisting of publicly dedicated right-of-way and a roadway maintained by the town or the state.

***TRAVELWAY.*** That portion of a right-of-way that is improved for use by self-propelled vehicles or bicycles including paved or gravel areas and any other area intended for vehicle movement.

***ZONING VESTED RIGHT.*** A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.  
(Ord. passed 10-7-91; Am. Ord. 03-08, passed 11-3-03)

**§ 153.37 ESTABLISHMENT OF A ZONING VESTED RIGHT.**

(A) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council or Board of Adjustment, as applicable, of a site specific development plan, following notice and public hearing.

(B) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.

(C) Notwithstanding divisions (A) and (B), approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(D) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not

affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the town, including, but not limited to building, fire, plumbing, electrical and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.

(F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.  
(Ord. passed 10-7-91)

**§ 153.38 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.**

(A) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions of division (A), if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council, Board of Adjustment, or other planning agency designated to perform any or all of the duties of the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council following notice and public hearing as provided in G.S. § 160A-364.

(C) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the

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time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(D) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: “Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date).”

(E) Following approval or conditional approval of a site specific development plan, nothing in this subchapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(F) Nothing in this subchapter shall prohibit the revocation of the original approval or other remedies for failure to comply with the applicable terms and conditions of the approval or the zoning ordinance. (Ord. passed 10-7-91)

**§ 153.39 DURATION.**

(A) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (B) of this section. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the Town Council at the time the amendment or modification is approved.

(B) Notwithstanding the provisions of division (A) above, the approval authority may provide that rights shall be vested for a period exceeding two years, but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to the size of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions.







These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

(C) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. (Ord. passed 10-7-91)

**§ 153.40 TERMINATION.**

A zoning right that has been vested as provided in this subchapter shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(B) With the written consent of the affected landowner.

(C) Upon finding by the Town Council by ordinance, after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan.

(D) Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action.

(E) Upon findings by the Town Council by ordinance, after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the

approval by the approval authority of the site specific development plan;

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing. (Ord. passed 10-7-91)

**§ 153.41 VOLUNTARY ANNEXATION.**

A petition for annexation filed with the town under 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 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. §§ 160A-385.1 or 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 shall be terminated.

(Ord. passed 10-7-91)

**§ 153.42 LIMITATIONS.**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.

(Ord. passed 10-7-91)





**APPENDIX: CERTIFICATION OF ZONING VESTED RIGHT**

CERTIFICATION THAT A STATUTORY ZONING RIGHT IS BEING SOUGHT PURSUANT TO G.S. § 160A-385.1

As applicant for a \_\_\_\_\_, I hereby certify that I am also seeking to acquire a vested right pursuant to G.S. § 160A-385.1 and Chapter 153 of the Town of Elizabethtown Code.

If the Town of Elizabethtown Code provides that the approval authority for the type land use approval or permit for which I am applying is a board, committee or administrative official other than the Town Council or Board of Adjustment, I understand and agree that my application will be considered and acted on by the Town Council, following notice and a public hearing.

Date

Applicant



## CHAPTER 154: MINIMUM HOUSING STANDARDS

### Section

- 154.01 Finding; purpose
- 154.02 Definitions
- 154.03 Minimum standards of fitness for dwellings and dwelling units
- 154.04 Minimum standards for structural condition
- 154.05 Minimum standards for basic plumbing, heating and electrical equipment and facilities
- 154.06 Minimum standards for ventilation
- 154.07 Minimum standards for space, use and location
- 154.08 Minimum standards for safe and sanitary maintenance
- 154.09 Minimum standards for control of insects, rodents, and infestations
- 154.10 Minimum standards applicable to rooming houses; exceptions
- 154.11 Responsibilities of owners and occupants
- 154.12 Powers and duties of Housing Administrator
- 154.13 Inspections; duty of owners and occupants
- 154.14 Procedure for enforcement
- 154.15 Methods of service of complaints and orders
- 154.16 In Rem Action by Housing Administrator; placarding
- 154.17 Costs, a lien on premises
- 154.18 Alternative remedies
- 154.19 Zoning Board of Adjustment to hear appeals
- 154.20 Conflict with other provisions
- 154.21 Violations; penalty
- 154.22 Severability

declared that there exist in the town, dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Ch. 160A, Art. 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444. (Ord. 96-4, passed 9-9-96)

### § 154.02 DEFINITIONS.

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

***BASEMENT.*** A portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

***CELLAR.*** A portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

***DETERIORATED.*** A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Housing Administrator.

### § 154.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby





**DILAPIDATED.** A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter except at a cost in excess of 50% of its value, as determined by finding of the Housing Administrator.

