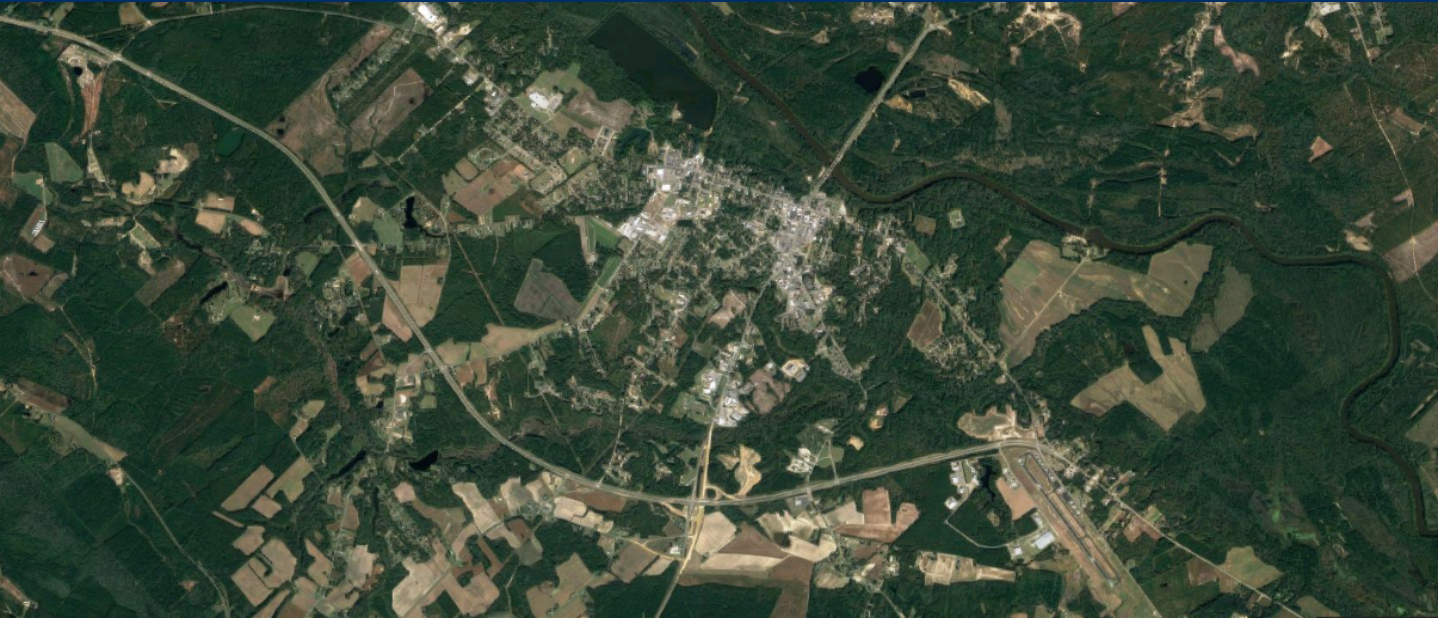


Town of Elizabethtown, NC



Zoning Ordinance

Public Hearing Review: September 4, 2018



Prepared by:



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ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.1 SHORT TITLE.

This Ordinance shall be known and may be cited as the *Elizabethtown Zoning Ordinance*.

SECTION 1.2 AUTHORITY.

Zoning provisions enacted herein are under the authority of North Carolina General Statutes (NCGS) 160A-381 to 160A-392, which extends to towns/cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

SECTION 1.3 JURISDICTION AND EXEMPTIONS

1.3.1. The regulations and provisions found in this zoning ordinance shall apply to all the properties within the corporate limits and the extraterritorial jurisdiction of the Town of Elizabethtown, North Carolina.

1.3.2. In addition to other locations required by law, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the planning department.

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

1.3.4. Exemptions.

1.3.4.1. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with NCGS 160A-385.1.

1.3.4.2. In accordance with NCGS 160A-392, the Town of Elizabethtown Zoning Ordinance applies to state-owned lands only when a building is involved.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.4 SEVERABILITY.

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

SECTION 1.5 CONFLICTS WITH OTHER REGULATIONS.

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

SECTION 1.6 VIOLATION OF ORDINANCE REGULATIONS.

1.6.1. Complaints Regarding Violations.

Whenever the Zoning Administrator receives a written, signed complaint alleging a violation of the Ordinance, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions will be taken.

1.6.2. Enforcement.

Enforcement is through civil penalty, injunctive relief, and any other equitable remedy.

1.6.3. Persons Liable for Violations.

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

ARTICLE 1. PURPOSE AND APPLICABILITY

1.6.4. Procedures Upon Discovery of Violations.

1.6.4.1. If the Zoning Administrator finds that any provision of this Ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Administrator's discretion.

1.6.4.2. The final written notice (and the initial written notice may be the final notice) shall state what action the Zoning Administrator intends to take if the violation is not corrected and shall advise that the Zoning Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 4.10.1.

1.6.4.3. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of the Ordinance or pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 1.6.5.

1.6.5. Penalties and Remedies for Violations.

1.6.5.1. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits shall be punishable by a civil penalty in accordance with the fee schedule as set forth in the town's budget or as established by resolution of the Town Council (see Section 2.8). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

1.6.5.2. This Ordinance may also be enforced by any appropriate equitable action.

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

1.6.5.4. Any one, all, or a combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

1.6.5.5. The assessment of a civil penalty may be appealed to the Board of Adjustment.

ARTICLE 1. PURPOSE AND APPLICABILITY

1.6.6. Permit Revocation.

1.6.6.1. Any permit issued under this Ordinance may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to (1) develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit-issuing board, or (2) the permit was issued based on erroneous information or by mistake.

1.6.6.2. Before permits other than special use may be revoked, the Zoning Administrator shall give the permit recipient ten (10) days notice of intent to revoke the permit, shall inform the recipient of the reasons for the revocation and of his right to obtain a hearing before the Board of Adjustment on the allegations, and shall comply with the notice and hearing requirements set forth in Section 4.3. The Zoning Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

1.6.6.3. No person may continue to make use of land or building in the manner authorized by any permit issued under this Ordinance after such permit has been revoked in accordance with this Ordinance.

SECTION 1.7 EFFECTIVE DATE.

The provisions in this Ordinance were originally adopted and became effective on _____, 2018.

SECTION 1.8 AMENDMENTS.

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ARTICLE 2. GENERAL REGULATIONS

SECTION 2.1 NORTH CAROLINA STATE BUILDING CODE.

The Town of Elizabethtown Building Code with appendices and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction and repair. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations.

SECTION 2.2 INTERPRETATION.

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

SECTION 2.3 IDENTIFICATION OF OFFICIAL ZONING MAP.

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

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

2.3.3. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 1.6.

ARTICLE 2. GENERAL REGULATIONS

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

2.3.5. In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Town Council may by resolution adopt a new official zoning map which shall supersede the prior zoning map. The new official zoning map may correct drafting errors or other errors or omissions in the prior official zoning map, but no correction shall have the effect of amending the original official zoning map, or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced), as part of the Zoning Ordinance, Elizabethtown, North Carolina."

2.3.6. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. In the case of GIS data, each version of the zoning map produced shall be archived.

SECTION 2.4 ZONING MAP INTERPRETATION.

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

2.4.1. Use of Property Lines.

Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

2.4.2. Use of the Scale.

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

ARTICLE 2. GENERAL REGULATIONS

2.4.3. Vacated or Abandoned Streets.

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

2.4.4. Split Zoned Parcels.

If a district boundary divides a parcel, the requirement for the district in which the greater portion of the parcel lies shall be extended to the remainder of the parcel, provided that such extension shall not include any part of such parcel which lies more than one hundred and fifty (150) feet beyond the existing district boundary, and further provided that the remaining parcel shall not be less than the minimum required lot area for the district in which it is located. Following adoption of this Ordinance, split zoning of parcels will not be permitted.

2.4.5. Flood Hazard Boundaries.

Interpretations of the location of floodway and floodplain boundary lines shall be made by the Zoning Administrator.

2.4.6. Board of Adjustment.

In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

SECTION 2.5 RELATIONSHIP TO LAND USE PLAN.

It is the intention of the council that this Ordinance implement the planning policies adopted by the council for the Town of Elizabethtown, as reflected in the Town of Elizabethtown land use plan and other planning documents.

SECTION 2.6 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH ARTICLE PROVISIONS.

2.6.1. Subject to Article 9 of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.

2.6.2. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.7 EFFECT OF PRIVATE DEED RESTRICTIONS.

It is not intended by this ordinance to interfere with or annul any easements, covenants or other agreements between parties except in cases where such agreements require a use or location prohibited by this ordinance. Where this ordinance imposes a greater restriction on a building, use, or lot, the provisions of this ordinance shall govern.

SECTION 2.8 FEES.

2.8.1. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances, appeals, and other administrative relief, and site plan review. The amount of the fees charged shall be set forth in the town's budget or as established by resolution of the council files in the Office of the Town Clerk.

2.8.2. Fees established in accordance with subsection 2.8.1, above, shall be paid upon submission of a signed application or notice of appeal.

SECTION 2.9 COMPUTATION OF TIME.

2.9.1. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded.

2.9.2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice and the notice or paper is served by mail (Certified Mail/Return Receipt Requested), three days shall be added to the prescribed period.

SECTION 2.10 RECORDS RETENTION.

A record of all decisions, permits, minutes, and other documents described in this Ordinance shall be kept on file as provided in the latest editions of the Municipal Records Retention and Disposition Schedule issued by the NC Department of Cultural Resources, Division of Archives and Records. Specific standards describing the documents required by this Ordinance include Standard-5 Building Inspections Records and Standard-13 Planning and Zoning Records.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.11 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

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

SECTION 2.12 STREET ACCESS.

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

SECTION 2.13 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved, or structurally altered, shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except in the case of a designed complex of professional, residential, or commercial buildings with an approved site plan (see Section 5.7) in an appropriate zoning district, i.e., school campus, apartments, condominiums, shopping center, and industrial park. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

SECTION 2.14 REQUIRED YARDS NOT TO BE USED BY BUILDING.

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

SECTION 2.15 LOT REQUIREMENTS/DIMENSIONS.

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

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

ARTICLE 2. GENERAL REGULATIONS

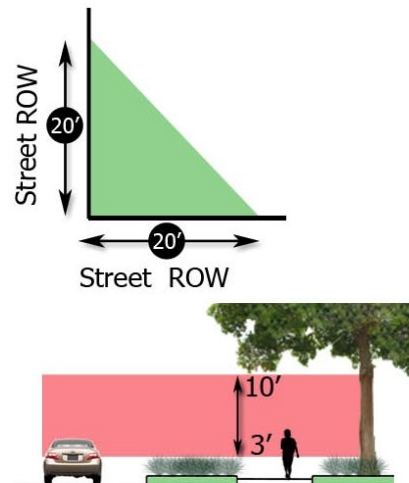
2.15.3. The location of required front, side, and rear yards on irregularly shaped lots shall be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual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

SECTION 2.16 HEIGHT LIMITATION EXCEPTIONS.

The following uses are not controlled by height limitations of this Ordinance: belfries, spires, cupolas, domes, monuments, observation towers, chimneys, smokestacks, water towers, conveyors, flag poles, television and radio masts, aerials, towers, and similar structures.

SECTION 2.17 STREET INTERSECTION SIGHT VISIBILITY TRIANGLE.

The land adjoining a local street intersection or egress to a local street from off-street parking areas shall be kept clear of obstructions to protect the visibility and safety of motorists and pedestrians. On a corner lot, nothing shall be erected, placed, or allowed to grow in a manner so as materially to impede vision between a height of three feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect. A clear view shall be maintained on corner lots from 3 to 10 feet in vertical distance. Intersections of or with state maintained streets shall comply with NCDOT sight distance triangle requirements.



SECTION 2.18 PROPERTY DEDICATED FOR PRIVATE USE.

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

SECTION 2.19 MEASUREMENT OF DISTANCE.

All measurements for the purpose of the separation of uses shall be from the closest points of property line to property line for the parcels on which the uses are located.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.20 SIDEWALKS.

All new construction permitted following the adoption of this Ordinance shall be required to construct five (5) foot sidewalk(s) on the street right-of-way. The sidewalk(s) shall comply with the Town of Elizabethtown Standards and Specifications document and NCDOT requirements. This requirement shall apply to all non-residential development requiring a site plan as specified in Article 5 and to properties on which sidewalks are recommended by the Town of Elizabethtown Sidewalk Plan.

SECTION 2.21 SCREENING OF UTILITIES AND MECHANICAL EQUIPMENT.

2.21.1. Roof top mounted equipment shall not be visible from public rights-of-way or adjacent residential property. Equipment shall be screened by parapet walls or continuous mechanical screens that are compatible with and complementary to the overall building design. Where complete screening is not technically feasible due to differences in grade elevations, then the parapet or screens shall be at least as tall as the tallest piece of equipment.

2.21.2. Ground mounted utilities and equipment, including outdoor service, storage, loading, and mechanical areas shall be located on non-character defining facades and shall be screened by garden walls, fences, or solid vegetation so they are not visible from public rights-of-way or adjacent residential properties.

2.21.3. Locate noise-generating equipment to mitigate the impact on adjacent properties and public rights-of-way. Equipment that generates more than 60 decibels shall not be located next to a residential development or must incorporate mufflers or other noise-reducing equipment.

2.21.4. Fencing. Solid fencing shall not be used to obscure the building facade from streets and travelways. Where used, solid fencing shall be located behind the building line of the primary facade(s). Chain link fencing is not permitted where it will be visible from streets and travelways unless it is completely hidden by a permanently maintained vegetative cover. Single-family residential is excluded from this requirement.

SECTION 2.22 SPLIT ZONING OF PARCELS.

The split zoning of any lot is prohibited. Any lots which were split zoned prior to the adoption of this Ordinance will be considered nonconforming lots.

ARTICLE 3.
**ADMINISTRATIVE/LEGISLATIVE/
QUASI-JUDICIAL AUTHORITY**

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ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

SECTION 3.1 ZONING ADMINISTRATOR.

3.1.1. The Zoning Administrator, to be designated by the Town Manager, is hereby authorized and it shall be his/her duty to enforce the provisions of this Ordinance. This official shall have the right to enter upon any premises regulated by this Ordinance at any reasonable time necessary to carry out his/her duties. If the suspected violation involves areas which cannot be viewed from public areas, an administrative search warrant must be obtained from a magistrate or judge authorizing a reasonable inspection. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his/her decision may be made to the Board of Adjustment. The Zoning Administrator may be assisted by other town staff in performing the duties herein.

3.1.2. In administering the provisions of this Ordinance, the Zoning Administrator shall:

3.1.2.1. Make and maintain records of all applications for permits, special uses, and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.

3.1.2.2. File and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for inspection at reasonable times by any interested party.

3.1.2.3. Conduct pre-application and sketch plan meetings with applicants for development approval as necessary or appropriate in accordance with Section 5.4.

3.1.2.4. Transmit to the Planning and Zoning Commission, Town Council, and/or the Board of Adjustment all applications and plans for which their review and approval is required along with a report of his/her recommendations as may be required.

3.1.2.5. Review and approve zoning permit applications, minor site plans, and engineering drawings.

3.1.2.6. Provide administrative interpretations of the Zoning Ordinance.

3.1.2.7. Provide nonconformity determinations, including expansions of nonconforming uses and structures.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.1.2.8. Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; inform the building inspections department designated by the Elizabethtown Town Council of illegal buildings or of additions, alterations, or structural changes thereto which are not compliant with the Zoning Ordinance; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

3.1.2.9. Maintain the public records of the Planning and Zoning Commission and Board of Adjustment.

3.1.2.10. Perform site inspections.

SECTION 3.2 CONFLICTS OF INTEREST.

Members of the Town Council, Planning and Zoning Commission, and Board of Adjustment must act in the public interest and not to advance their own financial interests. A member of an elected board, planning board or board of adjustment may not vote on a Zoning Ordinance action where there is a potential financial conflict of interest. A board or council member with a financial interest in the outcome of the decision may not participate in making rezonings and other legislative zoning decisions. With quasi-judicial zoning decisions, board members may not participate in a matter involving someone with whom they have a close family, associational, or business relationship, nor may they participate if they have a bias (defined as fixed opinion that is not susceptible to change upon hearing the facts at the hearing). When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member's participation or the member states a conflict of interest, the remaining members shall by majority vote to decide if the member is excused from participation.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

SECTION 3.3 PLANNING AND ZONING COMMISSION.

3.3.1. Authority.

The Planning and Zoning Commission of the Town of Elizabethtown is created pursuant to NCGS 160A-361.

3.3.2. Purpose.

The Planning and Zoning Commission shall act in an advisory capacity to the Town Council in the matter of guiding and accomplishing a coordinated and harmonious development of the area within the town jurisdiction.

3.3.3. Creation and Organization.

3.3.3.1. Membership and Vacancies. The Planning and Zoning Commission shall consist of nine (9) members. Seven (7) members shall reside within the corporate limits of the Town and be appointed by the Town Council. Two (2) members shall reside within the Town's extraterritorial jurisdiction and be appointed by the County Board of Commissioners. If, despite good faith efforts, sufficient numbers of residents of the extraterritorial jurisdiction 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 of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.

Members shall be appointed for terms of two (2) years or until their successors shall have qualified. Vacancies which occur other than the expiration of term shall be filled by the Town Council or County Board of Commissioners for the remaining period of the term vacated. Faithful attendance at the meetings of the Board is considered a prerequisite for the maintenance of membership on the Board. The maximum number of full consecutive terms that a Planning and Zoning Commission member may serve is three (3), except that the Town Council may extend the number of terms for a Board Member where it is determined that continuity of Board leadership, special expertise, and/or exceptional dedication and experience of a particular Board Member demonstrates the need for such term extension.

Planning and Zoning Commission members may be removed by the Council at any time for cause or failure to attend three consecutive meetings or for failure to attend 30% or more meetings within any 12-month period. Upon request of the Board Member proposed for removal, the Town Council shall hold a hearing on removal before it becomes effective.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.2. Organization, Rules, Meetings and Records. Within thirty (30) days after appointment, the Planning and Zoning Commission shall meet and elect a Chair and create and fill such office as it may determine. The term of the Chair and other officers shall be one (1) year, with eligibility for re-election. The Zoning Administrator shall serve as Secretary and advisor to the Planning and Zoning Commission and shall be responsible for keeping the record of minutes of the Planning and Zoning Commission. The Board shall adopt rules for transaction of its business subject to review and approval by the Town Council and shall keep a record of its member attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. Except as otherwise stated in Section 3.3.3.4.1 below, the Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of five (5) members for the purpose of taking any official motion required by this ordinance.

3.3.3.3. Offices and Duties.

3.3.3.3.1. Chair. A Chair shall be elected by the voting members of the Planning and Zoning Commission. The term of the Chair shall be for one (1) year, with eligibility for re-election. The Chair shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Board.

3.3.3.3.2. Vice-Chair. A Vice-Chair shall be elected by the Board from among its citizen members in the same manner and for the same term as the Chair. He/She shall serve as acting chair in the absence of the Chair, and at such times he shall have the same powers and duties as the Chair.

3.3.3.3.2. Secretary. The Zoning Administrator shall serve as Secretary and advisor to the Planning and Zoning Commission. The secretary, subject to the direction of the Chair and the Board, shall keep all records, shall conduct all correspondence of the Board and shall generally supervise the clerical work of the Board. The secretary shall keep the minutes of each meeting of the Board. These shall show the record of all important facts pertaining to every meeting and hearing, every resolution acted upon by the Board and all votes of members of the Board upon any resolution or other matter, indicating the names of members absent or failing to vote.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.4. Meetings.

3.3.3.4.1. Regular Meetings. Regular meetings of the Board shall be held in the Council Chambers of Town Hall in accordance with a schedule as established by the Planning and Zoning Commission. The meetings will be held only when a request has been filed requiring Planning and Zoning Commission action or in cases of special meetings. All meetings shall be open to the public.

3.3.3.4.2. Special Meetings Special meetings of the Board may be called at any time by the Chair, or in his absence, the Vice-Chair. At least forty-eight (48) hours notice of the time and place of special meetings shall be given, by the secretary or by the Chair, to each member of the Board.

3.3.3.4.3. Cancellation of Meetings. Whenever there is no business for the Board, the Chair may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

3.3.3.4.4. Quorum. A quorum shall consist of five (5) members of the Board for zoning changes, amendments, special use permits, etc.

3.3.3.4.5. Vote. Except as otherwise specified herein, the vote of a majority of those members present shall be sufficient to decide matters before the Board, provided a quorum is present.

3.3.3.5. General Powers and Duties. The general powers and duties of the Planning and Zoning Commission are:

3.3.3.5.1. To make studies of the area within its jurisdiction and present recommendations to the Town Council.

3.3.3.5.2. To determine objectives to be sought in the development of the study area and present recommendations to the Town Council.

3.3.3.5.3. To prepare and recommend plans for achieving these objectives.

3.3.3.5.4. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.5.5. Advise the Town Council concerning the use and amendment of means for carrying out plans;

3.3.3.5.6. Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct.

3.3.3.5.7. Perform any other related duties that the Town Council may direct.

3.3.3.5.8. To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area and present recommendations to the Town Council for consideration.

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

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

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.5.9. To prepare and recommend ordinances promoting orderly development along lines indicated in the Comprehensive Plan and advise concerning proposed amendments of such ordinances.

3.3.3.5.10. To determine whether proposed developments conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan.

3.3.3.5.11. To review and make recommendations to the Town Council on major site plans in accordance with Section 5.6.

3.3.3.5.12. To keep the Town Council and the general public informed and advised as to these matters.

3.3.3.5.13. To perform any other duties that may lawfully be assigned to it.

3.3.3.6. *Planning and Zoning Commission Initiated Zoning Ordinance Amendments.* The Planning and Zoning Commission may initiate from time to time proposals for amendments of the Zoning Ordinance and Zoning Map, based upon its studies and plans. It shall review and make recommendations to the Town Council concerning all proposed amendments to the Zoning Ordinance and Zoning Map.

3.3.3.7. *Advisory Committees.*

3.3.3.7.1. From time to time, Town Council may appoint one (1) or more individuals to assist the Planning and Zoning Commission to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider thoroughfare plan(s), bikeway plan(s), housing plans, and economic development plans, etc.

3.3.3.7.2. Members of such advisory committees shall sit as nonvoting members of the Planning and Zoning Commission when such issues are being considered and lend their talents, energies, and expertise to the Planning and Zoning Commission. However, all formal recommendations to the Town Council shall be made by the Planning and Zoning Commission.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.8.3. Nothing in this Article shall prevent the Council from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Council.

SECTION 3.4 BOARD OF ADJUSTMENT.

3.4.1. Powers and Duties.

3.4.1.1. The Board of Adjustment shall hear and decide:

3.4.1.1.1. Appeals of decisions of administrative officials charged with enforcement of this Ordinance (as provided in Section 4.10.1) and requests for variances (as provided in Section 4.10.2). As used in this subsection, the term “decision” includes any final and binding order, requirement, or determination. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use and development.

3.4.1.1.2. Any other matter the Board is required to act upon by any other town ordinance.

3.4.1.2. The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

3.4.2. Creation and Organization.

3.4.2.1. The Zoning Board of Adjustment shall be governed by the terms of the General Statutes of North Carolina (160A - 388).

3.4.2.2. *Membership and Vacancies.* The Board of Adjustment shall consist of six (6) regular members and two (2) alternates. Five (5) regular members and one (1) alternate will be appointed by the Town Council and one (1) regular member and one (1) alternate will be appointed by the Bladen County Board of Commissioners.

Regular Members shall be appointed by the Town Council/Board of Commissioners at the first meeting in July of each year for terms of three (3) years or until their successors shall have qualified. Vacancies which occur other than the expiration of term shall be filled by the Town Council/Board of Commissioners for the remaining period of the term vacated.

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Alternate Members shall be appointed by the Town Council/Board of Commissioners for three (3) year terms or until their successors shall qualified. Vacancies which occur other than the expiration of term shall be filled by the Town Council/Board of Commissioners for the remaining period of the term vacated.

3.4.2.3. Meetings of the Board of Adjustment.

3.4.2.3.1. Regular Meetings. Regular meetings of the Board shall be held in Town Hall in accordance with a schedule as established by the Board of Adjustment; provided, however, that meetings may be held at some other convenient place in the town if directed by the Chair in advance of the meeting, and provided further that if no business needing the attention of the Board has arisen since the last meeting and no unfinished business is pending, then the Chair may notify 24 hours in advance the other members through the Secretary that the meeting for that month will not be held.

3.4.2.3.2. Special Meetings. Special meetings of the Board may be called at any time by the Chair, or in his absence, the Vice-Chair. At least forty-eight (48) hours written notice of the time and place of special meetings shall be given by the Secretary or the Chair to each member of the Board.

3.4.2.3.3. The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Section 4.11.

3.4.2.3.4. Conflicts on Quasi-Judicial Matters. A member of the Board of Adjustment or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close family, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to member's participation and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.4.2.3.5. All meetings of the Board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

3.4.2.4. *Quorum and Voting.*

3.4.2.4.1. The concurring vote equal to four-fifths of the members of the board present at a meeting and not excused from voting (a quorum being present), shall be necessary to grant any variance. All other actions of the board, including decisions relating to special use permits, shall be taken by majority vote of those present and not excused from voting, a quorum being present. A quorum shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats).

3.4.2.4.2. Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection 3.4.2.3.4 or 3.4.2.4.3 or has been allowed to withdraw from the meeting in accordance with Subsection 3.4.2.4.4.

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

3.4.2.4.3.1. If the matter at issue involves the member's own official conduct; or

3.4.2.4.3.2. If the participation in the matter might violate the letter or spirit of the member's code of professional responsibility.

3.4.2.4.4. A member may be allowed to withdraw from voting on an item-by-item basis by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting.

3.4.2.4.5. A roll call vote shall be taken upon the request of any member.

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3.4.2.5. Board of Adjustment Officers and Duties.

3.4.2.5.1. Chair. The Chair shall be elected by majority vote of the membership of the Board from among its members. His term of office shall be for one year, and until his successor is elected, beginning on July 1st, and the Chair shall be eligible for re-election. Subject to these rules, the Chair shall decide upon all points of order and procedure, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matter before the Board.

3.4.2.5.2. Vice-Chair. A Vice-Chair shall be elected by the Board from among its members in the same manner and for the same term as the Chair. He shall serve as acting Chair in the absence of the Chair, and at such times he shall have the same powers and duties as the Chair.

3.4.2.5.3. Secretary. The Zoning Administrator shall serve as Secretary.

3.4.3. Rules of Procedure.

All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33B, or as may be amended, and should be recorded. The Board shall keep accurate minutes of its proceedings suitable for review in Court showing:

3.4.3.1. The record of all procedural requirements of the meeting including number and names of all Board members present, names of witnesses heard, whether parties were represented by counsel, whether subpoenas were issued and to who, whether cross-examination of witnesses was requested and allowed, and any other event at the hearing that had any effect on the outcome.

3.4.3.2. The factual evidence presented to the Board of Adjustment by all parties concerned.

3.4.3.3. The findings of fact and the reasons for the determinations by the Board of Adjustment.

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

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.4.3.5. The Board may issue subpoenas. If there is noncompliance with the subpoena, the Board may apply to the courts for an order to comply.

SECTION 3.5 TOWN COUNCIL - GENERAL POWERS AND DUTIES.

3.5.1. The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Section 4.11.

3.5.2. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Section 4.6.

3.5.3. Unless otherwise specifically provided in this Article, in acting upon special use permit requests or in considering amendments to this Article or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the town code, the town charter, or general law.

3.5.4. The Town Council, in considering the approval of a site-specific development plan (as defined in Section 4.7, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 4.9 for the issuance of a special use permit.

3.5.5. A failure to vote by a Council member who is physically present in the Council Chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall not be recorded as an affirmative vote.

ARTICLE 4.

LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

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ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

PART I. GENERAL PROVISIONS

SECTION 4.1 REQUESTS TO BE HEARD EXPEDITIOUSLY.

As provided in Article 3, the Planning and Zoning Commission/Town Council and Board of Adjustment (as applicable) shall hear and decide all applications, appeals, and variance requests, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 4.3, and obtain the necessary information to make sound decisions.

SECTION 4.2 HEARING REQUIRED.

4.2.1. Before making a decision on an application for an amendment, appeal, variance, or special use permit, the Town Council or Board of Adjustment (as appropriate) shall hold a hearing on the application within forty-five (45) days of the submittal of a completed application (provided that the public advertising requirements are met). The required application fee and all supporting materials must be received by the Zoning Administrator before an application is considered complete and a hearing scheduled.

4.2.2. Subject to subsection 4.2.3, the hearing shall be open to the public and all persons interested in the outcome of the application shall be given an opportunity to present evidence and arguments.

4.2.3. The decision-making board may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

4.2.4. The decision-making board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

SECTION 4.3 NOTICE OF HEARING.

4.3.1. Notice and Public Hearings - Zoning Text Amendment.

No amendment shall be adopted by the Town Council until after public notice and hearing. Notice of such a public hearing shall be published once a week for two successive calendar weeks in a local newspaper of general circulation in the town.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

4.3.2. Notice and Public Hearings - Zoning Map Amendment.

4.3.2.1. In any case where the Town Council will consider a change in the zoning classification of a parcel of land, notice of the proposed petition or application shall be mailed by first class mail to the owner of that parcel of land and all abutting property owners as shown on the Bladen County tax listing at the last addresses listed for such property owners on the Bladen County tax abstracts. The party applying for the change in zoning classification shall submit, with the request for rezoning, a list of the names of the owners, their addresses, and the tax parcel numbers of the property involved in the change and all properties any portion of which is within two hundred (200) feet of the property to be considered for rezoning, as shown on the Bladen County tax listing. The application shall be considered incomplete without such material.

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

4.3.2.3. The first class mail notice required under subsections 4.3.2.1 and 4.3.2.2 of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the town elects to use the expanded published notice. In this instance, the town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish a notice of the hearing as required by NCGS 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Bladen County property tax listing for the affected property, shall be notified according to the provisions of subsections 4.3.2.1 and 4.3.2.2.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

4.3.3. Notice and Public Hearings - Appeals, Variances, and Special Use Permits.

4.3.3.1. Notice of hearings conducted pursuant to Sections 4.9 and 4.10 shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

4.3.3.2. In the case of special use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing.

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

SECTION 4.4 EXPIRATION OF PERMITS.

4.4.1. Zoning and special use permits for which vested rights as specified in Section 4.7 have not been secured shall expire automatically if, within one (1) year after the issuance of such permits:

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

4.4.1.2. Less than ten (10) percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase. If construction of a subsequent stage has not begun within 365 calendar days (i.e., Phase 2 following completion of Phase 1), the permits for all subsequent phases shall expire. For example, if a development has five phases, the permits for Phases 2 through 5 would expire.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

4.4.2. If after some physical alteration to land or structures begins and such work is discontinued for a period (i) of one (1) year if the date of discontinuance occurs more than one year after the issuance of the permit, or (ii) equal to two years less the time between the issuance of the permit and the time work is discontinued if the date of discontinuance occurs less than one year after the issuance of the permit, then the zoning or special use permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 4.5.

4.4.3. The permit-issuing authority may extend for a period up to six (6) months the date when a zoning or special use permit would otherwise expire pursuant to subsections 4.4.1 or 4.4.2 if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted through a quasi-judicial proceeding for periods up to six (6) months (for a total period not to exceed three (3) years) upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit. Any permit issued through a quasi-judicial procedure will require a quasi-judicial proceeding for issuance of a time extension.

4.4.4. For purposes of this section, the special use permit within the jurisdiction of the Town Council is issued when such board votes to approve the application and issue the permit. A zoning permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:

4.4.4.1. A copy of the fully executed permit or extension is delivered to the permit recipient and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

4.4.4.2. The Zoning Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required (see Section 4.5.2).

4.4.5. Notwithstanding any of the provisions of Article 9 (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

4.4.6. Special use permits for which vested rights have been secured in accordance with Section 4.7 shall expire at the end of the two-year vesting period.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

SECTION 4.5 EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS.

4.5.1. Zoning, special use permits, sign permits, stormwater or other permits, and floodplain development permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the conforming uses, land, or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

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

4.5.1.2. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection 4.5.2) of the existence of the permit at the time they acquired their interest.

4.5.2. Whenever a special use or zoning permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one (1) acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Bladen County Registry and indexed under the record owner's name as grantor.

PART II. LEGISLATIVE PROCEDURES

SECTION 4.6 AMENDMENT/REZONING PROCEDURES.

4.6.1. Procedure.

The Town Council may amend, supplement, or change the text of this Ordinance and zoning map following review and recommendation of the Planning and Zoning Commission according to the procedures established in this section. As used in this section, "comprehensive plan" includes a unified development ordinance and any other officially adopted plan that is applicable.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

4.6.2. Action by Applicant.

The following action shall be taken by the applicant:

4.6.2.1. Proposed changes or amendments may be initiated by the Town Council, Planning and Zoning Commission, or by one or more interested parties.

4.6.2.2. An application for any text change or amendment shall contain the proposed text amendment and the name(s) and address(es) of the applicant(s).

4.6.2.3. An application for any map change or amendment shall contain a description and statement of the present and proposed zoning regulation or district boundary to be applied, the name(s) and address(es) of the applicant(s), the owner of the parcel of land involved in the change if different from the applicant, and all adjacent property owners as shown on the Bladen County tax listing.

4.6.2.4. One (1) hard copy and one (1) electronic copy of such application shall be filed with the Zoning Administrator not later than thirty (30) calendar days prior to the Planning and Zoning Commission meeting at which the application is to be considered.

4.6.3. Action by the Planning and Zoning Commission.

The Planning and Zoning Commission shall advise and comment on whether the proposed text amendment or map amendment is consistent with the adopted comprehensive plan and any other applicable officially adopted plans. The Planning and Zoning Commission shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning and Zoning Commission, but a comment by the Planning and Zoning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. In its deliberations, the Planning and Zoning Commission shall provide the public an opportunity to comment on consistency with the Comprehensive Plan.

4.6.4. Action by the Town Council.

Action to consider a rezoning petition, including the scheduling of a public hearing, will be at the discretion of the Town Council.

4.6.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning and Zoning Commission's recommendation on each proposed zoning amendment must be received by the Town Council. If no recommendation is received from the Planning and Zoning Commission within 30 days from the date when submitted to the Planning and Zoning Commission, the petitioner may take the proposal to the Town

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Council without a recommendation from the Planning and Zoning Commission. However, the Planning and Zoning Commission may request the Town Council to delay final action on the amendment until such time as the Planning and Zoning Commission can present its recommendations.

4.6.4.2. After receiving a recommendation from the Planning and Zoning Commission on a proposed amendment, the Town Council may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

4.6.4.3. The Town Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

4.6.4.4. No member of the Town Council shall vote on any zoning map amendment or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member or his/her close family, business, and/or associational relationships. Refer to Section 3.5.5.

4.6.4.5. Prior to adopting or rejecting any zoning text and/or map amendment (including small scale rezonings), the Town Council shall adopt one of the following statements which shall not be subject to judicial review.

4.6.4.5.1. A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

4.6.4.5.2. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

4.6.4.5.3. A statement approving the zoning amendment and containing at least all of the following:

4.6.4.5.3.1. A declaration that the approval is also deemed an amendment to the comprehensive plan. The Town Council shall not require any additional request or application for amendment to the comprehensive plan.

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4.6.4.5.3.2. An explanation of the change in conditions the Town Council took into account in amending the Ordinance to meet the development needs of the community.

4.6.4.5.3.3. Why the action was reasonable and in the public interest.

4.6.4.6. In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Town Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and excluded. When considering proposed map amendments:

4.6.4.6.1. The Town Council shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Town Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

4.6.4.6.2. The Town Council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

4.6.5. Citizen Comments.

Zoning ordinances may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Clerk to the Board at least two business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under NCGS 160A-388, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

4.6.6. Withdrawal of Application.

An applicant may withdraw his or her application at any time by written notice to the Zoning Administrator and may resubmit at a subsequent date in compliance with the submittal schedule contained herein.

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SECTION 4.7 ESTABLISHMENT OF VESTED RIGHTS.

4.7.1. A vested right, in accordance with NCGS 160A-385.1, may be established upon the approval or special approval of a site-specific development plan by the Town Council in accordance with the provisions outlined in this section. Approval by the Town Council of a site-specific development plan shall follow the procedural requirements for the issuance of a special use permit as outlined in Section 4.9. Changes in or modifications to an approved site-specific development plan shall be made only with the concurrence of the Town Council in accordance with the provisions of Section 4.9.7. A right which has been vested as provided for in this section shall, as a general rule, remain valid for two (2) years and shall attach to and run with the land. A vested right shall expire at the end of two (2) years if no building permit applications have been filed with the town to construct the use or uses proposed in the approved site-specific development plan. If building permits are issued, the provisions of GS 160A-418 and GS 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the two-year vesting period. The two (2) years may be extended up to five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the town.

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

4.7.2.1. Landowner. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan.

4.7.2.2. Property. All real property subject to the regulations and restrictions of this Ordinance as well as the zoning district boundaries established by this Ordinance and depicted on the official zoning map.

4.7.2.3. Site-Specific or Phased Development Plan. A site-specific or phased development plan which has been submitted to the Town of Elizabethtown by a landowner in accordance with NCGS 160A-385.1(b)(5) describing in detail the type and intensity of use for a specific parcel or parcels of property. Such plan shall be in the form of a site plan required to obtain a special use permit and shall include the information required by Section 4.9.2 and Section 5.7. All site-specific or phased development plans shall be approved by the Town Council.

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4.7.2.4. Vested Right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific or phased development plan.

4.7.3. A vested right shall be deemed established upon the effective date of approval by the Town Council of a site-specific development plan. Following the approval of a site-specific development plan, the Zoning Administrator shall issue a vested right certificate to the landowner which indicates the duration of the vesting period, the conditions, if any, imposed on the approval of the site-specific development plan, and any other information determined by the Zoning Administrator to be necessary to administer the vested right.

4.7.4. A vested right shall confer upon the landowner the right to undertake and complete the development and use of the property as delineated in the approved site-specific development plan. The Town Council may approve a site-specific development plan upon such terms and conditions as may be determined necessary to protect the public health, safety, and welfare. Failure to comply with the approved terms and conditions shall result in a forfeiture of vested rights.

4.7.5. A vested right, once established or provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in this approved site-specific development plan, except:

4.7.5.1. With the written consent of the affected landowner;

4.7.5.2. Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards 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;

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

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4.7.5.4. Upon findings, by ordinance after notice and a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town of the site-specific development plan; or

4.7.5.5. Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site-specific development plan, in which case the town may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.

4.7.6. The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

4.7.7. Notwithstanding any provisions of this section, the establishment of a vested right shall not preclude, change, or impair the authority of the town to enforce provisions of this Ordinance governing nonconforming situations or uses.

4.7.8. A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights.

4.7.9. The town shall not require a landowner to waive his vested rights as a condition of developmental approval.

SECTION 4.8 MORATORIUM.

The town may adopt temporary moratoria on any town development approval required by law in accordance with NCGS 160A-381(E).

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PART III. QUASI-JUDICIAL PROCEDURES

SECTION 4.9 SPECIAL USE PERMITS.

4.9.1. Purpose and Applicability.

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, this Ordinance allows some uses to be allowed in these districts as a special use subject to issuance of a special use permit by the Town Council. Town Council consideration of special use permits are quasi-judicial decisions. The purpose of having the uses being special is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this section. All special use permits require some form of a site plan as outlined in Section 5.7.

4.9.2. Application Process/Completeness.

4.9.2.1. The deadline for which a special use permit application shall be filed with the Zoning Administrator is thirty (30) calendar days prior to the meeting at which the application will be heard. Permit application forms shall be provided by the Zoning Administrator. In the course of evaluating the proposed special use, the Town Council may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Town Council.

4.9.2.2. No application shall be deemed complete unless it contains or is accompanied by a site plan drawn to scale which complies with the requirements contained in Section 5.7.1 and a fee as specified in Section 4.2.1.

4.9.2.3. One (1) hard copy of the application, and all attachments and maps, for a special use permit shall be submitted to the Zoning Administrator.

4.9.3. Town Council Action.

4.9.3.1. Town Council consideration of special use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decisions must be conducted in accordance with Section 4.11. For the purposes of this section, vacant positions on the Town Council and members who are disqualified from voting on a quasi-judicial matter

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shall not be considered “members of the Council” for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

4.9.3.2. The Town Council shall hold a public hearing to consider the application at its next regularly scheduled meeting. A quorum of the Town Council is required for this hearing. Notice of the public hearing shall be as specified in Section 4.3.

4.9.3.3. In approving an application for a special use permit in accordance with the principles, conditions, safeguards, and procedures specified herein, the Town Council may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council.

4.9.3.4. The applicant has the burden of producing competent, substantial evidence tending to establish the facts and conditions which subsection 4.9.3.5 below requires.

4.9.3.5. The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

4.9.3.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.

4.9.3.5.2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.

4.9.3.5.3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

4.9.3.5.4. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.

4.9.3.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

4.9.3.5.6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

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

4.9.3.5.8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

4.9.3.6. *Conditions and Guarantees.* Prior to the granting of any special use, the Town Council may require, conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which special uses are granted, the Town Council may require guarantees to ensure compliance with the special use permit conditions. The reasons/justification for special conditions must be stated/tied to Section 4.9.3.5.

4.9.3.7. The Town Council may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

4.9.3.8. Without limiting the foregoing, the Town Council may attach to a permit a condition limiting the permit to a specified duration.

4.9.3.9. All additional comments or requirements shall be entered on the permit and are enforceable in the same manner and to the same extent as any other applicable requirements of this Ordinance.

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

4.9.4. *Effect of Approval.*

If an application for a special use permit is approved by the Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the special use permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

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4.9.5. Binding Effect.

Any special use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Town Council.

4.9.6. Certificate of Occupancy.

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

4.9.7. Change in Special Use Permit.

An application to materially change a special use permit once it has been issued must first be submitted, reviewed, and approved in accordance with Section 4.9.3, including payment of a fee in accordance with the fee schedule approved by the Town Council.

SECTION 4.10 APPEALS AND VARIANCES

4.10.1. Appeals.

4.10.1.1. Any person who has standing under GS 160A-393(d) or the town may appeal a decision of an administrative officer charged with the enforcement of this Ordinance to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the town staff.

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

4.10.1.3. The owner or other party shall have thirty (30) days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

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

4.10.1.5. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause immediate peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

4.10.1.6. Subject to the provisions of subsection 4.10.1.4, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

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

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

4.10.1.9. The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

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4.10.2. Variances.

4.10.2.1. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator 30 days prior to the meeting at which it will be considered. Applications shall be handled in the same manner as applications for permits.

4.10.2.2. When unnecessary hardships would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:

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

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

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

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

4.10.2.3. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

4.10.2.4. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such

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conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

4.10.2.5. Reasonable Accommodations. The Town Council is authorized to grant reasonable accommodations under the Federal Fair Housing Act for the circumstances set forth in this section.

4.10.2.5.1. Persons Authorized to File Applications. An application for a reasonable accommodation may be filed only by the owner of the land affected by the reasonable accommodation; an agent, lessee, or contract purchaser specifically authorized by the owner to file such application; or any unit of government that is not the owner of the lot but proposes to acquire the lot by purchase, gift, or condemnation.

4.10.2.5.2. Pre-Application Conference. Before filing an application for a reasonable accommodation, the applicant may request a pre-application conference with the Zoning Administrator under Section 5.4.

4.10.2.5.3. Application Filing and Contents. An application for a reasonable accommodation shall be filed with the Zoning Administrator and contain: (1) the applicant's contact information (name, mailing address, phone number, fax number and email address); (2) the contact information for the owner(s) of the property (if different from the applicant); (3) the address of the property at which the reasonable accommodation is requested; (4) a description of the reasonable accommodation requested; (5) a statement explaining how and why the request meets the "Approval Criteria" for a reasonable accommodation (see Section 4.10.2.5.5 below); and (6) notarized signature of the applicant and property owner(s) (if different from the applicant). No filing fee shall be required for the application.

4.10.2.5.4. Action by the Board of Adjustment. The Board of Adjustment shall hold a quasi-judicial hearing on the proposed reasonable accommodation and shall decide the request upon a majority vote of the members. The quasi-judicial hearing shall be conducted in accordance with the hearing procedures of Sections 4.2 and 4.3 and the quasi-judicial procedures of Section 4.11. Action by the Board of Adjustment shall be in accordance with Section 4.11.4. An appeal from a final decision of the Board of Adjustment shall be governed by the Appeals provisions

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in Sections 4.10.1, Rehearings in Section 4.12, or Appeals of Quasi-Judicial Decisions in Section 4.13.

4.10.2.5.5. Approval Criteria. The Board of Adjustment shall grant a reasonable accommodation to any provision of the Zoning if the Board finds by the greater weight of the evidence that the proposed reasonable accommodation is both reasonable and necessary, in accordance with the following:

4.10.2.5.5.1. Reasonable. An accommodation will be determined to be reasonable if it would not undermine the legitimate purposes and effects of existing zoning regulations, and if it will not impose significant financial and administrative burdens upon the town and/or constitute a substantial or fundamental alteration of the town's zoning provisions.

4.10.2.5.5.2. Necessary. An accommodation will be determined to be necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability, handicap, or institutionalized persons and would afford handicapped or disable persons' equal opportunity to enjoy and use housing in residential districts in the town.

4.10.3. Burden of Proof in Appeals and Variances.

4.10.3.1. When an appeal is taken to the Board of Adjustment in accordance with Section 4.10.1, the Zoning Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

4.10.3.2. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.10.2.2, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

4.10.4. Board of Adjustment Action/Voting

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

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SECTION 4.11 PROCEDURES FOR QUASI-JUDICIAL HEARINGS.

4.11.1. Evidence/Presentation of Evidence.

4.11.1.1. The provisions of this section apply to all hearings for which a notice is required by Section 4.3.

4.11.1.2. All persons who intend to present evidence to the decision-making board shall be sworn in by the Chair. The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the decision-making board, willfully swears falsely is guilty of a Class 1 misdemeanor.

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

4.11.1.3.1. The use of property in a particular way would affect the value of other property.

4.11.1.3.2. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

4.11.1.3.3. Matters about which only expert testimony would generally be admissible under the rules of evidence.

4.11.1.4. The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.

4.11.1.5. Parties to a quasi-judicial hearing have a right to cross-examine witnesses.

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4.11.1.6. Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

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

4.11.1.8. The decision-making board through the Chair, or in the Chair's absence, anyone acting as the Chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under GS 160A-393(d) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full decision-making board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the decision-making board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all property parties.

4.11.2. *Modification of Application at Hearing.*

4.11.2.1. In response to questions or comments made in sworn testimony at the hearing, the applicant may agree to modify his application, including the plans and specifications submitted.

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

4.11.3. *Record.*

4.11.3.1. A record shall be made of all hearings required by Section 4.2 and such recordings shall be kept as provided by state law. Minutes shall also be kept of all such proceedings. A transcript may be made, but is not required.

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4.1.3.2. All documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town in accordance with NCGS 160A-393(l).

4.11.4. *Quasi-Judicial Decision.*

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision within the Clerk to the Board or such other office or official as this Ordinance species. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

SECTION 4.12 REHEARINGS.

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

SECTION 4.13 APPEALS OF QUASI-JUDICIAL DECISIONS.

4.13.1. Every quasi-judicial decision shall be subject to review by the Superior Court of Bladen County by proceedings in the nature of certiorari pursuant to GS 160A-393.

4.13.2 A petition for review shall be filed with the Bladen County Clerk of Superior Court by the later of thirty (30) days after the decision is effective or after a written copy thereof is given in accordance with Section 4.11.4. When first class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

4.13.3. A copy of the writ of certiorari shall be served upon the Town of Elizabethtown.

<div>ARTICLE 5. DEVELOPMENT REVIEW PROCESS</div>
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ARTICLE 5. DEVELOPMENT REVIEW PROCESS

SECTION 5.1 APPLICABILITY.

The purpose of this Article is to establish an orderly process to develop land within the Town of Elizabethtown. It is also the intent of this Article to provide a clear and comprehensible development process that is fair and equitable to all interests, including the petitioners, affected neighbors, town staff, related agencies, the Planning and Zoning Commission and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

The development review process applies to all development actions within the planning jurisdiction except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this Article shall be applicable for all Minor and Major Site Plans, except as provided in Section 5.2.

SECTION 5.2 APPLICATION NOT REQUIRED; WAIVER.

The Zoning Administrator may waive the required development review process when he determines that the submission of a development plan in accordance with this Article would serve no useful purpose. The Zoning Administrator may grant such a waiver only in the following cases:

5.2.1. Accessory structures.

5.2.2. Any enlargement of a principal building by less than 20% of its existing size provided such enlargement is less than 7,000 square feet and will not result in required parking or landscaping improvements.

5.2.3. A change in principal use where such change would not result in a change in zoning, lot coverage, parking, vehicular access, signage, or other site characteristics.

SECTION 5.3 ZONING VERIFICATION.

Zoning compliance must be verified by the Zoning Administrator. If the zoning is in compliance, the applicant may proceed with submittal of site plan or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see Section 4.6) or a variance(s) (see Section 4.10.2) before proceeding with site plan or drawing submittal.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

SECTION 5.4 PRE-APPLICATION MEETING AND SKETCH PLAN.

5.4.1. The recommended pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of Elizabethtown, and does not confer upon the applicant any development rights. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the development plan; furthermore, sketch plan review does not constitute approval of the development plan and may not be substituted for any required approvals.

5.4.2. The applicant may schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 5.4.4. The Zoning Administrator will advise the applicant of all applicable town regulations and policies, may suggest development alternatives, and will discuss application procedures and fees (see Section 2.8). The Zoning Administrator may submit the Sketch Plan to other departments or agencies, as appropriate, for input and recommendations. Within fifteen (15) days of receipt of the sketch plan, the Zoning Administrator shall forward all appropriate comments to the applicant. This timeframe may be extended if comments are requested from other agencies.

5.4.3. The applicant is encouraged to incorporate the recommendations of the Zoning Administrator or authorized staff reviewer into the development plan before submittal.

5.4.4. To ensure an appropriate level of review, applicants are encouraged to submit as much information as possible. At a minimum, three hard copies and one (1) digital copy of the sketch plan, drawn to scale, should be submitted, including the following:

5.4.4.1. A scale, preferably the same scale as required for development plan submittal.

5.4.4.2. Property boundaries and total acreage, including NC PINs for all properties.

5.4.4.3. Major topographical and physical features including water bodies, creeks, wetlands, buildings, streets, and the like.

5.4.4.4. Proposed streets, rights-of-way, buildings, and/or lot arrangements, including proposed lot sizes, common areas, and the buffers required by Article 10, Part I.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.4.4.5. Existing and proposed land use, drawn to scale, with brief project description including proposed structures, yard setbacks, building sizes, unit sizes, lot sizes, open space, amenities, the amount of impervious surfaces in square feet and the percentage of impervious surface of the entire development and the like.

5.4.4.6. Name, address, and telephone number of applicant, owner, and persons (firm) preparing the development plan.

5.4.4.7. Adjacent street names, numbers, and right-of-way widths.

5.4.4.8. Zoning district classification of site and surrounding properties, including any water supply watershed(s) and zoning of properties located across adjacent streets.

5.4.4.9. The boundaries of any proposed phasing.

5.4.4.10. Sites, if any, for schools, parks, churches, and playgrounds.

5.4.4.11. Acreage in public uses.

5.4.4.12. Approximate number of lots.

5.4.4.13. Sketch vicinity map showing the relation of the proposed site to existing uses of the land.

SECTION 5.5 ADMINISTRATIVE APPROVAL - MINOR SITE PLAN.

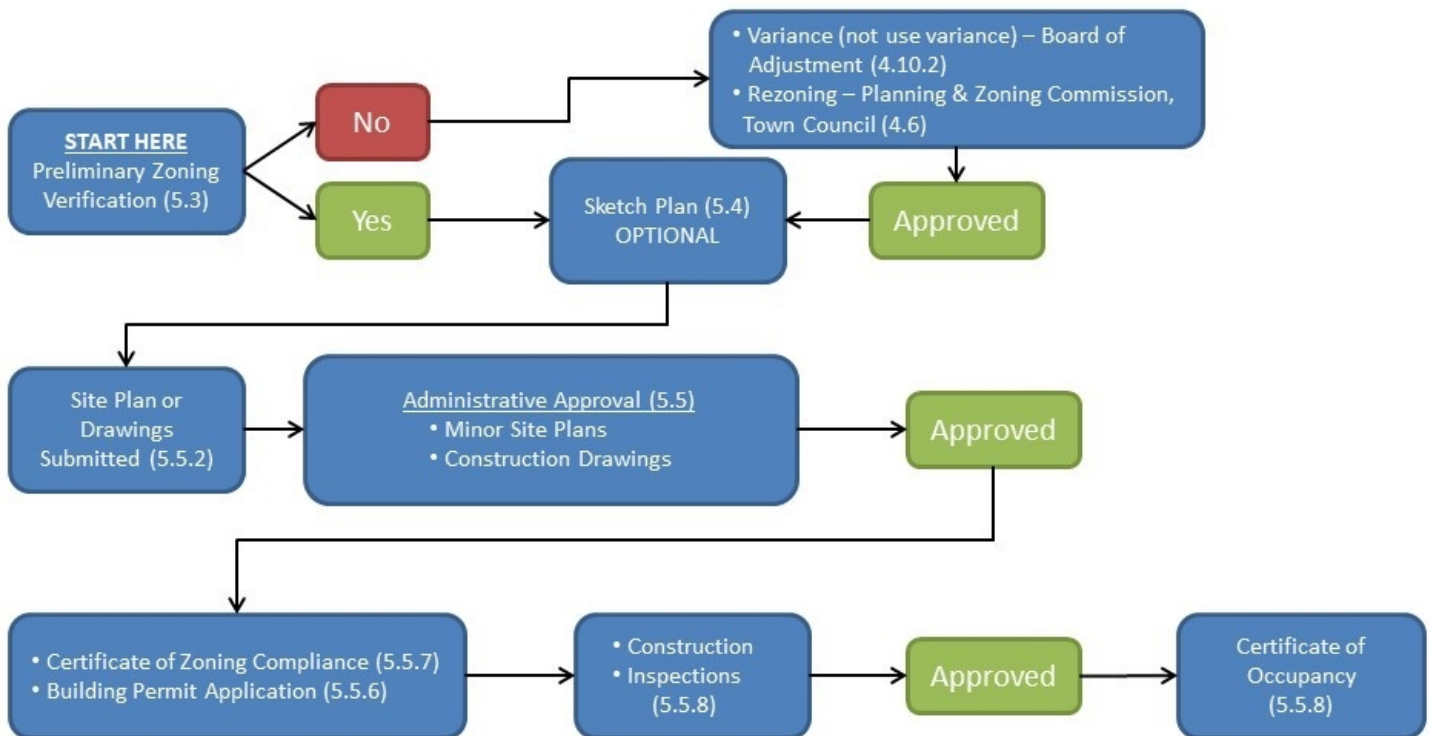
Administrative approval includes the following types of development and permits:

- Minor Site Plans. Include the following:
 - (1) Site plans which do not require: (i) Buildings or additions with an aggregate enclosed square footage of less than 2,000 square feet; (ii) a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance; or (iii) property, rights-of-way, or easement dedications to the town.
 - (2) Buildings or additions involving land disturbance of less than one (1) acre.
 - (3) Multi-family development involving fewer than ten (10) dwelling units.
 - (4) Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

- (5) Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance.
- (6) Accessory uses which comply with the requirements of this Ordinance.
- Construction and As-Built Drawings

5.5.1. Administrative Approval Flowchart.



ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.5.2. Minor Site Plan or Construction Drawings Submitted for Review.