**DWELLING.** Any building, structure, or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

**DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

**EXTERMINATION.** The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Housing Administrator.

**GARBAGE.** The organic waste resulting from the handling, preparation, cooking and consumption of food.

**GENDER.** Words having a masculine gender shall include the feminine and neuter genders.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

**HOUSING ADMINISTRATOR.** The Code Enforcement Officer or any other person duly designated by the Town Council to administer and enforce the Housing Code.

**INFESTATION.** The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

**INSPECTOR.** The Chief Building Inspector of the town or Bladen County or any authorized agent of the Chief Building Inspector.

**MULTIPLE DWELLING.** Any dwelling containing more than two dwelling units.

**OCCUPANT.** Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

**OPERATOR.** Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

**OWNER.** Any person who alone, jointly, or severally with others:

(1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or

(2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or

(3) Shall have charge, care of control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

**PARTY OR PARTIES IN INTEREST.** All persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

**PERSON.** Any individual, corporation, firm, partnership, association, organization or other legal

entity.



**PLUMBING.** All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal, pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

**PUBLIC AUTHORITY.** The Elizabethtown Housing Authority or any officer who is in charge of any department or branch of the government of the town or of Bladen County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the town.

**ROOMING HOUSE.** Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or brother or sister of the owner or operator.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**RUBBISH.** Non-organic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

**SUPPLIED.** Paid for, furnished, or provided by, or under the control of, the owner or operator.

**TEMPORARY HOUSING.** Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

**TOWN.** The Town of Elizabethtown.

**UNFIT FOR HUMAN HABITATION.**

Conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do

not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

***WORDS HAVING CERTAIN MEANING.***

Whenever the words “dwelling, dwelling unit, rooming house, rooming unit, premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.” (Ord. 96-4, passed 9-9-96)

**§ 154.03 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.**

(A) Every dwelling and dwelling unit used as human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 154.04 through 154.09.

(B) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 154.04 through 154.09. (Ord. 96-4, passed 9-9-96)

**§ 154.04 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.**

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

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(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

(Ord. 96-4, passed 9-9-96)

### § 154.05 MINIMUM STANDARDS FOR BASIC PLUMBING, HEATING AND ELECTRICAL EQUIPMENT AND FACILITIES.

#### (A) *Plumbing System.*

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be

maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating System.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathroom and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

#### (C) *Electrical System.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(Ord. 96-4, passed 9-9-96)

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.

(Ord. 96-4, passed 9-9-96)

**§ 154.06 MINIMUM STANDARDS FOR VENTILATION.**

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable room.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

**§ 154.07 MINIMUM STANDARDS FOR SPACE, USE AND LOCATION.**

(A) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(1) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling Height.* At least 1/2 of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basements.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;

reasonably impervious to water and will permit such

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

(Ord. 96-4, passed 9-9-96)

#### **§ 154.08 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be

floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(H) *Noxious Weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.  
(Ord. 96-4, passed 9-9-96)

#### **§ 154.09 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such

extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

located within the residence building served and shall be directly accessible from a common hall or

(D) *Rubbish Storage and Disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage Storage and Disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by town ordinances.

(Ord. 96-4, passed 9-9-96)

**§ 154.10 MINIMUM STANDARDS  
APPLICABLE TO ROOMING HOUSES;  
EXCEPTIONS.**

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy and any rooming unit in any rooming house, except as provided in the following paragraphs:

(A) *Water Closet, Hand Lavatory and Bath Facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be



passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum Floor Area for Sleeping Purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for every occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary Conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) *Sanitary Facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.  
(Ord. 96-4, passed 9-9-96)

## **§ 154.11 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public Areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(C) *Rubbish and Garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied Plumbing Fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of Facilities Equipment and Structures.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

(Ord. 96-4, passed 9-9-96)

#### **§ 154.12 POWERS AND DUTIES OF HOUSING ADMINISTRATOR.**

The Housing Administrator is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector, at the request of the Housing Administrator, is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of the ordinance. The Housing Administrator or his authorized representative shall have the following powers and duties:

(A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwellings units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such dwellings and dwellings units;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspections made under this chapter and an inventory

of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(D) To administer oaths and affirmations, examine witnesses and receive evidence;

(E) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with § 154.13 and state law, and shall be made in such manner as will cause the least possible inconvenience to the persons in possession;

(F) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this chapter, and to delegate any of his functions and powers to such officers, agents and employees; and

(G) To perform such other duties as may be prescribed herein or by the Town Council.  
(Ord. 96-4, passed 9-9-96)

#### **§ 154.13 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

(A) For the purpose of making inspections, the Inspector, upon the request of the Housing Administrator, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Housing Administrator free access to such dwelling and its premises at all reasonable times for the purposes of such inspection, examination and survey.