Three (3) hard copies and one (1) digital copy of a plan of the proposed development shall be submitted in accordance with Sections 5.7 and 5.8, as applicable, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.8).

5.5.3. Preliminary Zoning Approval.

If the site plan, construction drawings, or as-built drawings are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a zoning permit for site plans.

5.5.4. Staff Review.

The Zoning Administrator may circulate the plan to relevant governmental agencies and officials. The reviewing government agencies and officials may include, but not necessarily be limited to, the following:

- Zoning Administrator
- Town Manager
- Police Department
- Fire Department
- Building Inspections Department
- Public Works/Town Engineer
- Town Attorney
- Other town representatives appointed by the Town Manager
- Utilities Providers
- Bladen County Health Department
- Bladen County Board of Education
- Bladen County Planning & Zoning Department
- Lumber River Council of Governments
- NC Department of Transportation
- NC Department of Environment and Natural Resources
- US Army Corps of Engineers

5.5.5. Appeal of Administrative Denial.

Administrative denial of an application for approval of a minor site plan or construction drawings may be appealed by the applicant to the Board of Adjustment within thirty (30) days following written notification of denial by the Zoning Administrator.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.5.6. Building Permit Required.

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

5.5.6.2. Application for Building Permit. All applications for building permits shall be accompanied by plans, including a survey not more than six (6) months old, as specified by the NC State Building Code. The application shall include other information as lawfully may be required by the Building Inspector, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, dwelling units or rental units the building is designed to accommodate; conditions existing on the lot; floodplain development permit; and any other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. A minimum of two (2) copies of the plans shall be required. One copy of the plans shall be returned to the applicant by the Building Inspector, after he shall have marked the copy either as approved or disapproved, and attested to same by his signature on the copy. One copy of the plans, similarly marked, shall be retained by the Building Inspector.

5.5.7. Certificate of Zoning Compliance.

5.5.7.1. No land shall be used or occupied and no building hereafter constructed, structurally altered, erected, or moved or its use changed until a certificate of zoning compliance shall have been issued by the Zoning Administrator, or his designee, which may include the Building Inspector, stating that the building or the proposed use thereof complies with the provisions of this Ordinance.

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

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.5.8. Inspections and Certificates of Occupancy.

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

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance, and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformance with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal.

For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to town standards.

For Minor Site Plans, an as-built survey and as-built construction drawings shall be submitted to the Zoning Administrator by the developer upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the Zoning Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied (see Section 1.6).

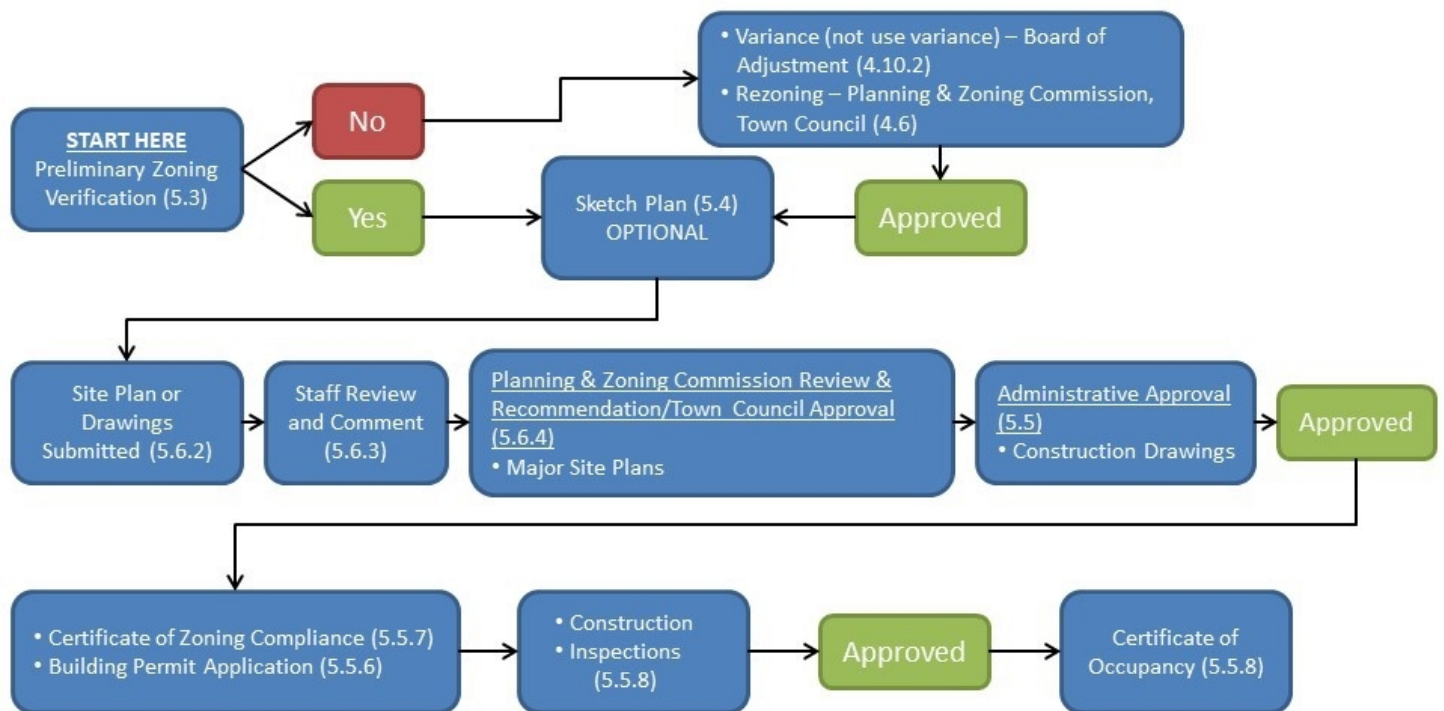
ARTICLE 5. DEVELOPMENT REVIEW PROCESS

SECTION 5.6 TOWN COUNCIL APPROVAL UPON PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION - MAJOR SITE PLAN.

Town Council Approval Upon Planning and Zoning Commission Review and Recommendation applies to the following:

- Major Site Plans. Includes all site plans for projects not meeting the requirements for a minor site plan.

5.6.1. Town Council Review and Approval Flowchart.



ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.6.2. Major Site Plan or Construction Drawings Submitted for Review.

Three (3) hard copies and one (1) digital copy of all major site plans shall be submitted in accordance with Sections 5.7 and 5.8, as applicable, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.8). All major site plans shall be submitted twenty-one (21) days in advance of the Planning and Zoning Commission meeting at which they are to be reviewed.

5.6.3. Staff Review.

The Zoning Administrator will circulate the plan to relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but not necessarily be limited to, those listed in Section 5.5.4.

5.6.4. Review and Approval by the Town Council Upon Planning and Zoning Commission Recommendation.

5.6.4.1. Following a complete review by the staff, the Zoning Administrator shall schedule the application for review by the Planning and Zoning Commission at the next regularly scheduled meeting.

5.6.4.2. The Planning and Zoning Commission shall forward its recommendation to the Town Council within thirty (30) days of reviewing the application. If a recommendation is not made within 30 days, the application shall be forwarded to the Town Council without a recommendation from the Planning and Zoning Commission.

5.6.4.3. Once the comments of the Planning and Zoning Commission have been made, or the 30-day period elapses without a recommendation, the Town Council shall consider the application at its next regularly scheduled meeting.

5.6.4.4. The Council may take the following actions:

5.6.4.4.1. Approve the application;

5.6.4.4.2. Approve the application with conditions acceptable to the applicant;

5.6.4.4.3. Deny the application;

5.6.4.4.4. Table the application for a specific number of days. The Town Council may also request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.6.4.4.5. Return the application to the Planning and Zoning Commission for further consideration. This deferral does not restart the initial Planning and Zoning Commission 30-day review period. The Town Council may direct that the Planning and Zoning Commission return a recommendation by a certain date.

5.6.5. Approval.

All required local, state, and/or federal permits must be obtained prior to the approval of the site plan. If the site plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a certificate of zoning compliance (see Section 5.5.7).

5.6.6. Town Council Denial.

Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council unless the application is (i) significantly different from the previously denied application or (ii) the applicant pays a double fee. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for re-application.

SECTION 5.7 SITE PLAN REQUIREMENTS.

5.7.1. Information to be Shown on Site Plan. The site plan shall be prepared by a professional engineer, registered land surveyor, or licensed architect and shall be drawn to scale of not less than one inch equals 30 feet. The site plan shall be based on the latest tax map information and shall be of a size as required by each individual site plan. The site plan shall contain the following information, if applicable as determined by the Zoning Administrator:

5.7.1.1. A key map of the site with reference to surrounding areas and existing street locations.

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

5.7.1.3. Parcel Identification Numbers (PIN) for site and adjacent properties.

5.7.1.4. Deed book and page reference demonstrating ownership of property.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.7.1.5. Location of all existing and proposed structures, including their outside dimensions and elevations, streets, entrances, and exits on the site, on contiguous property, and on property directly across the street.

5.7.1.6. Building setback, side line, and rear yard distances.

5.7.1.7. Location of watercourses, ponds, flood zones, water supply watershed areas, and riparian buffers.

5.7.1.8. All existing physical features, including existing trees greater than eight (8) inches in diameter measured four and one-half (4.5) feet above ground level, and significant soil conditions.

5.7.1.9. Topography showing existing and proposed contours at no greater than ten (10) foot intervals. All reference benchmarks shall be clearly designated.

5.7.1.10. The zoning of the property, including zoning district lines where applicable.

5.7.1.11. Lot line dimensions and property lines of the tract to be developed (with dimensions identified), adjacent property lines (including corporate limits, town boundaries, and county lines).

5.7.1.12. Parking, loading, and unloading areas shall be indicated with dimensions, traffic patterns, access aisles, and curb radii per the requirements of Article 10, Part I.

5.7.1.13. Types of surfaces for drives, sidewalks, and parking areas.

5.7.1.14. Location and design of existing and proposed sanitary waste disposal systems, water mains and appurtenances (including fire hydrants) on or adjacent to the parcel.

5.7.1.15. Other utility lines both under- and above-ground, including electric power, telephone, gas, cable television.

5.7.1.16. Location of all US Clean Water Act Section 404 wetland areas, located of detention/retention ponds (Best Management Practices), riparian buffers and impervious surface areas with area dimensions, and ratios of impervious surface to the total size of the lot and any other required stormwater control systems.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.7.1.17. The location of all common areas.

5.7.1.18. The location and dimensions of all areas intended as usable open space, including all recreational areas. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.

5.7.1.19. Landscaping and buffering plan showing what will remain and what will be planted, indicating names of plants, trees, and dimensions, approximate time of planting, and maintenance plans per the requirements of Article 10, Part III. The plan shall include the tree line of wooded areas and individual trees eight (8) inches in diameter or more, identified by common or scientific name.

5.7.1.20. Proposed site lighting.

5.7.1.21. Location, dimensions, and details of signs per the requirements of Article 10, Part IV.

5.7.1.22. The method of refuse disposal and storage and the location of dumpsters and screening as required by Article 10, Part III.

5.7.1.23. North arrow or compass rose.

5.7.1.24. Building elevations, except for single- and two-family homes and townhouses designed under the NC Residential Building Code, in compliance with Article 10, Part II.

5.7.2. Certificate of Zoning Compliance/Building Permit.

An application for a certificate of zoning compliance may be requested in advance of or concurrently with an application for a building permit in accordance with Sections 5.5.6 and 5.5.7.

5.7.3. Inspections and Certificates of Occupancy.

No new building, or part thereof, shall be occupied; no addition or enlargement of any existing building shall be occupied; no existing building after being altered or moved shall be occupied; and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy as provided in Section 5.5.8, above.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

SECTION 5.8 CONSTRUCTION DRAWING REVIEW REQUIREMENTS.

5.8.1. Applicability and Process.

The Construction Drawings for Minor Site Plans and Major Site Plans shall be submitted with the site plan. The construction drawings shall be reviewed concurrent with the major site plan. Construction drawings shall be approved administratively prior to the issuance of a zoning permit.

5.8.2. Submittal Requirements.

Construction Drawings shall include the following:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Details
- Lighting Plan
- Street Details, if applicable
- Infrastructure Details
- Stormwater Control Plan

NOTE: Improvements such as roads, curbs, bumpers, and sidewalks shall be indicated with cross-sections, design details, and dimensions.

ARTICLE 6.
ZONING DISTRICTS

ARTICLE 6. ZONING DISTRICTS

SECTION 6.1 ESTABLISHMENT OF ZONING DISTRICTS.

In accordance with the requirements of NCGS Section 160A-382 that zoning regulation be by districts, the Town of Elizabethtown, as shown on the Zoning Map, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance. In the creation of the respective districts, careful consideration is given to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the area.

The purposes of establishing the zoning districts are:

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

SECTION 6.2 INTERPRETATION.

Zoning districts have uses specified as permitted by right, special uses, and uses permitted with supplemental regulations. Detailed use tables are provided in Section 6.6 showing the uses allowed in each district. The following describes the processes of each of the categories that the uses are subject to:

- **Permitted by Right:** Administrative review and approval subject to district provisions and other applicable requirements only.
- **Permitted with Supplemental Regulations:** Administrative review and approval subject to district provisions, other applicable requirements, and supplemental regulations outlined in Article 7.
- **Special Uses:** Town Council review and approval of Special Use Permit subject to district provisions, other applicable requirements, and conditions of approval as specified in Section 4.9. Some Special Uses may also be subject to supplemental regulations outlined in Article 7.
- **Uses Not Permitted:** Uses not marked with a P, PS, S, or SS are not permitted.

ARTICLE 6. ZONING DISTRICTS

If a use is not specifically listed in any of the districts listed in this Ordinance, then the UDO Administrator shall have the authority to interpret in which district the use, if any, should be permitted. If the UDO Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the UDO Administrator shall:

- Ensure that the citizen is provided with a copy of the interpretation in writing.
- Inform the citizen of the right to appeal the decision to the Board of Adjustment.
- Assist with the development of a proposed zoning text change for consideration by the Planning Board and Town Council allowing policy-makers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

SECTION 6.3 PRIMARY ZONING DISTRICTS.

For the purposes of this Ordinance, the Town of Elizabethtown, North Carolina is hereby divided into the following primary zoning districts:

6.3.1. R-A Residential-Agricultural District.

The R-A district is defined as one to provide land for future development while permitting continued agricultural use until such time that development is appropriate. Single-family and manufactured home parks are permitted. It is assumed that approved wells and septic tanks will be utilized until such time as municipal water and sewer is available.

6.3.2. R-40 Low-Density Residential District.

The R-40 district is defined as low-density residential areas of single-family detached dwellings on large lots where a full range of public water and sewer services is not anticipated. The uses in this district are designed to stabilize and protect the low-density, rural residential characteristics of the area and to prohibit activities of a commercial nature except certain home occupations and health care facilities controlled by specific limitations.

6.3.3. R-20 Low-Density Residential District.

The R-20 district is defined as low-density residential areas of single-family dwellings plus open areas where similar residential development will likely occur. The uses in this district are designated to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations and health care facilities controlled by specific limitations.

ARTICLE 6. ZONING DISTRICTS

6.3.4. R-15 Low-Density Residential District.

The R-15 district is defined as low-density residential areas of mostly single-family dwellings plus open areas where similar residential development will likely occur. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations and health care facilities controlled by specific limitations.

6.3.5. R-12M Medium-Density and Manufactured Home Park District.

The R-12M district is defined as medium-density residential areas of mostly single-family dwellings, open areas where similar residential development will likely occur and manufactured home parks. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations and health care facilities controlled by specific limitations.

6.3.6. R-12 Medium-Density Residential District.

The R-12 district is defined as medium-density residential areas of mostly single-family dwellings and certain open areas where similar residential development will likely occur. The uses permitted in this district are designed to stabilize and protect all activities of a residential nature except certain home occupations and health care facilities controlled by specific limitations.

6.3.7. R-10 High-Density Residential District.

The R-10 district is defined as medium- to high-density residential areas where single-family and multi-family dwellings are co-mingled and certain open areas where similar residential development will likely occur. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and prohibit all activities of a commercial nature except certain home occupations and health care facilities controlled by specific limitations.

6.3.8. O-I Office and Institutional District.

The O-I district is defined as certain land areas with structures that provide office space for professional services and for certain institutional functions; and residential accommodations, usually medium- or high-density. The district is normally small, and may include older homes undergoing conversion. The district is usually situated between business and residential districts, and the regulations are designed to permit development of the enumerated functions and still protect and be compatible with nearby residential districts.

ARTICLE 6. ZONING DISTRICTS

6.3.9. C-1 General Commercial District.

The C-1 district is defined as certain commercial areas which provide a wide selection of convenience and comparison shopping outlets, furniture showrooms, and for personal services, in an orderly arrangement of retail facilities, parking and other amenities. This district is customarily located at the intersection of one or more highways or along thoroughfares. This district may also provide retailing and personal services for the benefit of residents in nearby areas and non-residents. Included also are certain functions such as warehousing that are compatible with the primary uses.

6.3.10. C-2 Central Commercial District.

The C-2 district is defined as certain land and structures that provide personal services, retailing and business services of all kinds for local and regional commerce. The area is located in the central business district of the Town where major streets and highways converge. The regulations are designed to permit a concentrated development of permitted facilities and to protect the district from over-intensive development and congestion.

6.3.11. CBD Central Business District.

The CBD district is defined as certain land and structures that provide personal services, retailing and business services of all kinds for local and regional commerce. The area is located in the center of the Town where major streets and highways converge. The regulations are designed to permit a concentrated development of permitted facilities and to protect the district from over-intensive development and congestion. The CBD recognizes the limited space for compact development and provides for on-street parking.

6.3.12. L-I Light Industrial District.

The L-I district is for industries and warehouses which are not considered detrimental to surrounding land uses or those industries that are not considered to cause unnecessary loads or strain on existing public utility facilities. Further, these industries are to comply with applicable state and federal agencies' standards for emissions, effluents, noise, or odor.

6.3.13. H-I Heavy Industrial District.

The H-I district is established for the purpose of limiting the location of industries which by nature of their activities are not compatible with residential, institutional, and commercial uses. In addition to the permitted uses in the H-I Heavy Industrial District, any building or land may be used for any other industrial purpose, except that no building or occupancy permit shall be issued for any of those uses not meeting state and/or federal agencies' standards for objectionable emissions, effluents, noise, or odor.

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6.3.14. B-C Bypass Commercial District.

The intent of the B-C district is to protect natural resources, to encourage appropriate bypass commercial areas, traffic safety, orderly site development, landscape improvements, and to enhance the overall appearance of the NC Highway 87 Bypass. The district is designed to serve motorists traveling the NC Highway 87 Bypass, while providing a wide range of commercial uses for the community as a whole. All uses within this district shall have an orderly management of parking and building development with safe access to all adjacent properties and roadways. The B-C district is the only commercial zoning district allowed within 1,500 feet from each side of the right-of-way along the NC Highway 87 Bypass within the zoning jurisdiction of the Town of Elizabethtown.

SECTION 6.4 SPECIAL ZONING DISTRICTS.

The Special Zoning District (SZD) allows a large site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses. The SZD district allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in Section 6.6 Table of Uses and Activities. All of the site specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the SZD. Approval of the site plan will establish all zoning requirements for the subject property. A SZD district shall not be less than three (3) acres in area.

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

Special zoning provides important opportunities to carefully tailor regulations to address the interest of the landowner, the neighbors, and the public. The town may use special zoning when it concludes that a particular project should be approved but that the standards in the comparable

ARTICLE 6. ZONING DISTRICTS

conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Special zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Elizabethtown.

SECTION 6.5 OVERLAY ZONING DISTRICTS.

6.5.1. Airport Hazard Overlay District (AHO).

The purpose of this district is to ensure that the Curtis L. Brown Jr. Field is protected from incompatible uses and that uses surrounding the facility are compatible with expansion of airport operations. Refer to Section 7.49 for requirements.

6.5.2. Broad Street Preservation Overlay District (BSP-O).

The Broad Street Preservation Overlay District is intended to: (1) Encourage development and redevelopment which preserves the visual quality and functional operation of Broad Street; (2) Enhance the visual image of the community; and (3) Preserve property values. Refer to Section 7.50 for requirements.

ARTICLE 6. ZONING DISTRICTS

SECTION 6.6 TABLE OF USES AND ACTIVITIES.

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
ACCESSORY USES/BUILDINGS																	
Accessory buildings/structures	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS			Section 7.2
Accessory uses	P	P	P	P	P	P	P	P	P	P		P	P	P			
Cemetery as an accessory use to a church, including columbarium	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS							Section 7.3
Child care center (as an accessory use for a principal business/industry)								PS	PS			PS	PS				Section 7.4.1
Dwelling (as an accessory for a principal business)								PS	PS	PS							Section 7.5
Granny pods/temporary health care structures	PS	PS	PS	PS	PS	PS	PS										Section 7.6
Home occupations	PS	PS	PS	PS	PS	PS	PS				PS						Section 7.7
Office uses as an accessory use to an industrial type activity, and being located on the same lot												P	P				
Fences and walls	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS			Section 7.8
Satellite dish antennas	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS				Section 7.9
Solar energy generating facility, accessory	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS				Section 7.10
Swimming pools, commercial/community								PS	PS	PS							Section 7.11
Swimming pools, private	PS	PS	PS	PS	PS	PS	PS	PS				PS	PS				Section 7.11
Temporary storage facility (portable storage units)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS				Section 7.12
Wind energy generating facility, accessory	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS				Section 7.13

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
EDUCATIONAL																	
Colleges, universities including fraternity, sorority houses, dormitories, and incidental uses when on the same unit of property	S	S	S	S	S	S	S	S	P	P		P		P			
Schools (academic); kindergarten, elementary, secondary, public or private	S	S	S	S	S	S	S	S	S	S	P			S			
Schools (non-academic); commercial, vocational, public or private to include music and dance studios	S							S	P	P	P	S		P			
INSTITUTIONAL																	
Auditoriums, indoor theaters, assembly halls									P	P	P			P			
Cemetery, mausoleum, or columbarium	S	S	S	S	S	S	S	S	S	S							
Churches, synagogues, temples and other places of worship, rectories, Sunday Schools	P	P	P	P	P	P	P	P	P	P				P			
Clubs and lodges, private, non-profit	SS	SS	SS	SS	SS	SS	SS	SS	PS	PS	PS			PS			Section 7.14
Correctional, penal institutions, jails	S							S		S	S		S				
Country clubs	S	S	S	S	S	S	S										
Emergency management operation	S								S	S		S	S				
Fire stations	S	S	S	S	S	S	S	S	S	S		S	S				
Funeral homes								P	P	P				P			
Government buildings/offices	S							P	P	P							
Hospitals, sanitarium	S	S	S	S	S	S	S	S	S	S				S			
Municipal utility facilities, above ground	S	S	S	S	S	S	S	S	S	S	S	P	P	S			

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
INSTITUTIONAL (CONTINUED)																	
Philanthropic, charitable institutions								P	P	P							
Public buildings, libraries, museums, art galleries, and the like	S	S	S	S	S	S	S	P	P	P	P			P			
MANUFACTURING AND INDUSTRIAL																	
Assembling of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating; and the manufacturing of small parts only such as coils, capacitors, transformers, crystal holders and the like												P	P				
Coal, coke, wood lots	SS												PS				Section 7.15
Concrete plants													P				
Dairy products processing												P	P				
Egg processing	P												P				
Electric and electronic machinery, equipment, supplies													P				
Fertilizer sales									S								
Flammable liquids or gases, bulk storage in quantities less than 100,000 gallons										PS		PS	PS	PS			Section 7.16
Foundry casting, light weight, nonferrous metal not causing noxious fumes, noise or odors									P			P	P	P			
Frozen food lockers									P			P	P	P			
Laboratories, medical, research								P	P	P	P	P		P			

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
MANUFACTURING AND INDUSTRIAL (CONTINUED)																	
Machine shop, excluding: punch press over 20 tons rated capacity, drop hammers and automatic screw machines												P	P				
Manufacturing and maintenance of electric and neon signs, billboard and commercial advertising structures and light sheet metal products; including heating and ventilating ducts and equipment, cornices, eaves and the like												P	P				
Manufacturing, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, electronics, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stone, shell, textiles, wood (excluding planning mills), tars, and paint not employing a boiling process													PS				Section 7.17
Manufacturing, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, ice, perfumes, pharmaceuticals, toilet soap, toiletries, and food products													PS				Section 7.17
Manufacturing of musical instruments, toys, novelties, and rubber and metal stamps												P	P				
Manufacturing of pottery and figurines or similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas	S											P	P				

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
MANUFACTURING AND INDUSTRIAL (CONTINUED)																	
Metal shops involving fabrication of sheet metal only													P				
Mining or quarrying operations, including on-site sales of products													P				
Mixing plants for concrete, or other types of paving materials and the manufacture of concrete products													P				
Monument works, stone works	P												P				
Paper, pulp, cardboard, and building board manufacture													P				
Petroleum bulk storage													PS				Section 7.16
Plastic manufacture													PS				Section 7.16
Poultry processing													P				
Poultry dressing plants													P				
Primary metal products													P				
Planing or sawmills	S												P				
Quarries or other extractive industries	S												P				
Railroad freight yards													P				
Reclamation landfill													P				
Recycling processing centers													P				
Repair shops not otherwise listed									P				P				
Textile manufacture												P	P				
Tobacco processing and storage, industrial operations	S												P				

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
OFFICES, PROFESSIONAL AND SERVICES																	
Accounting agencies								P	P	P	P						
Advertising agencies								P	P	P							
Agencies, including but not limited to, travel, brokers, insurance, loan, employment								P	P	P	P		S	P			
Attorney's offices								P	P	P	P						
Banks, savings and loan and similar financial institutions								P	P	P	P						
Condominium, commercial								SS	SS	SS	PS	SS					Section 7.18
Contractors offices (no outside storage)								P	P	P							
Engineering/surveying/architectural services – general								PS	PS	PS							Section 7.19
Insurance office								P	P	P				P			
Interior decorating service								P	P	P							
Medical, dental, paramedical, chiropractor offices								P	P	P	P			P			
Medical support offices (testing labs)								P	P	P							
Office, clerical, research and services not primarily related to goods and merchandise								P	P	P	P			P			
Opticians								P	P	P							
Real estate office/appraisal								P	P	P							
RECREATIONAL																	
Athletic fields	S	S	S	S	S	S	S				P						
Billiards and pool halls									PS	PS							Section 7.20
Bingo hall									PS	PS				PS			Section 7.20

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RECREATIONAL (CONTINUED)																	
Bowling alleys									P	S				P			
Campgrounds	P																
Coliseums, stadiums designed to accommodate more than 1,000 people	P								P								
Community buildings, not for commercial gain	S	S	S	S	S	S	S	S	P	P	P	P		P			
Dance halls									PS								Section 7.20
Gamerooms									PS	PS				PS			Section 7.20
Golf courses, except par three or miniature courses	PS	PS	PS	PS	PS	PS	PS							PS			Section 7.21
Golf courses, par three or miniature courses	P	P							P			P	P				
Fairgrounds, carousels, roller coaster, ferris wheels, super slides and the like	S											SS	SS	SS			Section 7.46
Golf driving ranges	P								P			P	P	P			
Horseback riding stables, commercial	SS																Section 7.22
Indoor athletic and exercise facilities								P	P	P							
Indoor tennis and squash courts								P	P	P							
Movie theaters									P	P							
Outdoor athletic and exercise facilities	S	S	S	S	S	S	S	S									
Par 3 golf courses	S																
Privately-owned outdoor recreational facilities	S	S	S	S	S	S	S	S									
Publicly-owned and operated outdoor recreational facilities, public parks	S	S	S	S	S	S	S	S	P	P	P			P			

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RECREATIONAL (CONTINUED)																	
Recreational vehicle park	S																
Skateboard parks									P								
Skating rinks									P					P			
Swimming clubs	S	S	S	S	S	S	S	S									
Tennis courts, commercial								S	P								
Water slides									P								
RESIDENTIAL																	
Adult care home (over 6 residents)	S						S	P									
Dwellings for caretaker or domestic employee and immediate family on premises where employed	S	S	S	S	S	S	S	S	P	P	P	P	P				
Dwelling, condominium (residential)				SS	SS	SS	SS	SS		SS	PS						Section 7.18
Dwelling, garage apartment						P	P										
Dwelling, manufactured home Class A	PS	PS	PS	PS	PS	PS	PS	PS									Section 7.23
Dwelling, manufactured home Class B	PS				PS	PS											Section 7.23
Dwelling, multi-family (other than townhouses and condominiums), 1 building per lot						P	P	P	S	S	P						
Dwelling, multi-family (other than townhouses and condominiums), more than 1 building per lot						P	P		S		P						
Dwelling, over a business									SS	SS	SS						Section 7.5
Dwelling, single-family	PS	PS	PS	PS	PS	PS	PS	PS									Section 7.5
Dwelling, townhouses				S	S	S	S	S	S	S	P						

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RESIDENTIAL (CONTINUED)																	
Dwelling, two-family (duplex)	P					P	P										
Family care home	PS	PS	PS	PS	PS	PS	PS							PS			Section 7.24
Family child care home	PS	PS	PS	PS	PS	PS	PS										Section 7.4.2
Family foster home	P	P	P	P	P	P	P										
Manufactured home parks	SS				SS												Section 7.23, 7.25, 7.28
Multi-unit assisted housing with services						P	P	P									
Orphanages	S	S	S	S	S	S	S	S									
Residential child-care facility	P	P	P	P	P	P	P										
Rooming and boardinghouse	P					P	P	P	P					P			
Small child care center								PS	PS								Section 7.4.1
Temporary emergency, construction, and repair residences	PS	PS	PS	PS	PS	PS	PS	PS									Section 7.26
Temporary farm worker housing	SS																Section 7.27
Tiny houses	PS	PS	PS	PS	PS	PS	PS	PS									Section 7.28
Tourist homes	P	S		S	S	S	S	P		P	P						

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES																	
ABC store									P								
Adult establishments													SS				Section 7.29
Antiques and gift retail stores								P	P	P	P			P			
Arts and crafts supply and retail sales									P	P	P	P	P	P			
Automated teller machines									PS	PS	PS			PS			Section 7.30
Automobile accessories sales									P	P				P			
Automobile and truck assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling, tire retreading or recapping, and similar uses													P				
Automobile, motorcycle race tracks, demolition derbies	S											S	S				
Automobile parking lots, commercial, may be for monetary gain								S	P	P		P	P	P			
Automobile parking lots, serving non-residential uses in another district						S	S	S	P	P	P	P	P	P			
Automobile parking lots serving uses permitted in district in which lot is located	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Automobile repair shops including body and fender work conducted within a completely enclosed building										P			P	P			
Automobile sales, new and used										P				P			
Automobile service station, not including outside storage of used, wrecked, inoperable, or dismantled automobiles									PS	PS		PS	PS	PS			Section 7.37

ARTICLE 6. ZONING DISTRICTS

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES (CONTINUED)																	
Bakeries, bottling works									P	P		P	P	P			
Bakeries selling at retail products produced on premises									P	P	P	P	P	P			
Barber/beauty salons									P	P	P	P	P	P			
Battery charging station								PS	PS								Section 7.31
Battery exchange station									PS								Section 7.31
Bed & breakfast homes	PS	SS	PS	SS	SS	SS	SS	PS	PS	PS	PS						Section 7.32
Book and stationary stores									P	P	P			P			
Broadcasting studios, radio, TV								P	P		P	P	P	P			
Building supplies and sales									P			P	P				
Car wash									P					P			
Carpet, rug, bag cleaning establishments								P	P	P	P	P	P	P			
Catering establishments									P	P	P	P		P			
Child care center								PS	PS	PS				PS			Section 7.4.1
Cleaners and dryers									PS	PS	PS	PS	PS	PS			Section 7.33
Cleaners, self service									PS		PS	PS	PS	PS			Section 7.33
Commercial greenhouse or nursery	S								P			P					
Computer sales and repair									P	P	P			P			
Convenience stores									P	P							
Daycare facility, adult	PS							PS	PS								Section 7.34
Deli									P	P							

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES (CONTINUED)																	
Distilleries												PS	PS				Section 7.35
Drive-in restaurants									P			P	P	P			
Drug stores/pharmacies								S	P	P	P	P	P	P			
Electrical repair or contractor (no open storage)								P	P	P							
Electrical repair or contractor (open storage allowed)									P			P					
Electrical shops									P		P	P	P	P			
Engine repair, small (including motorcycle)									P								
Exhibition buildings, galleries, or show rooms									P	P	P	P		P			
Farm supply; farm equipment sales and service	P								P					P			
Flea markets, open air sales not incidental to operation of an otherwise permitted use, used or new merchandise promotion	SS													SS			Section 7.36
Flower and plant sales, not enclosed	P								P		P	P		P			
Furniture, retail sales									P	P	P	P					
Gas sales operations									PS								Section 7.37
General contractors (no open storage)								P	P	P							
General contractors (open storage allowed)												P	P				
Grocery/food store									P		P						
Hardware and building materials sales									PS		PS	PS		PS			Section 7.2
Health spa								P	P	P	P						

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES (CONTINUED)																	
Heating and air conditioning installation and repair (no open storage)									P	P		P					
Heating and air conditioning installation and repair (open storage allowed)									P			P	P				
Home appliance dealers (no warehousing)											P						
Home appliance dealers (with or without warehousing)									P	P							
Home appliance repair									P		P	P		P			
Hotels, motels									P	P		P		P			
Ice cream stand or store									P	P							
Kennels	SS							PS	PS			PS	PS	PS			Section 7.38
Laboratories, experimental photo or motion picture, film or testing												P	P				
Laundries									PS	PS	PS			PS			Section 7.33
Laundries, self-service									PS	PS	PS			PS			Section 7.33
Leather goods stores																	
Lock and gunsmiths								PS	PS	PS	PS	PS		PS			Section 7.17
Manufactured home sales, heavy machinery sale, repair, rental, or storage	SS								PS			PS	PS	PS			Section 7.39
Microbreweries/wineries									PS	PS		PS					Section 7.35
Motor vehicle parts and accessories sales with installation									P								
Motor vehicle repair and maintenance, not including substantial body work									P								
Nail/tanning salon								P	P	P	P						

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Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES (CONTINUED)																	
Nightclubs, bars, lounges, and the like										SS							Section 7.20
Nursing home	S	S	S	S	S	S	S	S	P								
Office supplies								P	P	P	P						
Paint store									P	P	P						
Pet store									P	P	P						
Photographic developing, processing and finishing									P	P	P	P	P	P			
Plumbing repair contractor (no open storage)									P	P		P					
Plumbing repair contractor (open storage allowed)									P			P	P				
Printing or binding shop									P	P	P	P	P	P			
Private postal shipping and receiving								P	P	P							
Rental of goods, merchandise, and equipment (no outside storage or display of goods)									P	P				P			
Rental of goods, merchandise, and equipment (with outside storage and display of goods)									P			P					
Repair and servicing of office and household equipment									P			P	P	P			
Restaurants, including all eating places except: drive-in, nightclubs, clubs, lodges									P	P	P	P					
Retail businesses, not otherwise listed (shall not exceed 2,000 square feet)									PS					PS			Section 7.2
Retail, large									S								
Retail, not including automobile or parts, agricultural, industrial, or the sale of manufactured homes											P						

ARTICLE 6. ZONING DISTRICTS

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
RETAIL SALES AND SERVICES (CONTINUED)																	
Sheet metal, roofing shops									P			P	P	P			
Shoe store or repair									P	P	P	P					
Stores or shops, retail, but not automobile sales or repair and not otherwise listed herein									P	P							
Tailor/seamstress shop									P	P	P			P			
Tattoo/body piercing parlors										SS							Section 7.40
Towing, automobile and truck									PS			PS					Section 7.41
Truck stop														P			
Truck terminals									P				P				
Truck wash									P				P				
Upholstery, paper hanging, and decorator shops									P	P	P			P			
Veterinarian, animal clinic, no outside kennel								P	P	P				P			
Veterinarian, animal clinic, outside kennel									PS								Section 7.42
Woodworking shops												P	P				
TRANSPORTATION																	
Airports, public and private												S	S				
Bus terminal									P								
Taxi stands									P	P	P						
Transportation terminals, freight									P			P	P	P			
Transportation terminals, passengers									P	P	P	P	P	P			

ARTICLE 6. ZONING DISTRICTS

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
WHOLESALE SALES AND WAREHOUSING																	
Agricultural product warehousing	S																
Appliance distributor for wholesale									P	P		P		P			
Compartmentalized storage for individual storage of residential and commercial goods									P			P	P	P			
Construction storage yards, lumber yards												PS	PS				Section 7.15
Junkyards, salvage yards, automobile graveyards													SS				Section 7.43
Storage of goods not related to the sale or use of those goods on the same lot where they are stored									P			P					
Storage, outdoor, not including junkyards or storage of petroleum products in quantities over 100,000 gallons, not otherwise listed herein									SS			SS	PS	SS			Section 7.16
Storage, petroleum products in quantities greater than 100,000 gallons												S	P	S			
Warehouses, mini (units not to exceed 400 sq ft each)									P			P					
Warehouses, sales or service									P			P	P	P			
Warehousing, general, except agricultural product warehousing												P	P				
Wholesale establishments									P			P	P	P			
OTHER USES																	
Bona fide farms	P	P	P	P	P	P	P	P	P	P		P	P				
Community gardens	S	S	S	S	S	S	S	P	P		P						
Farm stand									P								

ARTICLE 6. ZONING DISTRICTS

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts														Overlay Districts		Supplemental Regulations
	R-A	R-40	R-20	R-15	R-12M	R-12	R-10	O-I	C-1	C-2	CBD	L-I	H-I	B-C	AHO	BSP-O	
OTHER USES (CONTINUED)																	
Food trucks									P	P							
Forestry activities	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS				Section 7.44
Garbage landfills, incinerators													S				
Public utilities, static transformer stations, transmission lines and towers and telephone exchanges, radio and television towers and transmitting or relay stations, not including service and storage yards	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Signs (as permitted by Article 10, Part IV)	P	P	P	P	P	P	P	P	P	P		P	P	P			
Solar energy facilities, roof-mounted, parking lot cover, or building integrated (Level 1)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS			Section 7.45
Solar energy facilities, ground-mounted ≤1/2 acre (Level 2)													PS				Section 7.45
Solar energy facilities, ground-mounted ≤10 acres (Level 2)													PS				Section 7.45
Solar energy facilities, ground-mounted >10 acres (Level 2 or 3)													PS				Section 7.45
Special events	PS	SS	SS	SS	SS	SS	SS	PS	PS		PS	PS	PS	PS			Section 7.46
Trash and garbage disposal facilities													P				
Temporary buildings incidental to a construction project	P	P	P	P	P	P	P	P	P	P		P	P	P			
Wind farm												PS	PS				Section 7.47
Wireless communication facilities	SS											PS	PS	PS			Section 7.48

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ARTICLE 7. SUPPLEMENTAL REGULATIONS

SECTION 7.1 INTRODUCTION.

The following supplemental regulations shall pertain to the uses listed in the Table of Uses and Activities located in Article 6 which are identified with a “PS” or “SS” for supplemental regulations.

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

SECTION 7.2 ACCESSORY BUILDINGS/STRUCTURES.

An accessory use in R-A, R-40, R-20, R-15, R-12M, R-12, R-10, and O-I districts shall include residential occupancy by domestic employees employed on the premises and the immediate families of such employees only if a special use permit is obtained. Swimming pools as an accessory use in R-A, R-40, R-20, R-15, R-12M, R-12, R-10 and O-I districts shall be enclosed by protective fencing (see Section 7.11). In O-I, C-1, and C-2 districts, there shall be no open storage as an accessory use. In L-I and H-I districts, open storage shall be permitted as an accessory use provided it is enclosed by a fence not less than six feet in height.

SECTION 7.3 CEMETERY AS AN ACCESSORY USE TO A CHURCH, INCLUDING COLUMBARIUM.

Cemeteries, including a columbarium, located on the same property as a church shall be subject to the following criteria:

7.3.1. The cemetery shall not encroach on any yard setbacks.

7.3.3. A site plan shall be submitted in accordance with Section 5.7.

SECTION 7.4 CHILD CARE FACILITIES.

7.4.1. Child Care Center

7.4.1.1. When a center is licensed for six to twenty-nine children, inclusive, there shall be 75 square feet per child of outdoor play area for the total number of children for which the center is licensed. In addition, the total number of children on the playground shall not exceed the number the space will accommodate at 75 square feet per child. When a center is licensed for 30 or more children, there shall be 75 square feet per child of outdoor play area for at least one-half of the total number for which the center is licensed, provided that

ARTICLE 7. SUPPLEMENTAL REGULATIONS

the minimum amount of space on the outdoor play area shall be enough to accommodate at least 30 children. The outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods. The outdoor area shall be designed so that staff are able to see and easily supervise the entire area.

7.4.1.2. If a special use permit is required, the permit shall establish the hours of operation.

7.4.1.3. Minimum paved off-street parking spaces: Two spaces plus one for each employee.

7.4.1.4. Minimum paved off-street loading and unloading area: In addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.

7.4.2. Family Child Care Home.

In addition to the other standards set forth in this Ordinance, each Family Child Care Home (FCCH) must meet the following requirements:

7.4.2.1. A Family Child Care Home may have no more than eight (8) children. Of the children present at any one time, no more than five (5) shall be preschool-aged, not including the operator's own preschool-aged children;

7.4.2.2. The maximum hours of operator are 7:00 am to 6:00 pm, Monday through Friday;

7.4.2.3. No signage advertising the Family Child Care Home is allowed;

7.4.2.4. The building in which the Family Child Care Home is located may not be located closer than 500 feet to any other building housing another FCCH or Child Care Center; and

7.4.2.5. The home daycare must be licensed through the NC Department of Health and Human Services.

Violations of subsections 7.4.2.2, 7.4.2.3, and 7.4.2.4 of this section are violations of this Ordinance, and the Town may impose civil penalties and/or seek other remedies, as provided in this Ordinance, to correct violations of those subsections. Subsections 7.4.2.1 and 7.4.2.5 are established by State law, and the violations of these subsections may be punished as provided by State law. No violation of subsections 7.4.2.1 or 7.4.2.5 shall subject the offending party to civil penalties or other remedies established by this Ordinance.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

SECTION 7.5 DWELLING (AS AN ACCESSORY FOR A PRINCIPAL BUSINESS)

7.5.1. Dwellings may be accessory uses to a principal business as provided in Section 6.6 if located inside the principal structure or as a detached structure that is secondary to the primary structure in size or location such as a garage apartment. Manufactured homes, travel trailers, and recreational vehicles shall not be used as permanent accessory residences.

7.5.2. One, two and multi-family dwelling units, complying with State and local ordinances, are permitted above the first story of a commercial building.

SECTION 7.6 GRANNY PODS/TEMPORARY HEALTH CARE STRUCTURES.

Granny pods, also called temporary health care structures, are permitted under the authority of NC General Statutes Section 160A-383.5. Granny pods shall be permitted as an accessory use in accordance with Section 6.6, subject to the following standards:

7.6.1. Structures must be transportable residential units assembled off-site and built to the standards of the State Building Code. It must be no more than 300 gross square feet and must not be placed on a permanent foundation.

7.6.2. The accessory structure must comply with all setbacks and any maximum floor area ratio limits that apply to the primary residential structure. The structure shall be connected to any public water, sewer, and electric utilities serving the property or water and/or sewer systems approved by Bladen County. Only one accessory temporary family care structure is allowed per lot. No signage regarding the presence of the structure is allowed. The structure must be removed within sixty (60) days after care-giving on the site ceases.

7.6.3. A zoning permit is required to be obtained prior to installation. Evidence of compliance may be required as part of the permitting and annual permit renewal, including an annual renewal of the doctor's certification of impairment. The Town may make periodic inspections at times convenient to the caregiver to assure on-going compliance.

7.6.4. The caregiver must be at least 18 years old and must be a first or second degree relative of the impaired person (a spouse, parent, grandparent, child, grandchild, aunt, uncle, nephew, or niece). A legal guardian of the impaired person also qualifies.

7.6.5. In the O-I district, granny pods shall only be permitted for single-family residentially used property.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

SECTION 7.7 HOME OCCUPATIONS.

7.7.1. Home occupations are permitted only as an incidental use inside of the home and are limited to the following:

7.7.1.1. The office or studio of an artist (but not including a studio of a commercial photographer), musician, lawyer, teacher or other like professional person residing on the premises, provided no chattels or goods, wares or merchandise are commercially created, displayed, exchanged, or sold;

7.7.1.2. Workshops not conducted for profit;

7.7.1.3. Customary home occupations such as millinery, dressmaking, laundering or pressing and tailoring, conducted by a person residing on the premises;

7.7.1.4. Rooming and/or board of not more than two (2) persons;

7.7.1.5. Single operator beauty shops and barber shops.

7.7.2. Provided further home occupations listed above shall be permitted subject to the following limitations:

7.7.2.1. No display of products shall be visible from the street;

7.7.2.2. No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception;

7.7.2.3. No accessory building or outside storage shall be used in connection with the home occupation;

7.7.2.4. Not over twenty-five (25) percent of the total actual floor area or four hundred (400) square feet, whichever is less, shall be used for a home occupation;

7.7.2.5. Only residents of the dwelling may be engaged in the home occupation;

7.7.2.6. No odors, noise, dust, or other objectionable effects shall be emitted to the outside of the building.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.7.2.7. No commercial or US Postal Service delivery of any items other than those associated with routine residential items/products.

7.7.2.8. No on-street parking is allowed (see Section 10.3 for parking ratios).

SECTION 7.8 FENCES AND WALLS.

The setback requirements of these regulations shall not prohibit any necessary retaining wall nor prohibit any planted buffer strip, fence, or wall. Walls and fences shall not create a sight obstruction at street intersections or at driveways. Walls and fences shall have a maximum height of four (4) feet in the front yard and six (6) feet in the side and rear yard.

SECTION 7.9 SATELLITE DISH ANTENNAS.

7.9.1. All satellite dishes shall be installed in compliance with FCC regulations.

7.9.2. Residential satellite dishes shall not exceed 24" in diameter and nonresidential satellite dishes shall not exceed 36" x 22" (oval).

7.9.3. If possible, satellite dishes shall not be located in a front yard and shall be hidden from view of the public right-of-way.

SECTION 7.10 SOLAR ENERGY GENERATING FACILITY, ACCESSORY

Solar collectors shall be permitted as an accessory use to new or existing structures or facilities in accordance with Section 6.6, subject to the following standards:

7.10.1. Roof-Mounted Solar Systems.

The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

7.10.1.1. Pitched Roof Mounted Solar Systems. For all roof-mounted systems other than a flat roof, a drawing shall be submitted showing the location of the solar panels.

7.10.1.2. Flat Roof Mounted Solar Systems. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.10.2. Ground-Mounted Solar Systems.

Ground-mounted solar collectors (accessory) shall meet the minimum zoning setback for the zoning district in which it is located.

7.10.3. Approved Solar Components.

Electric solar system components shall have a UL listing.

7.10.4. Compliance with Building and Electrical Codes.

All solar collector systems shall be in conformance with the International Building Code with North Carolina amendments.

7.10.5. Compliance with Other Regulations.

All solar collector systems shall comply with all other applicable regulations.

SECTION 7.11 SWIMMING POOLS, COMMERCIAL/COMMUNITY AND PRIVATE.

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

7.11.1. The setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one foot for each foot over five of pool height. The additional setback for an in-ground swimming pool shall be at least two (2) feet.

7.11.2. A fence be erected to a minimum height of four feet to completely enclose all sides of the pool not bounded by a building within ten (10) feet of all pool edges. A self-latching gate of equal height shall be installed and securely fastened when the pool is not in use.

7.11.3. Contractor must have construction fence/silt fence surrounding an in-ground pool area (construction site) while under construction.

7.11.4. Mechanical equipment may encroach up to five (5) feet into a side or rear yard setback, must be screened from view, and must not be located in a street yard.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

SECTION 7.12 TEMPORARY STORAGE FACILITY (PORTABLE STORAGE UNITS).

Temporary storage facilities, as defined in Appendix A, shall be subject to the following regulations:

7.12.1. Dumpsters or temporary storage facilities incidental to a natural disaster, or construction with a valid building permit, shall be exempt from these regulations.

7.12.2. Temporary storage facilities intended to be in place for greater than thirty (30) days shall require a zoning permit.

7.12.3. With the exception of Light Industrial (I-1) and Heavy Industrial (I-2) zoning districts, temporary storage facilities may be placed on a property a maximum of any one hundred and twenty (120) day period during one calendar year from its initial placing on a property.

7.12.4. No temporary storage facility shall encroach into any public right-of-way.

7.12.5. No temporary storage facility may encroach into vehicular use areas where such encroachment reduces the amount of parking below the minimum permitted amounts.

7.12.6. No temporary storage facility shall be used as living space and/or a permanent accessory building.

SECTION 7.13 WIND ENERGY GENERATING FACILITY, ACCESSORY.

Wind energy generating facilities (accessory) designed to supplement other electricity sources shall be permitted as an accessory use in accordance with Section 6.6, subject to the following standards:

7.13.1. A wind energy generator (accessory) shall be setback from all property lines a distance equal to one linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district, whichever is greater. Maximum height of wind turbines shall be consistent with the requirements of the underlying zoning district. The height shall be measured from the ground to the highest point of the prop.

7.13.2. A wind turbine may not be located between the front wall of the primary structure and the street.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.13.3. Rotor blades on wind turbines shall maintain at least fifteen (15) feet of clearance between their lowest point and the ground.

7.13.4. *Installation and Design.*

The installation and design of the wind energy generator (accessory) shall conform to applicable industry standards, including those of the American National Standards Institute.

7.13.5. The visual appearance of wind energy generator (accessory) shall:

7.13.5.1. Be constructed of a corrosion resistant material that will not fade, show rust spots, or otherwise change the appearance as a result of exposure to the elements and be a non-obtrusive color such as white, off-white, or gray.

7.13.5.2. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

7.13.5.3. Landscaping, buffering, and screening shall be provided in accordance with Article 10, Part III.

7.13.6. Any accessory wind energy generator and supporting structure that is not functional shall be removed after 180 days. In the event that the Town becomes aware of any wind energy system that is not operated for a continuous period of three (3) months, the Town will notify the landowner by certified mail that the system must be moved or repaired in 90 days. The owner may request and receive a single extension of up to 90 days for good cause shown, including the reasons for the operational difficulty and a reasonable timetable for corrective action. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

SECTION 7.14 CLUBS AND LODGES, PRIVATE, NON-PROFIT.

7.14.1. Private non-profit clubs having only one operating swimming pool with bathhouse facilities and open only during the swimming season are exempt from the minimum lot area requirements if all activities and facilities (other than parking) are located no closer than fifty (50) feet to any property line. There shall be provided in any swimming pool water area at a depth of five (5) feet or less in the ratio of 7.2 square feet per member (or family). Water areas not deeper than five (5) feet shall not be included as a part of the minimum pool area to satisfy this requirement.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.14.2. No improvements, structures, sidewalks or play areas or equipment shall be closer than fifty (50) feet to any adjoining property lines. Parking areas may be permitted within twenty (20) feet of an adjoining property line if the above mentioned twenty (20) foot strip is used for plantings designed to grow at least six (6) feet high.

7.14.3. Adjacent to swimming pools there shall be provided paved patio area(s) in the ratio of two (2) square feet of paving for each square foot of water area that is five (5) feet or less in depth.

7.14.4. Lights shall be located and shielded so as not to adversely affect adjacent property.

SECTION 7.15 CONSTRUCTION STORAGE YARD.

A storage yard for construction materials shall be permitted in accordance with Section 6.6, provided it is enclosed by a fence not less than six (6) feet in height. Such materials shall be stored in an orderly manner.

SECTION 7.16 HAZARDOUS CHEMICALS.

This note shall apply to materials which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability, or liability to explosion render fire fighting abnormally dangerous or difficult; also to materials and formulations which are chemically unstable and which may spontaneously form explosive compounds, or undergo spontaneous or exothermic reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous chemicals shall include such materials as corrosive liquids, flammable solids, highly toxic materials, oxidizing materials, poisonous gases, radioactive materials, and unstable chemicals, as defined in Section 20.2 of the American Insurance Association Fire Prevention Code. Where such materials are stored, their storage shall not be considered a Use By Right except when written authorization is given by the Fire Chief of the Town of Elizabethtown.