(B) Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(C) Note: When permission to inspect a dwelling or its premises is denied, the Building Inspector must obtain a warrant to inspect. G.S. § 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in In Re Dwelling, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, building inspectors are advised to seek the advice of the Town Attorney.  
(Ord. 96-4, passed 9-9-96)

#### § 15.14 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary Investigation; Notice; Hearing.* Whenever a petition is filed with the Housing Administrator by a Public Authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Housing Administrator, upon inspection, that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Housing Administrator at a place therein fixed, not less than 10 nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant in courts of law or equity shall not be controlling in hearings before the Housing Administrator.

(B) *Procedure After Hearing.* After such notice and hearing, the Housing Administrator shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

2003 S-10 Repl.

(1) If the Housing Administrator determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the Housing Administrator determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to Comply with Order.*

(1) *In Personam Remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Housing Administrator to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Housing Administrator to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Housing Administrator shall submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Housing Administrator, as authorized by G.S. § 160A-446(g).

(2) *In Rem Remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Housing Administrator within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (1), the

Housing Administrator shall submit to the Town Council an ordinance ordering the Housing Administrator to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Housing Administrator, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and § 154.16.

affirm, wholly or partly, or may modify the decision

(D) *Appeals from Orders of Housing Administrator.* An appeal from any decision or order of the Housing Administrator may be taken by any person aggrieved thereby. Any appeal from the Housing Administrator shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the Housing Administrator and with the Zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Housing Administrator refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Housing Administrator requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Administrator certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Housing Administrator, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) of this section.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or

or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Housing Administrator, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Housing Administrator. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board.

(E) *Petition to Superior Court by Owner.* Any person aggrieved by an order issued by the Housing Administrator or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the

Superior Court for a temporary injunction restraining the Housing Administrator pending a final disposition of the cause, as provided by G.S. § 160A-446(f). (Ord. 96-4, passed 9-9-96)

#### **§ 154.15 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the Housing Administrator shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Housing Administrator in the exercise of reasonable diligence, the Housing Administrator shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this chapter in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending

proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. 96-4, passed 9-9-96) 2000 S-7 Repl.

**§ 154.16 IN REM ACTION BY HOUSING ADMINISTRATOR; PLACARDING.**

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Housing Administrator issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and § 154.14(C), the Housing Administrator shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(B) Each ordinance shall be recorded in the office of the Bladen County Register of Deeds and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443 (5). (Ord. 96-4, passed 9-9-96)

**§ 154.17 COSTS, A LIEN ON PREMISES.**

As provided by G.S. 160A-443(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Housing Administrator pursuant to § 154.16 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by G.S. Ch. 160A, Article 10. (Ord. 96-4, passed 9-9-96)

**§ 154.18 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 14-4 and § 154.21, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. 96-4, passed 9-9-96)

**§ 154.19 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.**

(A) All appeals which may be taken from decisions or orders of the Housing Administrator pursuant to § 154.14(D) shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by § 154.14(D) and shall keep an accurate journal of all its proceedings.

(B) If the Zoning Board of Adjustment consists of more than five members, the chairman shall designate five members to hear appeals under this chapter.

(Ord. 96-4, passed 9-9-96)

**§ 154.20 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which established the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. 96-4, passed 9-9-96)

**§ 154.21 VIOLATIONS; PENALTY.**



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

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 154.14, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alternation or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(C) The violation of any provision of this chapter shall constitute a misdemeanor, as provided

by G.S. 14-4.

(D) In addition to the penalty established by division (C) above, and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.  
(Ord. 96-4, passed 9-9-96)

#### **§ 154.22 SEVERABILITY.**

If any provision of this chapter is for any reasons held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and to that end, the provisions of this chapter are hereby declared to be severable.  
(Ord. 96-4, passed 9-9-96)

**CHAPTER 155: TREES**

Section

- 155.01 Purpose
- 155.02 Definitions
- 155.03 Creation and establishment of Town Tree Board
- 155.04 Term of office
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- 155.06 Duties and responsibilities
- 155.07 Operation
- 155.08 Tree species to be planted
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- 155.15 Tree topping
- 155.16 Pruning and corner clearance
- 155.17 Dead or diseased tree removal on private property
- 155.18 Removal of stumps
- 155.19 Protection of trees
  
- 155.99 Penalty

**§ 155.01 PURPOSE.**

It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Town of Elizabethtown. (Ord. 05-01, passed 5-2-05)

**§ 155.02 DEFINITIONS.**

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

**PARK TREES.** Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park.

**PUBLICLY OWNED TREES.** Trees, shrubs, bushes, and all other woody vegetation within public rights-of-way or on municipal property.