SECTION 7.17 INDUSTRIES.

The following industrial uses shall not be allowed:

7.16.1. The manufacturing, processing, fabrication, and/or bulk storage of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, juke, or matches.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.16.2. The manufacturing, processing, and/or fabrication of acids (except non-corrosive acids), ammonia, ammonium nitrate, animal by-products, bleaching powder, cellulose, cement, chlorine, creosote and creosote treatment, detergents, enamels, lacquers, lime, linoleum, oil cloth, paper pulp, pigments, plaster, rubber (except tire re-cappers), soaps, tannery products, turpentine, varnishes, whiting and/or wood fillers, or any other use which is noxious or offensive by reason of vibration, or the emission of dust, odor, smoke, gas, or noise.

SECTION 7.18 CONDOMINIUM, COMMERCIAL AND RESIDENTIAL.

7.18.1. A “declaration” shall be a complete legal document prepared strictly in accordance with the NC Unit Ownership Act and shall be submitted to the Planning Department with the site plan in accordance with Article 5.

7.18.2. The plan of the proposed development shall be prepared and shall contain the following:

7.18.2.1. The unit designation of each unit and a statement of its location, approximate area, number of rooms and immediate common area to which it has access and any other data necessary for its proper identification.

7.18.2.2. Description of the general common areas and facilities as defined in the NC Unit Ownership Act and the proportionate interest of each unit owner therein.

7.18.2.3. Description of all boundary lines between portions of the structures designed for different ownership.

7.18.2.4. Description of all garages, balconies, patios, etc., which form a part of each unit.

7.18.2.5. Description of any special common areas and facilities stating what units shall share the same and in what proportion.

7.18.2.6. Statement of the purpose for which the building and each of the units are intended and restricted as to use.

7.18.2.7. Description of signage and parking areas.

7.18.2.8. Description and heights of all fences, walls, and hedges.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.18.2.9. Description and location of water, sewer, and storm drainage utilities and solid waste storage facilities.

7.18.2.10. Description of all structures and zoning within 300 feet of the property.

7.18.3. Because a “final” plan may not be possible until an engineering survey has been made of the constructed condominiums, the Town Council may permit the applicant to build under the special use permit, providing all items other than final engineering survey data of boundary line have been provided by the applicant and approved by the Board. No declaration and plan shall be recorded until all final boundary descriptions have been added to the plan and approved by the Zoning Administrator.

SECTION 7.19 ENGINEERING/SURVEYING/ARCHITECTURAL SERVICES.

All outside assembly/storage areas shall comply with the requirements of Article 10, Part III.

SECTION 7.20 GAMEROOMS, BINGO, BILLIARDS AND POOL HALLS, DANCE HALLS, BARS, NIGHT CLUBS, AND SOCIAL CLUBS.

7.20.1. Within a C-1 or C-2 zoning district, any location not previously so used prior to the adoption of this Ordinance may not be used for a gameroom, bingo, billiard and pool hall, dance hall, bar, nightclub, or social club (the “enumerated uses”) if it is within three hundred (300) feet of a presently licensed, approved, and operating similar activity. Provided, however, all locations used for existing businesses conducting the activities above specified shall be permitted as locations for such activities until said location ceases to be used for such business activity for more than one hundred eighty (180) days or its special use permit is surrendered to or revoked by the Town.

7.20.2. Enumerated uses as listed above in subsection 7.20.1 shall be subject to special use permit procedures and requirements as set forth in Section 4.9 including those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

7.20.3. Permittees shall, annually on or before September 1st, provide the following information to the Town on a form provided by the Town: (1) the name, business address, and contact information of the owners of the property; (2) the name, business address, and contact information for the lessee’s or operators of all of the enumerated businesses; (3) owners of the property; (4) the name, number, date of issuance and date of expiration of all state, county, and

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municipal licenses held by the owner(s), lessee(s), and operator(s). Failure to provide such information may result in a hearing under Section 4.9 to consider whether the business or use is in compliance with this Ordinance and the special use permit.

SECTION 7.21 GOLF COURSES.

7.21.1. All golf course greens, tees, and fairways shall be set back at least fifty (50) feet from any property line.

7.21.2. Principal and accessory buildings shall be setback at least one hundred (100) feet from any property line.

SECTION 7.22 HORSEBACK RIDING STABLES, COMMERCIAL.

7.22.1. The use shall be located on a lot or tract of at least five (5) acres in area.

7.22.2. The principal and accessory buildings shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line.

SECTION 7.23 MANUFACTURED HOMES, CLASS A AND B.

7.23.1. Underpinning.

A certificate of occupancy will not be granted unless the lot and unit meet the following standards: The manufactured home shall be provided with continuous masonry underpinning from the bottom of the walls to the ground and shall be un-pierced except for required ventilation and an access door. Masonry underpinning shall be built according to State Building Code.

7.23.2. Manufacture Date.

No home manufactured prior to July 1, 1976, shall be placed within the corporate and extraterritorial limits of the Town of Elizabethtown. A notarized certificate, showing that the unit was manufactured after this date, shall be required from the owner before the Town of Elizabethtown Planning Department issues any permit.

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SECTION 7.24 FAMILY CARE HOMES.

7.24.1. All Family Care Homes must be licensed by the State of North Carolina.

7.24.3. As defined by NC General Statutes Chapter 168-21, family care homes must be located no closer than one-half (1/2) mile from any other family care home. As provided for in Section 4.10.2, a variance to the 1/2 mile separation requirement may be obtained when the separation is accomplished by man-made features (i.e., railroad yards, freeways) or natural features (i.e., rivers, wetlands) and provides sufficient separation to ameliorate the harmful effects that justified the statutory separation.

SECTION 7.25 MANUFACTURED HOME PARKS.

7.25.1. No manufactured home parks shall be allowed in a floodplain area.

7.25.2. There shall be yard clearance of at least 30 feet between each manufactured home, including manufactured homes parked end to end. Manufactured homes shall be located no closer than 25 feet to any exterior property line of the park, and no closer than 15 feet to the edge of any interior drive or walkway.

7.25.3. Water and sewage services must be approved by the County Health Department or the Town.

7.25.4. A recreation area of at least 200 square feet per manufactured home space shall be provided.

7.25.5. All interior drives must be paved to a width of at least 21 feet, except one-way drives shall be at least 12 feet wide. Paved walkways of not less than two (2) feet in width shall connect all service buildings to abutting drives.

7.25.6. All operators of manufactured home parks existing on the effective date of this Ordinance shall submit an application for a special use permit prior to the installation of any improvements or otherwise developing such existing or proposed manufactured home parks:

7.25.6.1. Fire Protection. Every manufactured home park shall be equipped at all times with fire extinguishing equipment in good condition, of such size, type, and number and so located as to meet all regulations of the Town Fire Inspector.

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7.25.6.2. Lighting. All interior drives, walkways and steps shall be lighted with electric lamps of not less than 50 watts each, spaced at intervals of not more than 100 feet; or equivalent lighting. Such lighting shall be constructed under standards approved by the Town's Building Inspector.

7.25.6.3. Structural Additions. All structural additions to manufactured homes, other than those which are built into the unit and designed to fold out or extend from it, shall be erected only after a building permit shall have been obtained and such additions shall conform to the building code of Bladen County, where applicable, or shall meet the standards of any special regulations adopted with respect to such additions. The certificate of zoning compliance shall specify whether such structural addition may remain permanently, must be removed from the manufactured home when it is removed or must be removed within a specified length of time, not to exceed three (3) months, after the manufactured home is removed.

7.25.6.4. Refuse Collection Facilities. Garbage collection and storage shall be provided in one of the following ways:

7.25.6.4.1. A permanent location shall be selected and a dumpster or similar container shall be provided to serve all manufactured homes in the park; or

7.25.6.4.2. Metal garbage cans with tight fitting covers and a capacity of at least 20 gallons and not more than 32 gallons shall be provided for each manufactured home space. Garbage cans shall be located no further than 100 feet from any manufactured home space. The cans shall be kept in sanitary condition in an approved rack at all times.

7.25.6.5. Emergency Access Telephone. For the purpose of safety and meeting emergencies, one (1) telephone for each 25, or fraction thereof, manufactured home spaces shall continuously be provided to the entire occupancy of the park at convenient locations.

7.25.6.6. Animal and Pets. No owner or persons in charge of any dog, cat, or other pet animal shall permit it to run at large or to commit any nuisance within the limits of the manufactured home park and its surrounding area.

7.25.6.7. Management. In each manufactured home park, the manufactured home park operator or duly authorized attendant or caretaker shall be in charge at all time to keep the manufactured home park, its facilities and equipment in a clean, orderly, safe, and sanitary

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condition. The manufactured home park operator is to be registered with the Zoning Administrator.

7.25.6.8. Register of Occupants. It shall be the duty of each manufactured home park operator to keep a register containing a record of all manufactured home owners and occupants located within the park. Such register shall include names, occupation of any persons occupying the manufactured home; the make, model, color, and license number of all towing vehicles and cars; and the license number and registration of all manufactured homes.

7.25.6.9. Parking. No automobile parking shall be permitted in areas other than specified parking areas at any time.

SECTION 7.26 TEMPORARY EMERGENCY, CONSTRUCTION/REPAIR RESIDENCE, OR OFFICE WORK SPACE.

7.26.1. Dimensional Requirements. A Temporary Emergency, Construction/Repair Residence, or Office/Work Space shall comply with the dimensional requirements for an accessory building as set forth in Section 6.6.

7.26.2. Permit Expiration. A permit for Temporary Emergency, Construction/Repair Residence or Office/Work Space to be occupied pending the construction, repair, or renovation of a permanent single-family dwelling on a site or a non-residential/commercial development shall expire within 6 months after the date of the issuance, except that the Zoning Administrator may renew such permit if it is determined that: (1) substantial construction, repair work, renovation or restoration work has been done; and (2) such renewal is reasonably necessary to complete the necessary work to make such residence habitable. A Class A manufactured home may be used as a temporary residence.

SECTION 7.27 TEMPORARY FARM WORKER HOUSING.

7.27.1. Building Area.

Rooms or compartments for sleeping shall contain not less than 39 square feet of floor space for each person.

7.27.2. Health and Safety.

7.27.2.1. Not more than ten (10) people shall be housed in any one room or compartment for sleeping purposes.

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7.27.2.2. Separate toilet and shower facilities shall be provided for male and female workers. A minimum of one (1) toilet and one (1) shower shall be provided for each ten (10) workers.

7.27.2.3. A laundry room shall be required with one (1) wash sink of at least ten (10) gallon capacity for each ten (10) workers. Adequate clothes drying lines shall be provided.

7.27.2.4. Dining and food service facilities shall be provided and shall contain at least twelve square feet of floor space per worker and shall be approved by the Bladen County Health Department.

7.27.2.5. All water, sewer, and sanitary facilities shall be approved by the Bladen County Health Department.

7.27.2.6. All garbage and refuse shall be stored in water-tight and fly-tight receptacles and it shall be the responsibility of the owner of the property to ensure that all garbage and refuse is regularly disposed of in a sanitary manner acceptable to the Bladen County Health Department.

SECTION 7.28 TINY HOUSES.

Tiny houses shall be allowed in accordance with Section 6.6, subject to the following:

7.28.1. A tiny house must comply with the North Carolina State Building Code.

7.28.2. A tiny house must be situated on a permanent foundation with secure wind-resistant tie-downs and connected to public water, sewer, and electric utilities.

7.28.3. If the tiny house is constructed on a travel chassis with wheels, the wheels must be removed for permanent location on a foundation.

7.28.4. A tiny house must comply with all zoning ordinance requirements for the zoning district in which it is located. Tiny house development shall not be built following the manufactured home park requirements.

7.28.5. Room Unit Capacity. The amount of floor space provided per room or occupant shall be that provided in the applicable North Carolina building code.

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SECTION 7.29 ADULT ESTABLISHMENTS.

7.29.1. No use permitted under this section may be located within 2,500 feet of another use permitted under this section.

7.29.2. No use permitted under this section may be within 1,500 feet of any area zoned residential use of from the property line of residential unit(s), churches, schools, or public parks in all zoning districts, which will be measured from the property line(s) containing such regulated use.

7.29.3. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment.

7.29.4. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

7.29.5. No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one person at any time.

SECTION 7.30 AUTOMATED TELLER MACHINES.

Walk-up or drive-through customer service windows or Automated Teller Machines (ATMs), are permitted in accordance with Section 6.6, subject to the following:

7.30.1. Be set flush with the facade of the building;

7.30.2. If freestanding, must be located within a service unit island under a drive-through canopy;

7.30.3. Be located so as not to interfere or conflict with the sidewalks, pedestrian ways, parking areas, loading areas, driveways, interior yards, or foundation plantings;

7.30.4. Each freestanding ATM or customer service window that provides walk up service (no drive up) requires two regular parking spaces and one handicapped accessible space dedicated to the ATM or customer service window.

7.30.5. Each freestanding ATM or customer service window shall provide a surveillance system meeting banking industry standards;

7.30.6. Drive-through ATMs or customer service window must provide stacking space for 4 vehicles (8' by 20').

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7.30.7. Freestanding ATMs or customer service window remote from the controlling financial institution or controlling business shall be located in a commercial business center parking lot and must meet all setback requirements; and

7.30.8. Provide site plan of proposed facility to Zoning Administrator.

SECTION 7.31 BATTERY CHARGING/BATTERY EXCHANGE STATION.

Battery charging stations and battery exchange stations shall be permitted in accordance with Section 6.6, subject to the following requirements:

7.31.1. Electric vehicle charging stations should be reserved for parking and charging of electric vehicles only.

7.31.2. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

7.31.3. *Battery Charging Stations.* For land use compatibility purposes, the charging activity should be proportionate to the associated permitted use. Electric vehicle charging station(s) shall be permitted in a single- or multi-family garage designed to service the occupants of the home/dwelling unit as an accessory use. Accessory single-family charging stations shall not exceed residential building code electrical limitations. Whereas, charging station(s) installed in a parking lot for non single-family residential use are expected to have intensive use and will be permitted to have multiple “rapid charging stations” to serve expected demand.

7.31.4. *Battery Exchange Stations.* Exchange stations are permitted in any commercial or industrial zoning district, provided, however, all other requirements for the building or space the use occupies are satisfied, including but not limited to the Zoning Ordinance, fire code, and building code requirements. This use is specifically prohibited in exclusively residential or conservation/recreation zoning districts.

7.31.5. *Design Criteria for Commercial and Multi-Family Development.* The following criteria shall be applied to electric charging facilities.

7.31.5.1. *Number Required.* This is an optional improvement. No minimum number of stalls applies. Provided, if electric vehicle stalls are reserved for electric vehicles, care should be taken to ensure enough spots are available for all of a site’s parking needs.

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7.31.5.2. Generally. Location and provision of electric vehicle parking will vary based on the design and use of the primary parking lot, keeping in mind flexibility will be needed in various parking lot layout options.

7.31.5.3. Signage to Identify. Each charging station space should be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations should be included if time limits or tow away provisions are to be enforced by the owner.

7.31.5.4. Maintenance. Charging station equipment should be maintained in all respects, including the functioning of the charging equipment.

7.31.5.5. Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, charging equipment should be located so as to not interfere with accessibility.

7.31.5.6. Lighting. Where charging station equipment is installed, adequate site lighting should also be provided unless charging is for daytime purposes only.

7.31.5.7. Notification of Station Specifics. Information on the charging station identifying voltage and amperage levels and any time of use, fees, or safety information.

7.31.5.8. Avoid Conflict with Handicap Spots. Stalls should generally not be located adjacent to handicap spots unless designed for handicapped use.

SECTION 7.32 BED & BREAKFAST HOMES.

7.32.1. A bed and breakfast shall be permitted only within a principal residential structure.

7.32.2. A bed and breakfast shall be located in a dwelling in which there is a resident owner or resident manager.

7.32.3. In residential districts, food service shall be available only to guests and not to the general public.

7.32.4. Signage shall be limited to one (1) identification sign not to exceed four (4) square feet in area and four (4) feet in height.

7.32.5. A bed and breakfast shall have vehicular access to a subcollector or higher classified street.

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SECTION 7.33 DRY CLEANERS AND LAUNDRIES.

Dry cleaning and laundry establishments shall be permitted when only oil, gas, or electricity is used for heat and when screening and filtering devices are used to prevent the introduction of objectionable smoke, dust, fumes, odors, or steam into the atmosphere.

SECTION 7.34 DAYCARE FACILITY, ADULT.

7.34.1. An adult daycare facility must not allow any adult to remain on the premises for more than twenty-four (24) consecutive hours in one (1) stay.

7.34.2. An on-site drop-off and/or residential passenger zone is required.

SECTION 7.35 MICROBREWERY/DISTILLERY.

An establishment that meets the definition of a microbrewery or distillery shall be permitted in accordance with Section 6.6, provided it meets the requirements of NCGS 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery or distillery.

SECTION 7.36 FLEA MARKETS.

7.36.1. Flea markets shall not exceed one-half ($\frac{1}{2}$) acre in size.

7.36.2. Hours of operation shall be established by the special use permit.

7.36.3. The sale of food for consumption on or off the premises will require approval by the Department of Health.

7.36.4. Permanent open-air flea markets are required to install and maintain fencing or landscaping along three (3) sides of the open market. A landscape plan describing both fencing and landscaping must be reviewed and approved by the Zoning Administrator.

SECTION 7.37 AUTOMOBILE SERVICE STATIONS/GAS SALE OPERATIONS.

7.37.1. Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment, and similar equipment shall be entirely enclosed within a building.

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7.37.2. Certification by a NC registered professional engineer is required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage and sanitary sewer systems.

7.37.3. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines unless the Zoning Administrator determines that such a setback is not practicable. In such cases, the Zoning Administrator may, as an alternative, require a lesser setback provided sufficient screening or enclosure is installed.

7.37.4. The open storage of one (1) or more wrecked or inoperable vehicles or parts of one (1) or more vehicles for ten (10) days or more shall be deemed a junkyard. An unlicensed vehicle stored for ten (10) days or more shall be deemed an inoperable vehicle.

SECTION 7.38 KENNELS.

No outside kennels or runs are permitted in O-I, C-1, or B-C zoning districts. In the R-A and industrial zoning districts, kennels must be fifty (50) feet from property lines.

SECTION 7.39 MANUFACTURED HOME SALES.

Individual manufactured homes located on a sales lot shall be set back twenty-five (25) feet from the public street right-of-way.

SECTION 7.40 TATTOO/BODY PIERCING PARLORS.

Tattoo/body piercing parlors are permitted in the C-1 zoning district provided that:

7.40.1. The tattoo parlor shall not be located or operated within five hundred (500) feet of:

- 7.40.1.1.** A church, synagogue, or regular place of worship;
- 7.40.1.2.** A public or private elementary or secondary school;
- 7.40.1.3.** A public library;
- 7.40.1.4.** A boundary of any residential district;
- 7.40.1.5.** A publicly owned park or other recreation area or facility;
- 7.40.1.6.** A licensed day care center;
- 7.40.1.7.** An entertainment business that is oriented primarily towards children;
- 7.40.1.8.** Another tattoo parlor.

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7.40.2. For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo parlor is to be conducted, to the nearest property line of the premises of any use listed in subsection 7.40.1 above.

7.40.3. No more than one (1) tattoo parlor establishment shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility to contain more than one tattoo parlor.

7.40.4. Tattoo parlors must comply with the following:

7.40.4.1. Hours of operation must be limited to 8:00 AM to 8:00 PM.

7.40.4.2. Must be fully licensed by the state of North Carolina.

SECTION 7.41 TOWING, AUTOMOBILE AND TRUCK.

7.41.1. Any outdoor vehicle storage area shall adhere to all applicable yard setback requirements and be at least fifty (50) linear feet from any residentially zoned parcels.

7.41.2. Outdoor vehicle storage areas may be located in the rear yard and side yard behind the front yard setback provided the storage area is screened by continuous opaque fabricated or vegetative screening six (6) feet in height. The finished side of all screening shall face the property line. Any vegetative screening must be at least a three (3) gallon container at the time of planting and have a mature height of at least six (6) feet and provide continuous screening.

7.41.3. No more than twenty-five (25) vehicles may be stored on-premises.

7.41.4. All lighting shall be directed away from surrounding properties.

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SECTION 7.42 VETERINARIAN, ANIMAL CLINIC, OUTSIDE KENNEL.

7.42.1. Outside kennels shall be located only in a side or rear yard.

7.42.2. Outside kennels shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line. Noise must be mitigated so as not to create a public nuisance for adjoining properties and must comply with all local noise regulations. This excludes typical noise from exercise or training while outdoors during the daytime during hours of operation.

7.42.3. Exterior enclosures and runs must provide protection against weather extremes. Floors of runs must be made of impervious material to permit proper cleaning and disinfecting. All exterior enclosures must be surrounded by an eight (8) foot high solid continuous wall and door(s).

7.42.4. All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.

7.42.5. Fencing surrounding exercise areas and/or runs must be of a sufficient height to prevent escape and must be buried as part of installation to prevent escape by digging beneath the fence posts.

SECTION 7.43 JUNKYARDS, SALVAGE YARDS, AUTOMOBILE GRAVEYARDS.

Junkyards along interstate and primary highways shall meet the requirements of NCGS Chapter 136, Article 12, Junkyard Control Act. Automobile graveyards, salvage yards, and similar types of used material industries must be conducted within a structure or on a lot enclosed by a solid fence at least six (6) feet in height, provided that the Town Council finds that such yard will not have injurious effect on the public interest or welfare. The finished side of the fence shall face the property line.

SECTION 7.44 REGULATION OF FORESTRY ACTIVITIES.

7.44.1. No ordinance adopted by the Town shall regulate either:

7.44.1.1. Forestry activity on forestland that is taxed on the basis of its present-use valued as forestland under GS Chapter 105, Article 12; or

7.44.1.2. Forestry activity that is conducted in accordance with GS Chapter 89B.

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7.44.2. Nothing withstanding subsection 7.44.1 above, the Town may deny a zoning special use, or a building permit for a tract of land for a period of up to three years after the completion of a timber harvest if the harvest results in the removal from that tract of all or substantially all of the trees protected by this Ordinance. If the removal of such trees was in willful violation of the requirements of this Ordinance, then such permits may be refused for a period of five years.

SECTION 7.45 SOLAR ENERGY DEVELOPMENT

7.45.1. Purpose.

The purpose of this section is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in the Town of Elizabethtown and its extraterritorial jurisdiction (ETJ) in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. It is the intent of this section to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state's energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. This section is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this section shall not be deemed to nullify any provisions of local, state or federal law.

7.45.2. Applicability.

7.45.2.1. This section applies to the construction of any new SES within the jurisdiction of the Town of Elizabethtown.

7.45.2.2. An SES established prior to the effective date of this section shall remain exempt. Exception: Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g., photovoltaic to solar thermal) shall be subjected to this section.

7.45.2.3. Maintenance and repair are not subject to this section.

7.45.2.4. This section does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to:

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7.45.2.4.1. Building/Electrical Permits Required. Nothing in this section modifies already established building standards required to construct a SES.

7.45.2.4.2. Onsite Wastewater System Avoidance. Nothing in this section modifies already established Department of Health and Human Services requirements. A SES shall not be constructed over onsite waste water systems (e.g., septic systems) unless approved by the Department of Health and Human Services.

7.45.2.4.3. Stormwater Permit Required. Nothing in this section modifies the requirements or exempts any SES of complying with the various stormwater jurisdictions and regulations established by the Department of Environment and Natural Resources. North Carolina statute requires the acquisition of stormwater permits for construction projects that impact stormwater runoff.

7.45.2.4.4. Historic Districts. Nothing in this section modifies already established State Historic Preservation Office requirements. May require additional permitting (certificates of appropriateness) to install solar in Historic Districts.

7.45.3. Parcel Line Setbacks.

The following table provides the Parcel Line setback to ground mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility.

Zoning District	Level 1	Level 2	Level 3		
			Front	Side	Rear
Agricultural/Residential	Per Zoning District ^{2,3}	Per Zoning District ^{1,2}	N/A	N/A	N/A
Residential, low density			N/A	N/A	N/A
Residential, medium density			N/A	N/A	N/A
Residential, high density			N/A	N/A	N/A
Commercial/Business			N/A	N/A	N/A
Industrial			35 feet ¹	20 feet ¹	25 feet ¹
Office/Institutional			N/A	N/A	N/A

¹100 foot setback for SES equipment, excluding any security fencing, to any residential dwelling unit. If the SES is on a working farm where the primary residential structure of the farm is on an adjacent lot then this 100 foot setback will not apply to this primary residential structure.

²Ground-mounted SES must comply with district front yard limitations and setbacks, or otherwise not impair sight distance for safe access to or from the property or other properties in the vicinity.

³Level 1 SESs are not subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, etc.).

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7.45.4. Height Limitations.

The height of systems will be measured from the highest natural grade below each solar panel.

Zoning District	Level 1	Level 2	Level 3
Agricultural/Residential	Roof-Mounted: Per Zoning District	N/A	N/A
Residential, low density		N/A	N/A
Residential, medium density		N/A	N/A
Residential, high density		N/A	N/A
Commercial/Business		N/A	N/A
Industrial		15 feet	15 feet
Office/Institutional		N/A	N/A

NOTE: This excludes utility poles and any antennas constructed for the project.

7.45.5. Aviation Notification.

The requirements below apply only to Level 1, 2, & 3 systems over half (1/2) an acre in size:

7.45.5.1. A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.

7.45.5.2. For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council¹ at least 45 days prior to permit application submission. Proof of delivery of notification and date of delivery shall be submitted with permit application. Notification shall include:

7.45.5.2.1. Location of SES (i.e., map, coordinates, address, or parcel ID).

7.45.5.2.2. Solar technology (i.e., polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.).

7.45.5.2.3. Approximate number of solar modules/panels.

¹Mail: Commanding General MCIEAST; Attn: Mr. Bill Meier (NC Commanders Council); Marine Corps Installations East G-7 (MCIEAST); PSC Box 20005; Camp Lejeune, NC 28542.

Email: Subject: NC Commanders' Council Notification of Solar Development Project in "Town or County Name" Address: Meier CIV William A [William.meier@mcw.usmc.mil], Ayers CIV Bryan C [bryan.ayers@usmc.mil].

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7.45.5.2.4. System mounting (i.e., fixed-tilt on flat roof, fixed-tilt ground-mount, 1-axis tracking ground-mount, etc.).

7.45.5.2.5. The maximum height of the array from the ground or roof surface.

7.45.5.2.6. The maximum height of any new utility poles.

7.45.5.2.7. Power capacity of the system, in both DC and AC Watts where applicable.

7.45.5.2.8. Acreage of array and acreage of total project.

7.45.5.2.9. How will the project connect? (i.e., net meter, to existing distribution line, to new distribution line, to transmission line).

7.45.5.2.10. Will a substation be constructed? If so, provide location and size.

7.45.5.2.11. Is the site within five nautical miles of aviation operations? If so, provide the required SGHAT analysis results.

7.45.5.3. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Zoning Administrator, shall be sent to the authority indicated below at least forty-five (45) days prior to permit application submission. Proof of delivery of notification and date of delivery shall be submitted with permit application.

7.45.5.3.1. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS)² within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.³

7.45.5.3.2. Airport operations at airport not in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information

²www.faa.gov/airports/planning_capacity/npias-reports/

³As of October 2016, this is the Memphis ADO.

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to the NC Commanders Council for military airports and to the management of the airport for non-military airports.

Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 6.b.i and 6.b.ii for accurate records of the as-built system.

7.45.6. Level 1 Solar Energy System Requirements.

Level 1 SESs are a permitted use provided they have a UL listing and meet the applicable height, setback, aviation notification, visibility and related district standards. A site plan shall be submitted to the Zoning Administrator demonstrating compliance with:

7.45.6.1. Location of approved solar components and/or the distance to the roof edge and any parapets on the building.

7.45.6.2. Setback and height limitations established per this section.

7.45.6.3. Applicable zoning district requirements such as lot coverage.

7.45.6.4. Applicable solar requirements per this section.

7.45.7. Level 2 & 3 Solar Energy System Requirements.

These requirements are in addition to a UL listing, to height, setback, aviation notification, and applicable district standards.

7.45.7.1. Site Plan. A site plan shall be submitted to the Zoning Administrator demonstrating compliance with:

7.45.7.1.1. Setback and height limitations established per this section.

7.45.7.1.2. Applicable zoning district requirements such as lot coverage.

7.45.7.1.3. Applicable solar requirements per this section.

7.45.7.1.4. Minimum six-foot high chain-link fence secured on the top with barbed wire installed around the perimeter of the site.

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7.45.7.1.5. Accessibility for emergency services vehicles.

7.45.7.1.6. Approved solar components.

7.45.7.1.7. Compliance with International Building Code with North Carolina Amendments.

7.45.7.2. Visibility.

7.45.7.2.1. SESs shall be constructed with buffering as required by the applicable zoning district or development standards.

7.45.7.2.2. Public signage (i.e., advertising, educational, etc.) as permitted by local signage ordinance, including appropriate or required security and safety signage.

7.45.7.2.3. Lighting provided at site shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

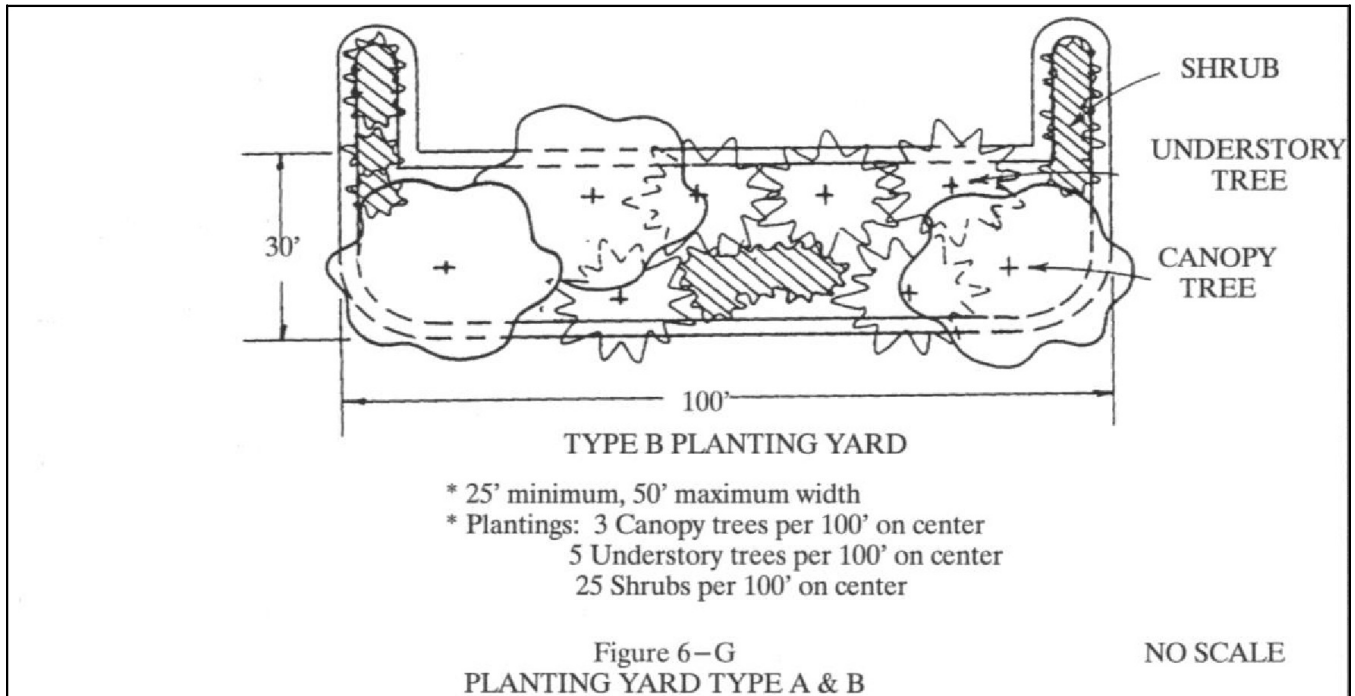
7.45.7.2.4. Screening. Solar collectors and associated outside storage shall be completely screened with a vegetative buffer from view from all streets and adjacent residential uses. Required screening shall be at a Type B Planting Yard Rate, except understory-trees may be substituted for canopy tree requirements.

7.45.7.2.5. Type B Planting Yard. A medium density screen intended to partially block visual contact between uses and create spatial separation. Any existing tree or group of trees which stands within or near a required planting area and meets or exceeds the standards of this Ordinance may be used to satisfy the tree requirements of the planting area.

Planting Yard Rates

Yard Type	Minimum Width (feet)	Minimum Average Width (feet)	Maximum Width (feet)	Canopy Tree Rate	Understory Tree Rate	Shrub Rate
Type B Yard	25	30	50	3/100 LF	5/100 LF	25/100 LF

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7.45.7.3. Decommissioning. A Town of Elizabethtown Decommissioning Plan Form signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.

7.45.7.3.1. Defined conditions upon which decommissioning will be initiated; end of land lease, no power production for 12 months, and or the system if damaged and will not be repaired or replaced.

7.45.7.3.2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations to a depth of at least three feet below grade.

7.45.7.3.3. Restoration of property to condition prior to development of the SES including replacement of top soil removed or eroded.

7.45.7.3.4. Revegetate any cleared areas with warm season grasses that are native to the region, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.

7.45.7.3.5. Timeframe for completion of decommissioning activities, not to exceed one year from the relevant defined initiation conditions in 8(c)(i)(1).

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7.45.7.3.6. Description and copy of any lease or any other agreement with landowner regarding decommissioning.

7.45.7.3.7. Name and address of person or party responsible for decommissioning.

7.45.7.3.8. Plans and schedule for updating this decommissioning plan.

Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

7.45.7.4. Abandonment. A SES that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SES provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Zoning Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the SES.

7.45.7.4.1. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SES and restore the site to its condition prior to development of the SES within three hundred and sixty (360) days of notice by the Zoning Administrator.

7.45.7.4.2. If the responsible party (or parties) fails to comply, the Zoning Administrator may remove the SES, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SES and restore the site to a non-hazardous condition.

7.45.7.5. Construction Waste Management Plan. Solar energy is generally considered an environmentally beneficial industry; however, its initial construction can produce large quantities of cardboard, wood, scrap metal, scrap wire, and clearing and grading wastes. Often the waste produced is sent to local landfills or burned on site. For Level 2 and 3 SESs, these additional waste streams can place a burden on existing waste management and landfill resources at a local municipal and county level. A developer of a Solar Plant in North Carolina shall be required to develop a Waste Stream Management Plan (WSMP) for the construction waste and debris at the site of the said Solar Energy System.

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7.45.7.5.1. Developer's failure to meet or exceed the provisions of the developer's CWMP shall constitute a violation of this Ordinance.

7.45.7.5.2. Developer shall have fifteen (15) days from written notice of violation in which to cure this violation and make proper notice to the Town of Elizabethtown.

7.45.7.5.3. Developer's failure to cure and notify the Town of Elizabethtown within the said fifteen-day (15) period shall result in a fine of two hundred fifty dollars (\$250). An additional fifty dollars per day will be added for each day there after that the Developer fails to cure or notify the Town of Elizabethtown. A lien will be placed on the property upon which the solar energy system has been constructed for failure to pay by the Developer within thirty (30) days of the issuance of said fine.

SECTION 7.46 SPECIAL EVENTS.

7.46.1. In deciding whether a permit for a special event should be denied for any reason specified in Subsection 4.9.3.5, the permit-issuing authority shall ensure that, (if the special event is conducted at all):

7.46.1.1. The hours of operation allowed shall be compatible with the uses adjacent to the activity.

7.46.1.2. The amount of noise generated shall not disrupt the activities of the adjacent land uses.

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

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

7.46.1.5. The zoning permit shall be issued for a specific number of calendar days, not to exceed fourteen (14) calendar days.

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7.46.2. In cases where it is deemed necessary, the permit-issuing authority may require the applicant to post a bond to ensure compliance with the conditions of the special use permit.

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

SECTION 7.47 WIND FARM.

Wind Farms developed as a principal use shall be permitted in accordance with Section 6.6, subject to the following:

7.47.1. Setbacks.

Wind Energy Facility Type	Minimum Lot Size	Minimum Setback Requirements ¹				Maximum Height from Grade
		Occupied Buildings (Subject Property) ²	Property Lines ²	Public/ Private Right-of-Way ²	Highway Corridor Overlay District	
Wind Farm	5 Acres	1.0	1.0	1.5	2.5	250 Ft.

¹ Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of the occupied building. ² Calculated by multiplying required setback number by wind turbine height.

7.47.2. Height.

Two hundred fifty feet (250') maximum.

7.47.3. Ground Clearance.

Rotor blades on wind turbines must maintain at least twenty-four feet (24') of clearance between their lowest point and the ground.

7.47.4. Visibility.

Wind farms must be set back at least 150 feet from any residential district; no energy generating equipment may be located within 150 feet of any public right-of-way; and screening and landscaping shall be provided in accordance with Article 10, Part III.

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7.47.5. Interconnection Agreement.

All wind farms are required to enter into an interconnection agreement with the Town prior to connection.

7.47.6. Wind Farm Facility Noise, Shadow Flicker, and Electromagnetic Interference.

7.47.6.1. Audible sound from a Wind Turbine shall not exceed fifty-five (55) dBA, as measured at any off-site occupied building of a Non-Participating Landowner.

7.47.6.2. Shadow flicker at any occupied building on a Non-Participating Landowner's property caused by a Wind Energy Facility located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.

7.47.6.3. Wind turbines may not interfere with normal radio and television reception in the vicinity. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

7.47.7. Application Requirements.

7.47.7.1. Submit a site plan denoting the dimensions of the parcel, proposed wind farm location (arrangement of turbines and related equipment), distance from the proposed area to all property lines, and location of the driveway(s). No developed portion of the wind farm area may encroach into the required setbacks and any buffer area(s).

7.47.7.2. Provide the representative type and height of the wind turbine in the form of horizontal and vertical (elevation) to-scale drawings.

7.47.7.3. Provide a statement, including the generating capacity of the turbines, dimensions and respective manufacturers of all generating systems and equipment, and a description of ancillary facilities.

7.47.7.4. Provide proof of compliance with applicable Federal Aviation Administration regulations.

7.47.7.5. An applicant for a Wind Farm special use permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigating

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measures, and any adverse environmental effects that cannot be avoided within 1/4 mile of the site property line, in the following areas:

7.47.7.5.1. Demographics including people, homes, and businesses.

7.47.7.5.2. Noise.

7.47.7.5.3. Visual impacts.

7.47.7.5.4. Public services and infrastructure.

7.47.7.5.5. Cultural and archaeological impacts.

7.47.7.5.6. Recreational resources.

7.47.7.5.7. Public health and safety, including air traffic, electromagnetic fields, and security and traffic.

7.47.7.5.8. Additional or new hazardous materials.

7.47.7.5.10. Impact on tourism and community benefits.

7.47.7.5.17. Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site as well as known migration routes and patterns.

7.47.7.5.18. Wildlife impact assessment, including migration routes and patterns.

7.47.7.5.19. Rare and unique natural resources.

7.47.7.6. An applicant for Wind Farm special use permit shall state in the application whether a Certificate of Public Convenience and Necessity for the system is required from the North Carolina Utilities Commission and, if so, the anticipated schedule for obtaining the certificate. The Town may ask the Utilities Commission to determine whether a Certificate of Public Convenience and Necessity is required for a particular wind power project for which the Town has received an application. The Town shall not approve a project requiring a certificate unless and until such certificate is issued by the Utilities Commission.

7.47.8. *Installation and Design.*

7.47.8.1. The installation and design of the wind generation facility shall conform to applicable industry standards, including those of the American National Standards Institute.

7.47.8.2. Attachment of a tower or supporting structure to a building of any kind shall be prohibited.

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7.47.9. Visual Appearance.

7.47.9.1. The wind turbine shall be constructed of a corrosion resistant material that will not fade, show rust spots or otherwise change the appearance as a result of exposure to the elements, and be a non-obtrusive color such as white, off-white or gray; and

7.47.9.2. The wind turbine shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

7.47.10. Maintenance.

Any wind generation facility that is not functional shall be repaired by the owner within a 6-month period or be removed. In the event that the Town becomes aware of any wind farm that is not operated for a continuous period of 6 months, the Town will notify the landowner by certified mail and provide 30 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, the Town shall notify the landowner, and such landowner shall remove the turbine(s) with 180 days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

7.47.11. Decommissioning.

7.47.11.1. The applicant must remove the wind generation facility if, after the completion of the construction, the wind generation facility fails to begin operation, or becomes inoperable for a continuous period of one (1) year.

7.47.11.2. The one-year period may be extended upon a showing of good cause on appeal to the Town of Elizabethtown Board of Adjustment

7.47.11.3. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.

7.47.11.3.1. Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for 12 months, etc.)

7.47.11.3.2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.

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7.47.11.3.3. Restoration of property to condition prior to development of the wind farm.

7.47.11.3.4. The timeframe for completion of decommissioning activities.

7.47.11.3.5. Description of any agreement (i.e., lease) with landowner regarding decommissioning.

7.47.11.3.6. The party currently responsible for decommissioning.

7.47.11.3.7. Plans for updating this decommissioning plan.

7.47.11.4. Before final electrical inspection, provide evidence decommissioning plan was recorded with the Register of Deeds.

SECTION 7.48 WIRELESS COMMUNICATION FACILITIES.

7.48.1. Compliance with Federal Law.

7.48.1.1. The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of the State and the Town of Elizabethtown to facilitate the placement of wireless communications support structures in all areas of the Town.

7.48.1.2. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 USC § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

7.48.1.3. This Section shall not be construed to authorize the Town of Elizabethtown to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

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7.48.2. Approvals Required for Wireless Facilities and Wireless Support Structures.

7.48.2.1. Administrative Review and Approval. The following types of applications are subject to the review process as provided in Section 5.5. No other type of zoning or site plan review is necessary.

7.48.2.1.1. New Wireless Support Structures that are less than fifty (50) feet in height, in any zoning district.

7.48.2.1.2. New Wireless Support Structures that are less than two hundred (200) feet in height, in any Industrial district.

7.48.2.1.3. Concealed Wireless Facilities that are fifty (50) feet or less in height, in any residential district.

7.48.2.1.4. Concealed Wireless Facilities that are one hundred fifty (150) feet or less in height, in any zoning district *except* residential districts.

7.48.2.1.5. Monopoles or Replacement Poles located on public property or within utility easements or rights-of-way, in any zoning district.

7.48.2.1.6. Carrier on wheels or cell on wheels (COWs), in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days.

7.48.2.1.7. Substantial modifications.

7.48.2.1.8. Collocations.

7.48.2.2. Special Use Permit. Any application for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Special Use Permit in accordance with the standards for granting Special Use Permits set forth in Section 4.9.

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7.48.2.3. Exempt From All Approval Processes. The following are exempt from all Town of Elizabethtown zoning approval processes and requirements:

7.48.2.3.1. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this Ordinance.

7.48.2.3.2. Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.

7.48.2.3.3. Wireless Facilities placed on Utility Poles.

7.48.2.3.4. COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Elizabethtown or in response to a declaration of an emergency or a disaster by the Governor.

7.48.3. Administrative Review and Approval Process.

7.48.3.1. Content of Application Package - For All Sites. All Administrative Review and Town Council application packages must contain the following in addition to those requirements outlined in Section 5.5 and 5.6:

7.48.3.1.1. Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms.

7.48.3.1.2. Documentation from a licensed professional engineer if calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this Ordinance.

7.48.3.1.3. For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.

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7.48.3.1.4. For substantial modifications, drawings depicting the improvements along with their dimensions.

7.48.3.3. *Approval Schedule.*

7.48.3.3.1. *Applications for Collocation, Monopole or Replacement Pole, a Concealed Wireless Facility, a Non-Exempt COW, or a Substantial Modification.*

Within sixty (60) days of the receipt of a complete application for a Collocation, a Monopole or Replacement Pole, a Concealed Wireless Facility, a Non-Exempt COW, or a Substantial Modification, the Zoning Administrator will:

7.48.3.3.1.1. Review the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the Zoning Administrator provides notice that the application is incomplete in writing to the applicant within 30 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Zoning Administrator may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. The Zoning Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

7.48.3.3.1.2. Issue a written decision approval an eligible facilities request application within forty-five (45) days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Zoning Administrator shall issue its written decision to approve or deny the application within forty-five (45) days of the application being deemed complete.

7.48.3.3.1.3. Failure to issue a written decision within forty-five (45) calendar days shall constitute an approval of the application.

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7.48.3.3.2. Applications for New Wireless Support Structures that are Subject to Administrative Review and Approval. Within forty-five (45) calendar days of the receipt of an application for a New Wireless Support Structure that is subject to Administrative Review and Approval under this Ordinance, the Zoning Administrator will:

7.48.3.3.2.1. Review the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the Zoning Administrator provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Zoning Administrator may deem an application incomplete if there is insufficient evidence provided to show that the eligible facilities request will comply with federal, state, and local safety requirements. The Zoning Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

7.48.3.3.2.2. Issue a written decision approval on an eligible facilities request application within forty-five (45) days of such application being deemed complete.

7.48.3.3.2.3. Failure to issue a written decision within forty-five (45) calendar days shall constitute an approval of the application.

7.48.3.3.3. Application Review. The Zoning Administrator's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the Zoning Administrator may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The Zoning Administrator may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The Zoning Administrator may not require proprietary, confidential, or other business

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information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the Zoning Administrator may review the following:

7.48.3.3.3.1. Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

7.48.3.3.3.2. Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service.

7.48.3.3.3.3. The Zoning Administrator may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Zoning Administrator may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

7.48.3.3.4. *Building Permit.* The Building Inspector shall issue a building permit following approval of the application under Administrative Review in accordance with the process and standards in this Ordinance.

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7.48.4. Special Use Permit Process.

7.48.4.1. Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section 7.48.2.1 or 7.48.2.3 above, may be permitted in all zoning districts upon the granting of a Special Use Permit, subject to:

7.48.4.1.1. The submission requirements of Section 7.48.4.1.2. below; and

7.48.4.1.2. The applicable standards of Section 7.48.5 below; and

7.48.4.1.3. The requirements of the special use permit process in Section 4.9.

7.48.4.2. Content of Special Use Permit Application Package. All Special Use permit application packages must contain the following in addition to those requirements contained in Sections 4.9, 5.6, 7.48.3.1.

7.48.4.2.1. Written description and scaled drawings of the proposed Wireless Support Structure or Wireless Facility, including structure height, ground and structure design, and proposed materials.

7.48.4.2.2. Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Wireless Support Structure.

7.48.4.2.3. Line-of-sight diagram or photo simulation, showing the proposed Wireless Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.

7.48.4.2.4. A statement of the proposed Wireless Support Structure will be made available for Collocation to other service providers at commercially reasonable terms, provided space is available and consistent with Section 7.48.5.1.1 of this Ordinance.

7.48.4.3. Approval Schedule. Within one hundred fifty (150) calendar days of the receipt of an application under this section, the Town Council upon recommendation of the Planning and Zoning Commission will:

7.48.4.3.1. Complete the process for reviewing the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the Zoning Administrator notifies the applicant in writing, within thirty (30) calendar

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days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. The Town loses the ability to object that the application is incomplete if the applicant is not notified within 30 days. Upon receipt of a timely written notice that an application is deficient, the 150-day clock is stopped until more information is received at which point the 150-day clock starts again. If the application is still incomplete, the clock continues to run until the applicant is notified in writing. Applications are automatically approved after 150 days.

7.48.4.3.2. Make a final decision to approve or disapprove the application.

7.48.4.3.3. Advise the applicant in writing of its final decision. If the Town Council denies an application, it must provide written justification of the denial.

7.48.4.3.4. Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

7.48.5. General Standards and Design Requirements.

Design standards apply to all communication towers, both staff approved and special use permit.

7.48.5.1. Design.

7.48.5.1.1. Wireless Support Structures shall be subject to the following:

7.48.5.1.1.1. Shall be engineered and constructed to accommodate a minimum number of Collocations based upon their height:

7.48.5.1.1.1.1. Support structures fifty (50) to one hundred (100) feet shall support at least two (2) telecommunications providers.

7.48.5.1.1.1.2. Support structures greater than one hundred (100) feet but less than one hundred fifty (150) feet shall support at least three (3) telecommunications providers.

7.48.5.1.1.2. The Equipment Compound area surrounding the Wireless Support Structure must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with Section 7.48.5.1.1.

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7.48.5.1.1.3. There shall be no interference with local emergency communications or normal radio/television reception.

7.48.5.1.2. Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer.

7.48.5.1.3. Upon request of the Applicant, the Zoning Administrator or Town Council may waive the requirement that new Wireless Support Structures accommodate the Collocation of other service providers if it finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

7.48.5.1.4. A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following design requirements with approval of the entity controlling the utility easement:

7.48.5.1.4.1. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

7.48.5.1.4.2. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

7.48.5.1.4.3. The height of the Monopole or Replacement pole may not exceed by more than thirty (30) feet the height of existing monopole structure.

7.48.5.1.4.4. Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

7.48.5.1.4.5. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection 7.48.5.1.4.3 above.

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7.48.5.1.4.6. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to thirty (30) feet in height of the utility tower.

7.48.5.2. Setbacks. Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.

7.48.5.3. Height. In residential districts, Wireless Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Zoning Administrator or Town Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Zoning Administrator or Town Council, whoever has authority to approve.

7.48.5.4. Aesthetics.

7.48.5.4.1. Lighting and Marking. Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

7.48.5.4.2. Signage. Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).

7.48.5.5. Accessory Equipment. Accessory Equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

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7.48.5.6. Fencing.

7.48.5.6.1. Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Zoning Administrator or Town Council.

7.48.5.6.2. The Zoning Administrator or Town Council may waive the requirement of Section 7.48.5.6.1 if it is deemed that a fence is not appropriate or needed at the proposed location.

7.48.6. Miscellaneous Provisions.

7.48.6.1. Abandonment and Removal. If a Wireless Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the Town of Elizabethtown may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to utilize the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The Town of Elizabethtown shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

7.48.6.2. Multiple Uses on a Single Parcel or Lot. Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

7.48.7. Leases of Property by the Town of Elizabethtown for Communication Towers.

7.48.7.1. Any property owned by the Town may be leased or rented for such terms and upon such conditions as the Town Council may determine, but not for longer than 10 years (except as otherwise provided in subsection 7.48.7.4 of this section) and only if the Town Council determines that the property will not be needed by the Town for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

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7.48.7.2. Property may be rented or leased only pursuant to a resolution of the Town Council authorizing the execution of the lease or rental agreement adopted at a regular Town Council meeting upon 30 days public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Council's intent to authorize the lease or rental at its next regular meeting.

7.48.7.3. No public notice as required by subsection 7.48.7.2 of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the Town Council may delegate to the Town Manager or some other Town administrative officer authority to lease or rent Town property for terms of one year or less.

7.48.7.4. Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

7.48.7.5. Notwithstanding subsection 7.48.7.4 of this section, the Town Council may approve a lease without treating that lease as a sale of property for any of the following reasons:

7.48.7.5.1. For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.

7.48.7.5.2. For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.

7.48.8. *Small Wireless Facilities.*

7.48.8.1. *Applicability.*

7.48.8.1.1. The Town of Elizabethtown shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.

7.48.8.1.2. Nothing contained in this Section shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a

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right-of-way are subject to the rights granted pursuant to an easement between private parties.

7.48.8.1.3. Except as provided in this Section or otherwise specifically authorized by the General Statutes, the Town of Elizabethtown may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.

7.48.8.1.4. Except as provided in this Section or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

7.48.8.1.5. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Section does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

7.48.8.2. Permitting Process.

7.48.8.2.1. Small wireless facilities that meet the height requirements of Section 7.48.8.3.2 shall only be subject to administrative review and approval under subsection 7.48.8.2.2 of this subsection if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.

7.48.8.2.2. The Town of Elizabethtown shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:

7.48.8.2.2.1. The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the

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collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.

7.48.8.2.2.2. The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

7.48.8.2.2.3. A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

7.48.8.2.2.4. The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.

7.48.8.2.2.5. The Town may deny an application only on the basis that it does not meet any of the following: (i) the Town's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

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7.48.8.2.2.6. An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

7.48.8.2.2.7. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.

7.48.8.2.2.8. The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

7.48.8.2.3. The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

7.48.8.2.4. The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside

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consultant for technical consultation and the review of an application. The fee imposed by the Town for the review of the application shall not be used for either of the following:

7.48.8.2.4.1. Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

7.48.8.2.4.2. Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

7.48.8.2.5. The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

7.48.8.2.6. The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).

7.48.8.2.7. Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.

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7.48.8.3. Use of Town of Elizabethtown Public Right-of-Way.

7.48.8.3.1. The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

7.48.8.3.2. Subject to the requirements of Section 7.48.8.2, a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall be subject only to review or approval under Section 7.48.8.2 if the wireless provider meets all the following requirements:

7.48.8.3.2.1. Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

7.48.8.3.2.2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.

7.48.8.3.3. In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.

7.48.8.3.4. The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed \$50.00 per year.

7.48.8.3.5. Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless

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support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

7.48.8.3.6. The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.

7.48.8.3.7. A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of Section 7.48.8.2.2, applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

7.48.8.4. Access to Town Utility Poles to Install Small Wireless Facilities.

7.48.8.4.1. The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per Town utility pole per year.

7.48.8.4.2. A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging,

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expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

7.48.8.4.3. Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

7.48.8.4.4. In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

7.48.8.4.5. The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

7.48.8.4.6. The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

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7.48.8.4.7. Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under NCGS 62-350.

7.48.8.4.8. This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town that owns or operates a public enterprise pursuant to Article 16 of this Chapter 160A of the General Statutes consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

7.48.9. Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance.