**STREET TREES.** Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the town. (Ord. 05-01, passed 5-2-05)

**§ 155.03 CREATION AND ESTABLISHMENT OF A TOWN TREE BOARD.**

The Town Tree Board shall consist of five citizens and residents of this town, who shall be appointed by the Town Council. Unless otherwise decided by the Town Council, the five members of the Elizabethtown Recreation Commission will serve as the town’s Tree Board. (Ord. 05-01, passed 5-2-05)

**§ 155.04 TERM OF OFFICE.**

(A) If the Recreation Commission members serve as the Tree Board, their terms of office on the Tree Board will coincide with their terms of office on the Elizabethtown Recreation Commission.



(B) If Council decides to appoint a Tree Board separate from the Recreation Commission, the term of the persons to be appointed by the Council shall be three years except that the term of two of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy should occur during the term of any member, the successor shall be appointed for the unexpired portion of the term.

(Ord. 05-01, passed 5-2-05)

#### **§ 155.05 COMPENSATION.**

Members of the Board shall serve without compensation.

(Ord. 05-01, passed 5-2-05)

#### **§ 155.06 DUTIES AND RESPONSIBILITIES.**

(A) It shall be the responsibility of the Board to develop a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the Town Council and upon the Council's approval shall be the comprehensive town tree plan.

(B) The Tree Board shall supervise a tree inventory for street, park and publicly owned trees. The inventory shall be updated with the results of ground inspections every three years.

(C) The Tree Board, when requested by the Town Council, shall consider and report upon any matter coming within the scope of its work.

(Ord. 05-01, passed 5-2-05)

#### **§ 155.07 OPERATION.**

The Tree Board shall keep minutes of its proceedings. The Chairman of the Recreation Commission shall act as the Chairman of the Tree

Board. A majority of the members shall be a quorum for the transaction of business.

(Ord. 05-01, passed 5-2-05)

#### **§ 155.08 TREE SPECIES TO BE PLANTED.**

The Town Tree Board shall maintain a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 50 feet), and large (over 50 feet). Efforts shall be made to ensure a sufficient diversity of tree species. The Tree Board will also create lists of trees not suitable for planting.

(Ord. 05-01, passed 5-2-05)

#### **§ 155.09 SPACING.**

The spacing of street trees will be in accordance with the three species size classes listed in § 155.08, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees, 35 feet; except in special plantings designed or approved by a certified arborist or landscape architect.

(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

#### **§ 155.10 DISTANCE FROM CURB AND SIDEWALK.**

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in § 154.08, and no trees may be planted closer to any curb or sidewalk than two feet for small trees, three feet for medium or large trees.

(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

#### **§ 155.11 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.**

No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest



intersecting curbs or curb lines. No street tree shall be planted within ten feet of any fire hydrant.  
(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

#### § 155.12 UTILITIES.

No street trees other than those species accepted as small trees by the Tree Board may be planted under, or within ten feet of any overhead utility wire.  
(Ord. 05-01, passed 5-2-05)

#### § 155.13 PUBLIC TREE CARE.

(A) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(B) The town may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected by any injurious fungus, insect, or other pest.  
(Ord. 05-01, passed 5-2-05)

#### § 155.14 PRUNING STANDARDS.

All tree pruning on public property shall conform to the American National Standards Institute Title Tree Care Operations-Tree, Shrub and Other Woody Plant Maintenance Standard Practices (ANSI A300 Part 1-2001). ANSI A300 provides standard definitions for tree care maintenance; performance standards for tree pruning operations; performance standards for utility line clearance; and performance standards for writing tree pruning specifications. This standard was listed for public review in the 12/15/00 issue of Standards Action.  
(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

#### § 155.15 TREE TOPPING.

It shall be unlawful as a normal practice for any person to top any street, park or publicly owned tree on public property. **TOPPING** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical may be exempt from this chapter at the determination of the Tree Board.  
(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

#### § 155.16 PRUNING AND CORNER CLEARANCE.

(A) Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that such branches shall not severely obstruct the light from any street light or obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above street surface or eight feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.

(B) Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric company in compliance with any applicable franchise agreements. The utility company and the Town Tree Board prior to any trimming by the utility company must review a utility tree trimming policy.  
(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

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**§ 155.17 DEAD OR DISEASED TREE  
REMOVAL ON PRIVATE PROPERTY.**

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees in the town. The town will notify in writing the owners of such trees. Said owners at their own expense shall do removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal to the owner.

(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

**§ 155.18 REMOVAL OF STUMPS.**

All stumps of street, park and publicly owned trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

**§ 155.19 PROTECTION OF TREES.**

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect the quality of trees that are endangered.

Trees removed by decision of the town or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year. The Tree Board shall determine the location and species of any replacement tree.

(Ord. 05-01, passed 5-2-05) Penalty, see § 155.99

**§ 155.99 PENALTY.**

Any person violating any provision of this chapter shall be subject to a civil penalty not to exceed \$1,000.

(Ord. 05-01, passed 5-2-05)