7.48.9.1. Wireless Facilities and Wireless Support Structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.

7.48.9.2. Activities at Non-Conforming Wireless Support Structures. Notwithstanding any provision of this Ordinance:

7.48.9.2.1. Ordinary Maintenance may be performed on a Non-Conforming Wireless Support Structure or Wireless Facility.

7.48.9.2.2. Collocation of Wireless Facilities on an existing non-conforming Wireless Support Structure shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in Section 7.48.2; provided

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that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.

7.48.9.2.3. Substantial Modifications may be made to non-conforming Wireless Support Structures utilizing the Special Use Permit process defined in Section 4.9 of this Ordinance.

SECTION 7.49 AIRPORT HAZARD OVERLAY (AHO).

7.49.1. Airport Hazard Regulations.

7.49.1.1. Airport Zones. In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the Curtis L. Brown, Jr. Field Hazard Zoning Map. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

7.49.1.1.1. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7.49.1.1.2. Runway Larger than Utility with a Visibility Minimum as Low as 3/4 Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7.49.1.1.3. Transitional Zones. These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward beginning 500 feet each side of the runway centerline at a slope of 7:1 to the primary surface. The runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach

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surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90 degree angles to the extended runway centerline.

7.49.1.1.4. Horizontal Zone. The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

7.49.1.1.5. Conical Zone. The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet at a slope of 20:1. The conical zone does not include the precision instrument approach zones and the transitional zones.

7.49.1.2. Airport Zone Height Limitations. Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this Ordinance to the height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

7.49.1.2.1. Approach Zone (Non-Precision Instrument). Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

7.49.1.2.2. Approach Zone (Precision Instrument Runway Approach). Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

7.49.1.2.3. Transitional Zones. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping seven (7)

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feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline from the edge of the approach surface.

7.49.1.2.4. Horizontal Zone. One hundred and fifty (150) feet above the airport elevation or a height of 283 feet above mean sea level.

7.49.1.2.5. Conical Zone. Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or an elevation of 483 feet above sea level.

7.49.1.2.6. Excepted Height Limitation. Nothing in this Ordinance shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height that is below the limitations set forth in this Section.

Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

7.49.1.3. Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use may be made to land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft to use the airport.

7.49.1.4. Nonconforming Uses.

7.49.1.4.1. Regulation Not Retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. Nothing contained herein shall require any change in the

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construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

7.49.1.4.2. Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Curtis L. Brown, Jr. Field Commission, for the Curtis L. Brown, Jr. Field, to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Curtis L. Brown, Jr. Field Commission if the requirement is in the vicinity of the Curtis L. Brown, Jr. Field.

7.49.1.5. Permits.

7.49.1.5.1. Future Uses. No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the Zoning Administrator upon determination that no provisions of this Section and this Ordinance are violated. Evidence that FAA Form 7460-1 (as may be revised from time to time) had been submitted and the findings approved by the FAA.

7.49.1.5.1.1. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such a tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

7.49.1.5.1.2. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.49.1.5.1.3. Prior to a Planning and Zoning Commission hearing, Planning Director shall notify the Airport/Economic Development Commission of any zoning application for structures that may violate the Airport Hazard Ordinance. Failure to comply with this section shall not void the application, so long as all other applicable requirements have been met.

7.49.1.5.1.4. Any structure forty (40) feet or less in height, located in the Elizabethtown Industrial Park, shall be exempt from the height limitations requirements, provided that the FAA/State reviews all proposed structures (in accordance with existing grant agreements).

7.49.1.5.2. Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

7.49.1.5.3. Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Administrator determines that a non-conforming tree or structure has been abandoned or more than 60 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

7.49.1.5.4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations in accordance with Section 4.10.2.

7.49.1.5.5. Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Elizabethtown Airport Commission to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard at the expense of the owner of the structure or tree, or if circumstances require, at the expense of the Airport Commission.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.49.2. Airport Noise Regulations.

7.49.2.1. Purpose. It is the intent and purpose of this section to promote the public health, safety, and general welfare by regulating and restricting the development of structures for human occupancy within an area surrounding the Curtis L. Brown, Jr. Field.

7.49.2.2. Generally Permitted Uses. The following general guidelines should be used to identify suitable uses within each LUG zone.

7.49.2.2.1. Zone "A." Generally acceptable for all activities and land uses and no special noise considerations are required.

7.49.2.2.2. Zone "B." Few, if any, activities will be affected by aircraft sounds, although building designs for especially sound sensitive activities such as schools, churches, auditoriums, hospitals and theaters should consider sound control in areas closest to the Airport. Detailed studies are recommended for outdoor amphitheaters and similar places of public assembly for those areas closest to the airport.

7.49.2.2.3. Zone "C." Activities where uninterrupted communication is essential should consider sound exposure in design. Generally residential development is not considered a suitable use, although multi-family developments where sound control features have been incorporated in building design might be considered. Open-air activities and outdoor living and auditoriums, schools, churches, hospitals, theaters, and similar activities should be avoided.

7.49.2.2.4. Zone "D." Land should be reserved for activities that can tolerate a high level of sound exposure. Generally, land in this zone is owned by the Airport and is left vacant or for use in industrial and commercial uses where relatively high levels of sound exposure may be acceptable.

7.49.2.3. Construction Standards. An applicant for the construction of a new building shall provide the Zoning Administrator with the necessary calculations to assure that noise levels within the proposed building will not exceed the following standards:

7.49.2.3.1. Sleeping Quarters. (Windows are assumed to be open unless other provisions are made for adequate ventilation).

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.49.2.3.1.1. Ldn 55 for more than an accumulation of 60 minutes in any 24 hour period, and

7.49.2.3.1.2. Ldn 45 for more than 30 minutes during night-time sleeping hours from 11 p.m. to 7 a.m., and

7.49.2.3.1.3. Ldn 45 for more than an accumulation of eight (8) hours on any 24-hour day.

7.49.2.3.2. Non-Sleeping Quarters - All Structures. (Windows are assumed to be open unless other provisions are made for adequate ventilation).

7.49.2.3.2.1. Normally Acceptable. Ldn 65 for not more than 8 hours per 24-hour period.

7.49.2.3.2.2. Acceptable. Ldn 45 for not more than 30 minutes per 24-hour period.

7.49.2.3.3. Insulation Between Dwelling Units. Floor and dividing walls between attached dwelling units shall have a Sound Transmission Class (STC) of greater than 45.

7.49.2.4. Permits. No material change shall be made in the use of land and no structure shall be erected, altered or otherwise established in Zone I unless a zoning permit therefore shall have been applied for and granted by the Zoning Administrator upon determination that no provision of this Section and this Ordinance are violated and that FAA Form 7460.1 (as may be revised from time to time) has been submitted and approved by the FAA.

7.49.2.5. Variances. Any person desiring to erect or alter a structure or to use this property not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations in accordance with Section 4.10.2.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

SECTION 7.50 BROAD STREET PRESERVATION OVERLAY (BSP-O).

7.50.1. Applicability.

Within the BSP-O district, every use of a building or land hereafter established shall meet the requirements of this section unless otherwise exempted below. The BSP-O district standards shall apply in addition to those of the applicable underlying district. Whenever there is a discrepancy between the regulations in the underlying zoning district and the BSP-O district, the BSP-O district regulations shall take precedence.

7.50.2. Exemptions.

7.50.2.1. New single family and duplex development shall be exempt from all of the provisions of this section.

7.50.2.2. Remodeling or repairs that do not create additional building floor area or parking spaces shall be exempt from the provisions of this section.

7.50.2.3. Building additions and parking lot expansions not exceeding twenty-five percent (25%) of additional square footage.

7.50.2.4. Refer to Article 9 Nonconforming Situations of this Ordinance for other exemptions.

7.50.3. Applicable Road and Boundaries.

The BSP-O district shall include those parcels abutting W. Broad Street, from the west side of Pine Street to the east side of Lyon Street; and on the east side of S. Owen Street, to include two properties further identified as Bladen County Tax Map numbers 1312.19.70.0312 and 1312.19.60.9271. The location of the BSP-O overlay district is shown on the official zoning map.

7.50.4. Permitted Uses.

The BSP-O permits the following uses as a use by right:

7.50.4.1. Accessory Building - Shall only be located in rear yard.

7.50.4.2. Agencies, including but not limited to travel, brokers, insurance, loan, employment.

7.50.4.3. Antiques and gift retail stores.

7.50.4.4. Banks, savings and loan and similar financial institutions.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.50.4.5. Churches, synagogues, temples and other places of worship, rectories, Sunday schools.

7.50.4.6. Dwellings, one family detached.

7.50.4.7. Dwellings, two family.

7.50.4.8. Fences and walls - Shall be a maximum height of four (4) feet in front yard area.

7.50.4.9. Funeral homes.

7.50.4.10. Home occupations.

7.50.4.11. Medical, dental, paramedical, chiropractor offices.

7.50.4.12. Offices.

7.50.4.13. Public buildings, libraries, museums, art galleries, and the like.

7.50.4.14. Public parks.

7.50.4.15. Signs (not as a primary use).

7.50.4.16. Temporary building incidental to a construction project.

7.50.4.17. Tourist Home, bed and breakfast.

7.50.5. Special Uses.

The BSP-O permits the following uses as a Special Use: Commercial Condominiums and Townhouse (see Article 5.3.3.G, for requirements).

7.50.6. Dimensional Requirements.

All dimensional regulations shall be governed by the underlying zoning district as set forth in Article 8 of this Ordinance.

7.50.7. Off-Street Parking and Loading.

Off-street parking is not required in the BSP-O district. Off-street loading shall be in accordance with Article 10, Part I of this Ordinance.

7.50.8. Buffering.

Standards for buffering areas shall be determined by the minimum requirements as set forth in Article 10, Part III of this Ordinance.

7.50.9. Sign Regulations.

Signage shall be in accordance with Article 10, Part IV of this Ordinance, and the following requirements. In case of conflict with the signage provisions of the underlying zoning districts, the stricter standard shall apply.

ARTICLE 7. SUPPLEMENTAL REGULATIONS

Non-residential uses shall be permitted to have one (1) wall mounted sign per wall and one (1) freestanding sign per frontage with the following development standards.

7.50.9.1. Single face wall sign shall not exceed twenty-five (25) square feet.



Examples of single face wall sign.

7.50.9.2. Freestanding sign shall be either: Monument style sign, six feet (6') or less in height and thirty-six (36) square feet or less in area or decorative single or double post sign, six feet (6') or less in height and thirty-six (36) square feet or less in area.



Examples of a monument sign.



Examples of decorative single and double post sign

ARTICLE 7. SUPPLEMENTAL REGULATIONS

7.50.9.3. Lighting. Illumination of all signage shall be limited to cut-out letter and indirect lighting in the form of gooseneck lamps, spotlights, or luminous tubing.



Example of a cut-out letter sign

7.50.9.4. Nonconforming Signs. No nonconforming signs erected before this Ordinance shall be moved, replaced, or repaired in excess of 50% of its original cost in any calendar year without complying with the provisions of this Ordinance.

7.50.10. Site Plan Review Required.

A site plan shall be submitted with each zoning compliance permit application. The site plan shall illustrate and describe the proposed:

7.50.10.1. Location and approximate size of all existing and proposed structures and their distances from the property lines.

7.50.10.2. Location of freestanding sign.

7.50.10.3. The location and widths of abutting streets.

7.50.10.4. The location of all entrances onto adjacent roadways, whether existing or proposed.

7.50.10.5. The traffic circulation system, including the location and width of all streets, driveways, and entrances to parking areas and parking structures.

7.50.10.6. Off-street parking and loading areas and structures, including the number of spaces; dimensions of spaces and aisles; and required screening for parking and loading areas.

7.50.10.7. Location of solid waste containers including proposed design provisions for screening.

7.50.10.8. Any other information that the Planning Staff may deem necessary in making an informed decision.

For those projects requiring site plan review, a zoning compliance permit shall not be issued until all required plans have been approved. A certificate of occupancy shall not be issued until all requirements of the site plan have been met and approved.

ARTICLE 8.

ZONING DISTRICT DESIGN STANDARDS

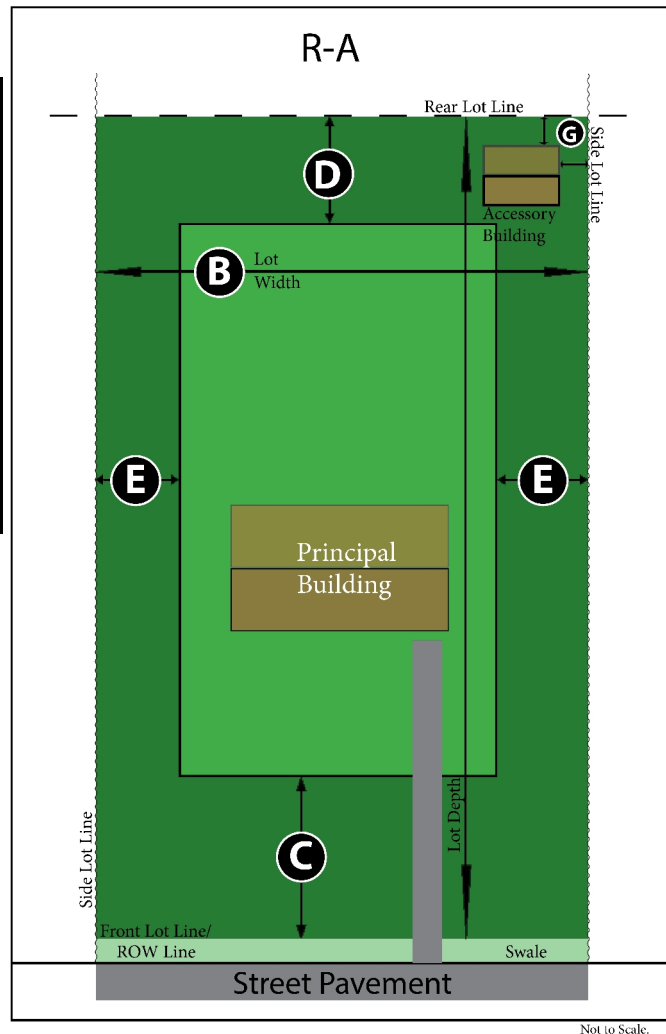
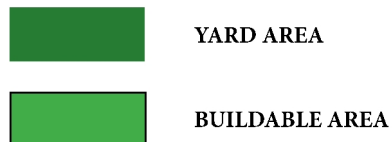
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ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.1 R-A RESIDENTIAL-AGRICULTURAL DISTRICT.

8.1.1. Dimensional Requirements.

(A) Minimum Lot Area	40,000 sq ft
(B) Minimum Lot Frontage	150 ft
(C) Front Yard Setback	50 ft
(D) Rear Yard Depth	30 ft
(E) Side Yard Width	25 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.1.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.1.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

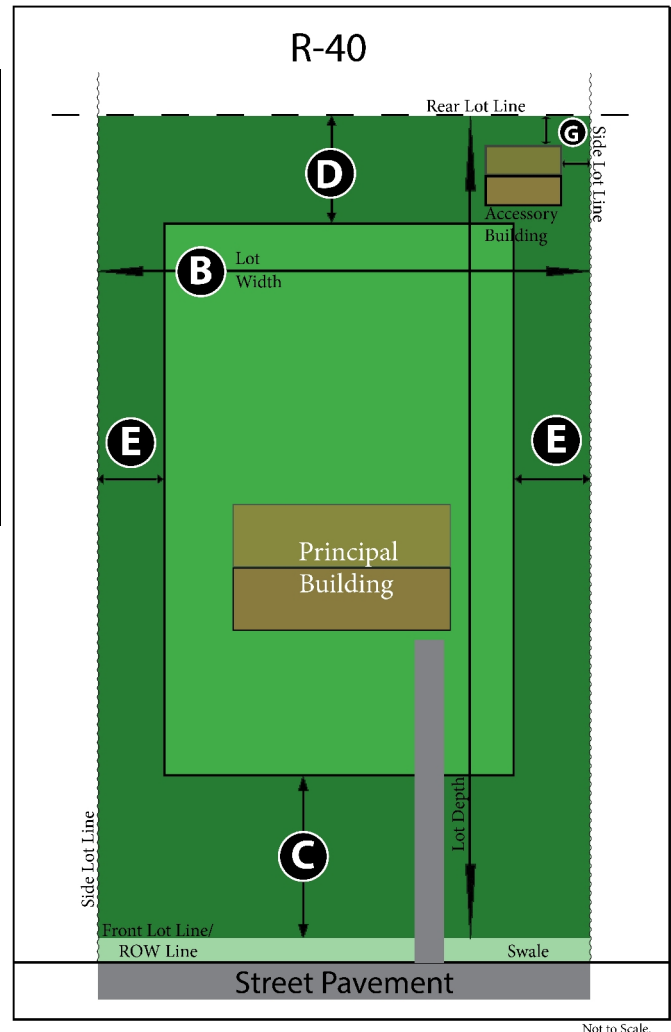
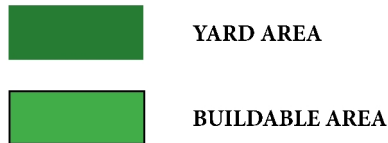
8.1.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.2 R-40 LOW-DENSITY RESIDENTIAL DISTRICT.

8.2.1. Dimensional Requirements.

(A) Minimum Lot Area	40,000 sq ft
(B) Minimum Lot Frontage	125 ft
(C) Front Yard Setback	40 ft
(D) Rear Yard Depth	30 ft
(E) Side Yard Width	20 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.2.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.2.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

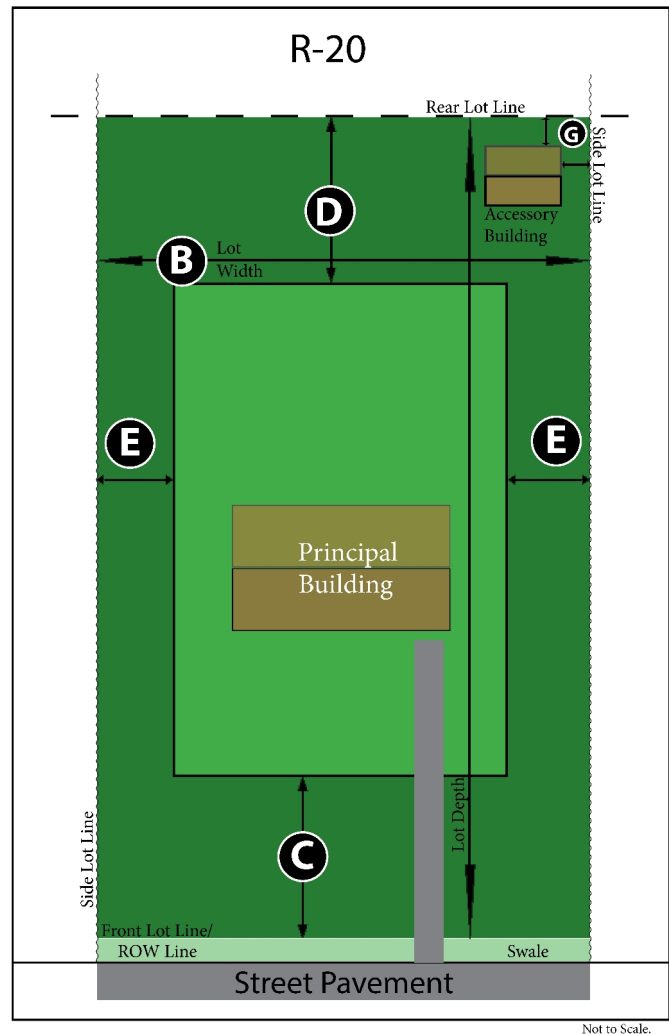
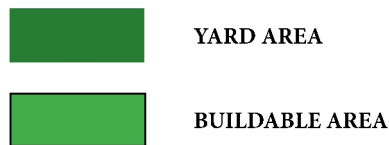
8.2.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.3 R-20 LOW-DENSITY RESIDENTIAL DISTRICT.

8.3.1. Dimensional Requirements.

(A) Minimum Lot Area	20,000 sq ft
(B) Minimum Lot Frontage	100 ft
(C) Front Yard Setback	30 ft
(D) Rear Yard Depth	30 ft
(E) Side Yard Width	15 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.3.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.3.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

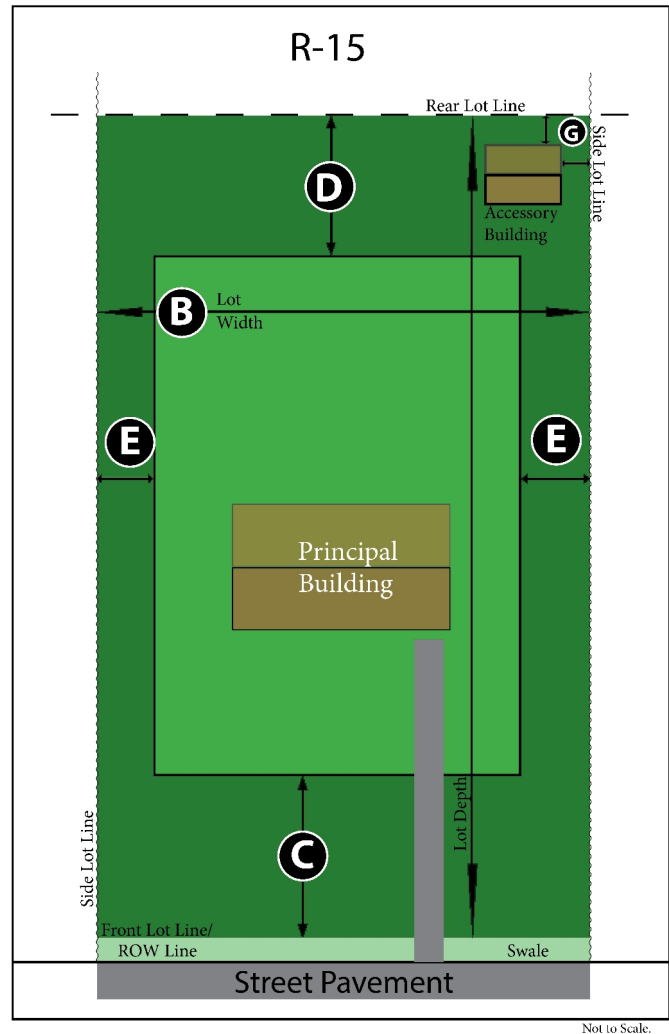
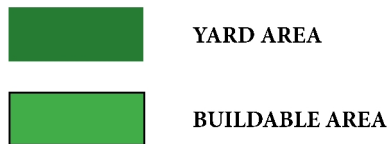
8.3.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.4 R-15 LOW-DENSITY RESIDENTIAL DISTRICT.

8.4.1. Dimensional Requirements.

(A) Minimum Lot Area	15,000 sq ft
(B) Minimum Lot Frontage	100 ft
(C) Front Yard Setback	35 ft
(D) Rear Yard Depth	25 ft
(E) Side Yard Width	10 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.4.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.4.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

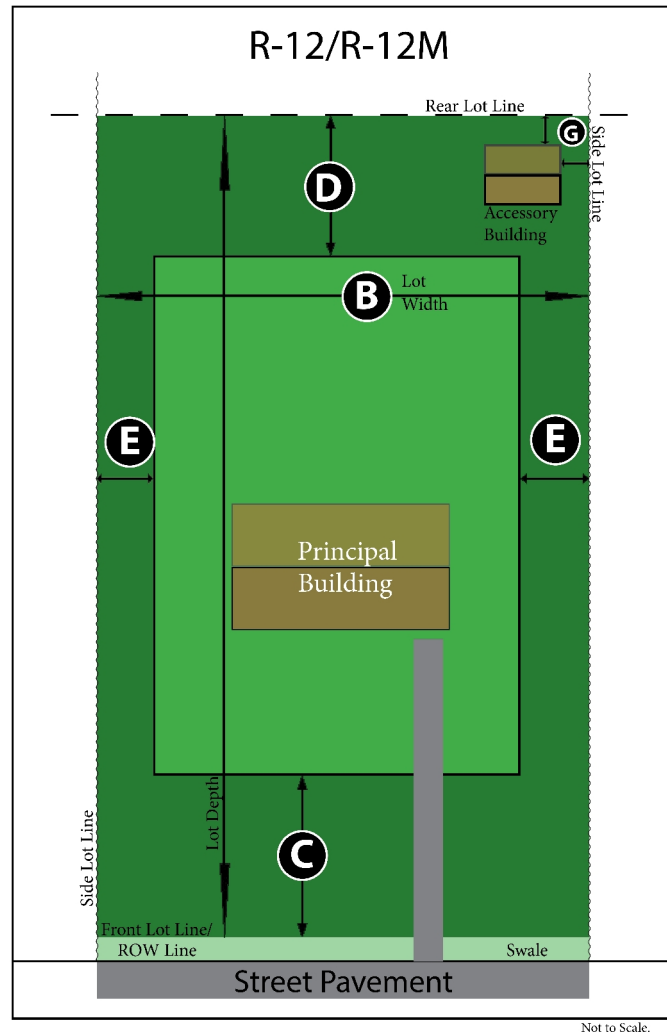
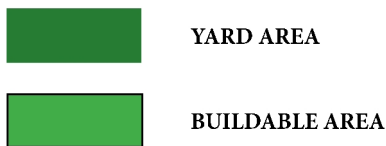
8.4.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.5 R-12 MEDIUM-DENSITY RESIDENTIAL AND R-12M MEDIUM-DENSITY/MHP DISTRICTS.

8.5.1. Dimensional Requirements.

(A) Minimum Lot Area <ul style="list-style-type: none"> • Single Unit • Double Unit (Duplex) • Multi-Units 	12,000 sq ft 14,000 sq ft 16,000 sq ft plus 4,000 sq ft for each unit over 2
(B) Minimum Lot Frontage <ul style="list-style-type: none"> • Single Unit • Double Unit (Duplex) • Multi-Units 	75 ft 80 ft 100 ft
(C) Front Yard Setback	30 ft
(D) Rear Yard Depth	25 ft
(E) Side Yard Width	10 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings <ul style="list-style-type: none"> • 750 sq ft or less • Greater than 750 sq ft 	6 ft see Section 8.14.12

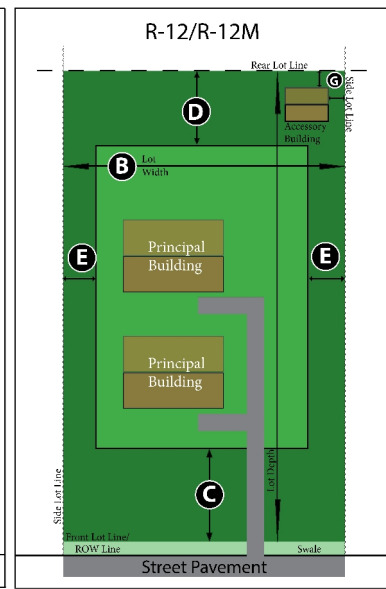
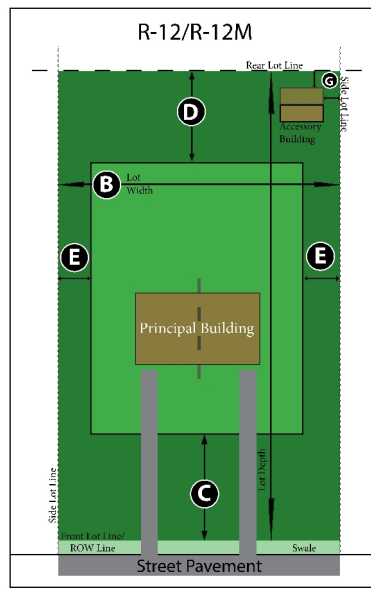


8.5.2. Additional Requirements.

Refer to Section 8.14, Notes to Zoning District Development Standards.

8.5.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.5.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

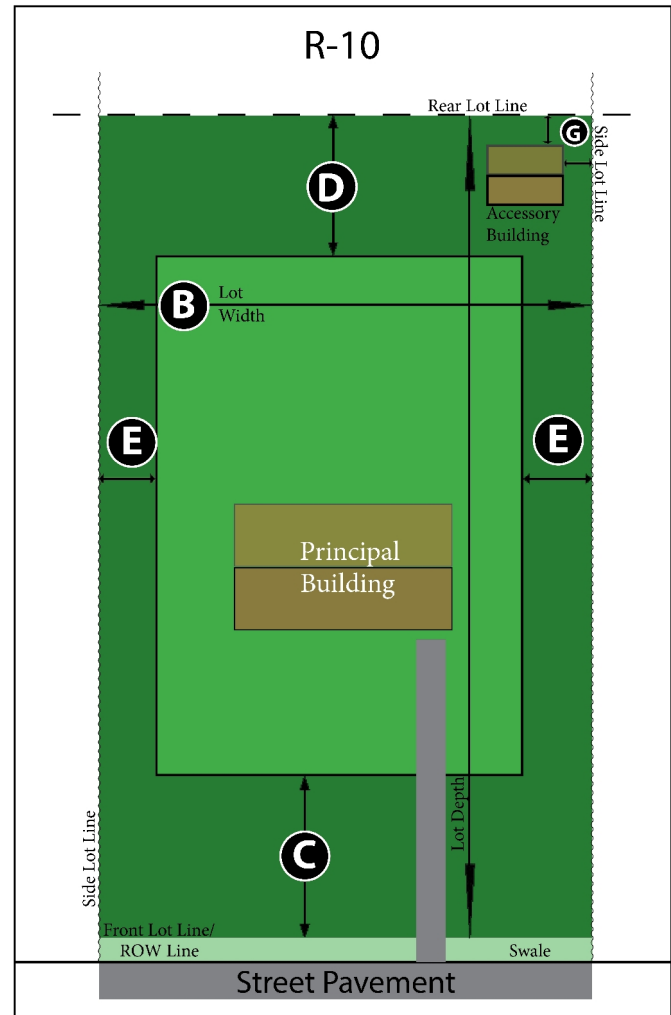
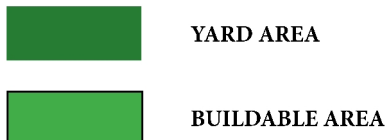


ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.6 R-10 HIGH-DENSITY RESIDENTIAL DISTRICT.

8.6.1. Dimensional Requirements.

(A) Minimum Lot Area	
• Single Unit	10,000 sq ft
• Double Unit (Duplex)	13,000 sq ft
• Multi-Units	13,000 sq ft plus 2,500 sq ft for each unit over 2
(B) Minimum Lot Frontage	
• Single Unit	75 ft
• Double Unit (Duplex)	85 ft
• Multi-Units	100 ft
(C) Front Yard Setback	25 ft
(D) Rear Yard Depth	25 ft
(E) Side Yard Width	10 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12

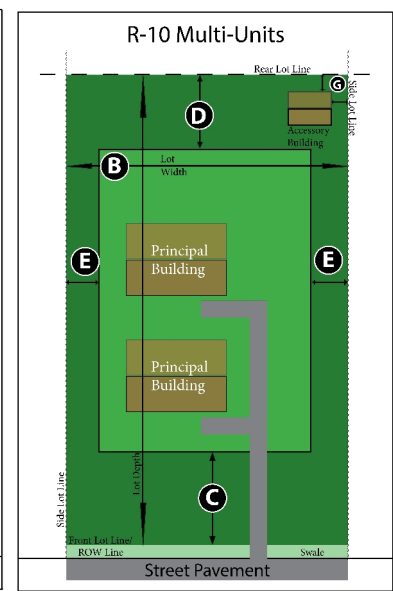
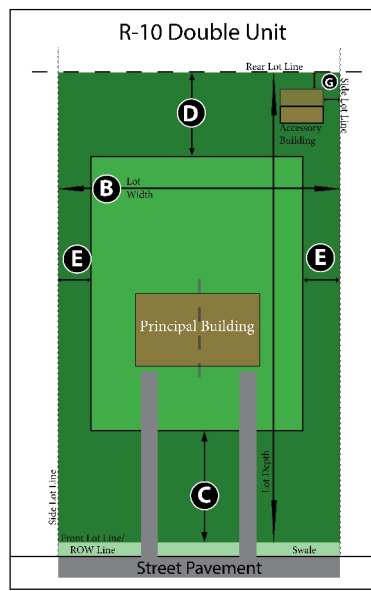


8.6.2. Additional Requirements.

Refer to Section 8.14, Notes to Zoning District Development Standards.

8.6.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.6.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

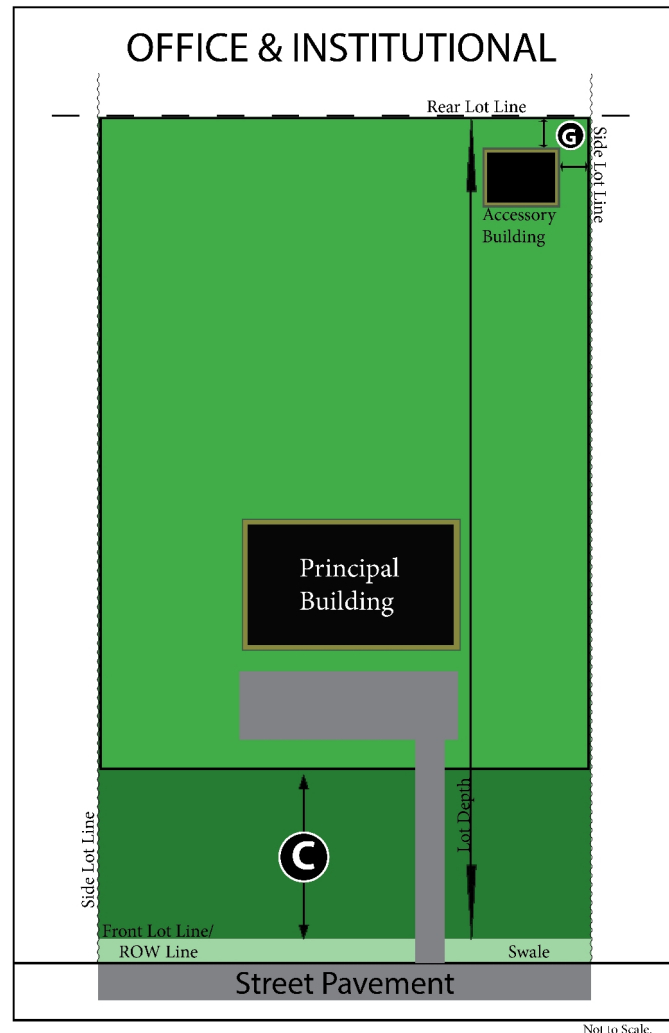
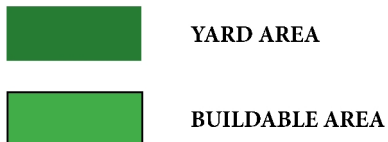


ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.7 O-I OFFICE AND INSTITUTIONAL DISTRICT.

8.7.1. Dimensional Requirements.

(A) Minimum Lot Area <ul style="list-style-type: none"> • Nonresidential Uses • Residential Uses 	None Must meet R-10
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	15 ft
(D) Rear Yard Depth	0 ft
(E) Side Yard Width	0 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings <ul style="list-style-type: none"> • 750 sq ft or less • Greater than 750 sq ft 	6 ft see Section 8.14.12



8.7.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.7.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.7.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.7.5. Buffers. Refer to Article 10, Part III.

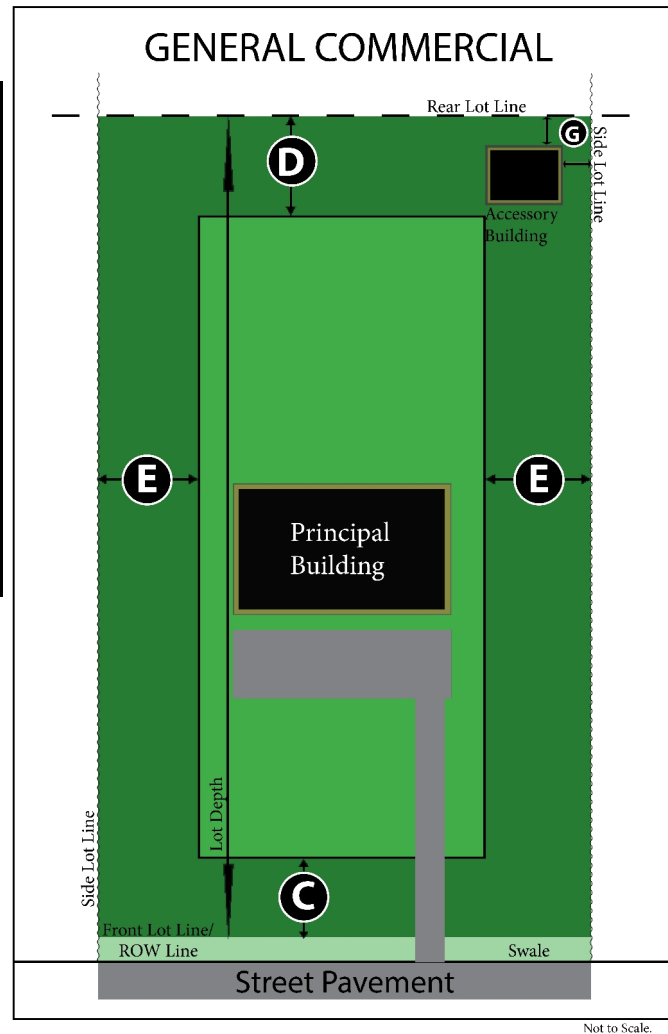
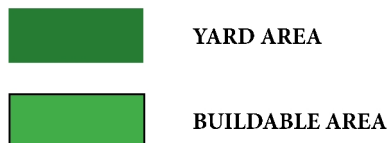
8.7.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.8 C-1 GENERAL COMMERCIAL DISTRICT.

8.8.1. Dimensional Requirements.

(A) Minimum Lot Area	
• Nonresidential Uses	None
• Residential Uses	Must meet R-10
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	12 ft
(D) Rear Yard Depth	15 ft
(E) Side Yard Width	15 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.8.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.8.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.8.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.8.5. Buffers. Refer to Article 10, Part III.

8.8.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.9 C-2 CENTRAL COMMERCIAL DISTRICT.

8.9.1. Dimensional Requirements.

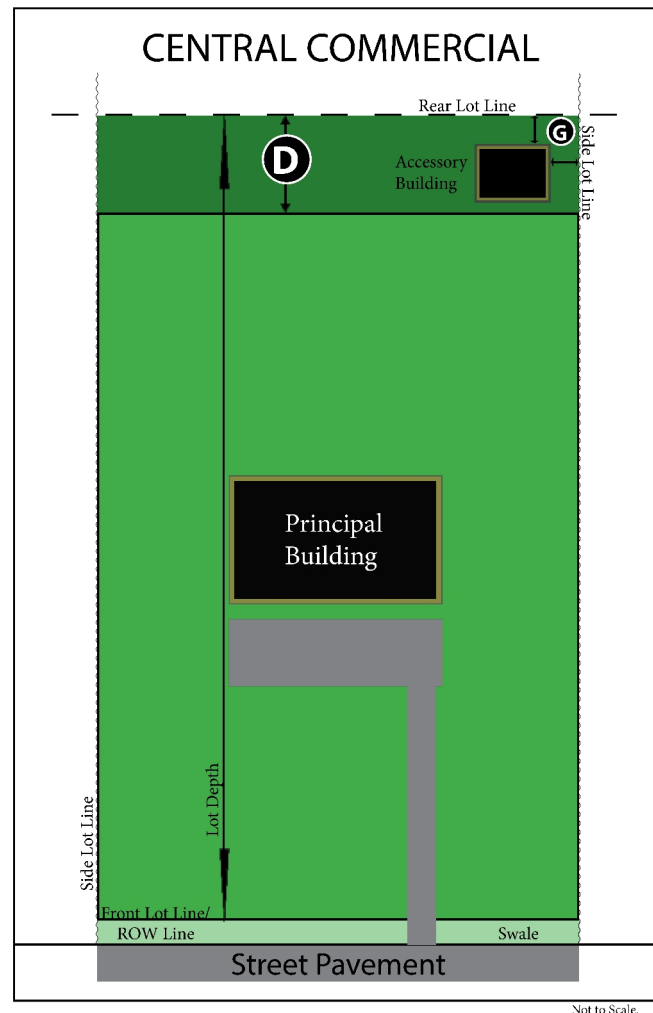
(A) Minimum Lot Area	None
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	0 ft
(D) Rear Yard Depth	15 ft
(E) Side Yard Width	0 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



YARD AREA



BUILDABLE AREA



8.9.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.9.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.9.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.9.5. Buffers. Refer to Article 10, Part III.

8.9.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.10 CBD CENTRAL BUSINESS DISTRICT.

8.10.1. Dimensional Requirements.

(A) Minimum Lot Area	None
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	0 ft
(D) Rear Yard Depth	0 ft
(E) Side Yard Width	0 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings <ul style="list-style-type: none">• 750 sq ft or less• Greater than 750 sq ft	6 ft see Section 8.14.12

NOTE: A diagram of the CBD district is not provided because there are no setbacks in this district.

8.10.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.10.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.10.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.10.5. Buffers. Refer to Article 10, Part III.

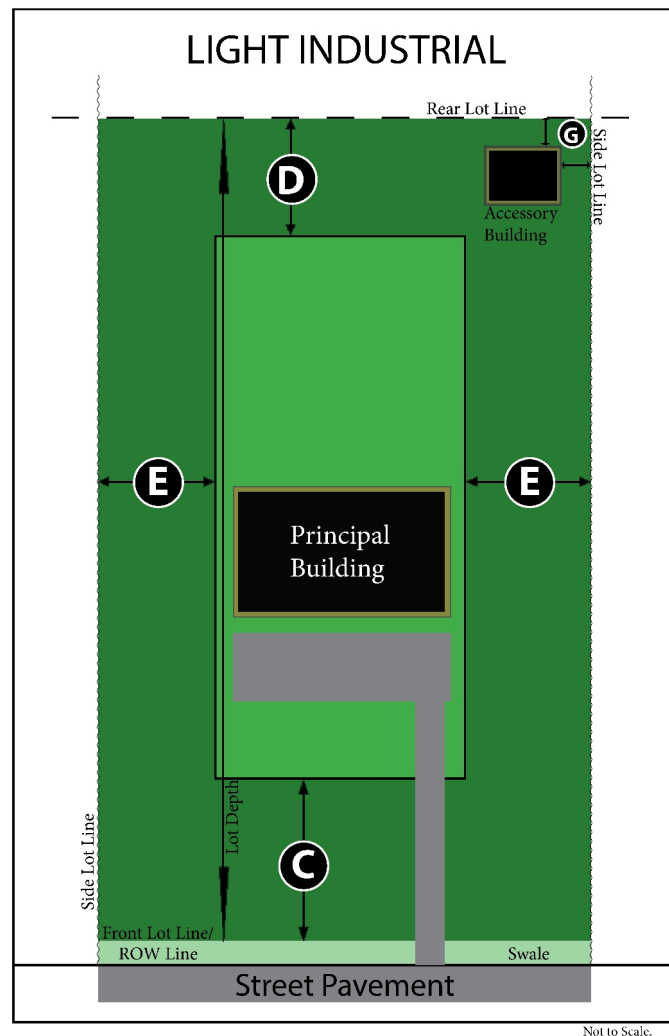
8.10.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.11 L-I LIGHT INDUSTRIAL DISTRICT.

8.11.1. Dimensional Requirements.

(A) Minimum Lot Area	None
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	35 ft
(D) Rear Yard Depth	20 ft
(E) Side Yard Width	20 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.11.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.11.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.11.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.11.5. Buffers. Refer to Article 10, Part III.

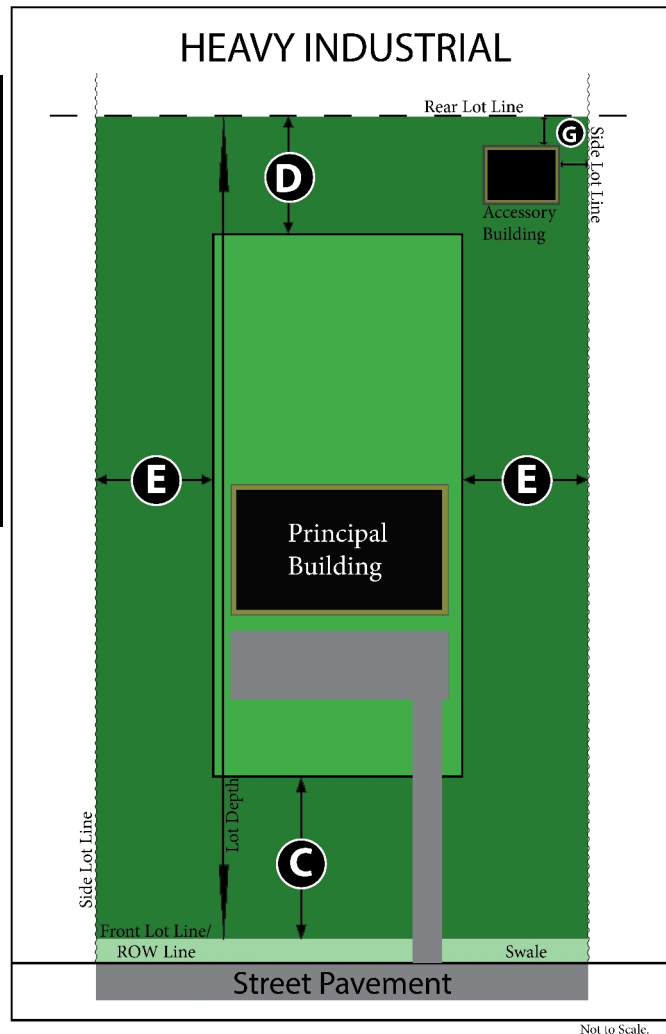
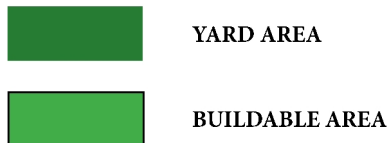
8.11.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.12 H-I HEAVY INDUSTRIAL DISTRICT.

8.12.1. Dimensional Requirements.

(A) Minimum Lot Area	None
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	50 ft
(D) Rear Yard Depth	30 ft
(E) Side Yard Width	20 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



8.12.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.12.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.12.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.12.5. Buffers. Refer to Article 10, Part III.

8.12.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.13 B-C BYPASS COMMERCIAL DISTRICT.

8.13.1. Dimensional Requirements.

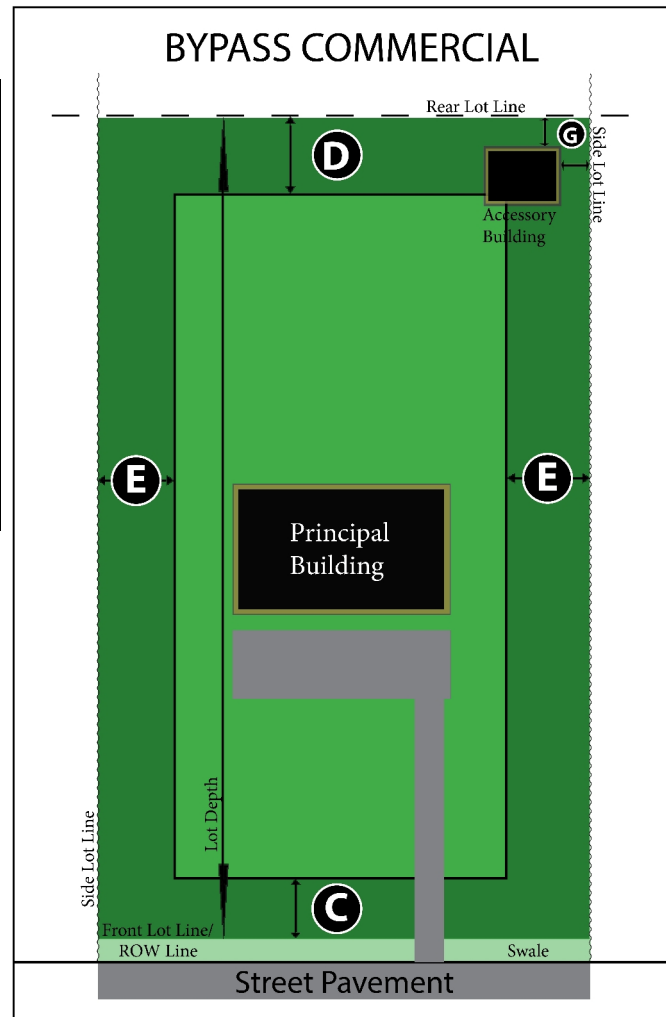
(A) Minimum Lot Area	None
(B) Minimum Lot Frontage	None
(C) Front Yard Setback	10 ft
(D) Rear Yard Depth	15 ft
(E) Side Yard Width	15 ft
(F) Maximum Building Height	50 ft
(G) Accessory Buildings	
• 750 sq ft or less	6 ft
• Greater than 750 sq ft	see Section 8.14.12



YARD AREA



BUILDABLE AREA



Not to Scale.

8.13.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.13.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.13.4. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part I.

8.13.5. Buffers. Refer to Article 10, Part III.

8.13.6. Landscaping. For landscaping requirements, refer to Article 10, Part III.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

SECTION 8.14 NOTES TO THE ZONING DISTRICT DEVELOPMENT STANDARDS.

8.14.1. Minimum Lot Size.

The minimum lot size of any lot not served by water and sewer shall conform to requirements of the Bladen County Health Department, notwithstanding the requirements of this Article.

8.14.2. Special Use Requirements Take Precedence.

Development standards established as part of issuance of a Special Use Permit shall take precedence.

8.14.3. Fences, Walls, and Planted Buffer Strips.

Notwithstanding other provisions of this Ordinance, fences, walls, and planted buffer strips may be permitted in any required yard, or along the edge of any yard. The finished side of the fence, wall, or planted buffer strip shall face the property line.

8.14.4. Front Yard Setbacks for Dwellings.

The front yard setback requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the same block and use district and fronting on the same street as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

8.14.5. Corner Visibility.

In all districts except the CBD Central Business District, no obstruction of any kind or nature to the visibility of vehicles on streets at intersections shall be erected, maintained, or allowed to exist. This area of visibility shall be considered to be not more than three (3) feet higher than the curb level and not less than ten (10) feet from the property corner.

8.14.6. Corner Lots in Residential and Office-Institutional Districts.

On corner lots in any residential or office-institutional district, the side yard, on that side of the lot abutting the side street, shall not be less than one-half (½) of the front yard requirement on that side of the street. Accessory buildings on that side of the lot abutting the side street shall not project beyond the full front yard requirements on that side street.

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

8.14.7. Corner Lots in Commercial and Manufacturing Districts.

On corner lots in any commercial or manufacturing district except the CBD district, the side yard on that side of the lot abutting the side street, shall not be less than one-half ($\frac{1}{2}$) of the front yard requirement on that side of the street.

8.14.8. Curb Cuts in Commercial, Manufacturing, and Office-Institutional Districts.

On town-maintained streets, no portion of any entrance driveway leading from a public street shall be closer than 15 feet to the corner of any intersection measured from the right-of-way line. The width of any entrance driveway leading from the public street shall not exceed 36 feet at its intersection with curb or street line. No two (2) driveways leading from a public street shall be within 20 feet of each other measured along the right-of-way line. On NCDOT-maintained streets, all curb cuts must comply with NCDOT driveway permit requirements.

8.14.9. Side Yard Provided But Not Required.

Where any side yard is provided, though not required, the same shall be not less than three and one-half (3-1/2) feet.

8.14.10. Maximum Lot Coverage.

In all zoning districts except the CBD district, the maximum lot coverage for the main building shall be 60% of the total lot area. In the CBD district, there shall be no maximum lot coverage requirement.

8.14.11. Structures Permitted Above the Height Limit.

8.14.11.1. Skylight and roof structures for the housing of elevators, stairways, tanks, ventilating fans, air-conditioning or similar equipment required for operation and maintenance of buildings may be erected above the height limit in any district.

8.14.11.2. Towers, steeples, flagpoles, chimneys, water tanks, or similar structures may be erected above the height limits in office and institutional, business and industrial districts that adjoin other office and institutional, business and industrial districts. However, any part of such structure which extends above the height limit shall be separated from any adjoining interior lot line of a lot in a residential district by a distance equal to at least one-half ($\frac{1}{2}$) the height of the structure as measured from the ground.

8.14.11.3. Within residential districts, structures listed in subsection 8.14.11.2 above, may be erected above the height limits provided any part of such structure which extends above the height limit shall be separated from any adjoining interior lot line by a distance

ARTICLE 8. ZONING DISTRICT DESIGN STANDARDS

equal to at least one-half ($\frac{1}{2}$) the height of the structure as measured from the ground. Otherwise, the structure shall be subject to the usual requirements for the district in which it is located.

8.14.11.4. Radio and television masts and stations may be erected in any district provided such facilities are located at least 200 feet from adjacent property lines on lots within or adjoining residential districts.

8.14.12. Accessory Buildings.

Accessory buildings shall be permitted in any zoning district provided that they abide by the following conditions:

8.14.12.1. Residential districts (R-A, R-40, R-20, R-15, R-12, R-12M, R-10): Uses within Residential Districts are limited to one (1) detached garage and two (2) accessory buildings, each of which shall be located behind the front line of the principal building. Accessory buildings 750 sq ft or less in size may be located no closer than six (6) feet to any adjoining lot line. Any accessory building greater than 750 sq ft in size shall meet the setbacks for a principal building within that zoning district and must be granted a Special Use Permit.

8.14.12.2. Commercial, Industrial, and Institutional Districts (C-1, C-2, L-I, H-I, O-I): Uses within Commercial, Industrial, and Institutional Districts are limited to two (2) accessory buildings, unless otherwise granted by Special Use Permit. Accessory buildings 750 sq ft or less in size may be located no closer than six (6) feet to any adjoining lot line. Any accessory building greater than 750 sq ft in size shall meet the setbacks for a principal building within that zoning district. Accessory buildings located in a front yard shall adhere to the main building front yard setback requirements for the district in which it is located.

ARTICLE 9.

NONCONFORMING SITUATIONS

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ARTICLE 9. NONCONFORMING SITUATIONS

SECTION 9.1 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS.

9.1.1. Nonconforming situations that were otherwise unlawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 9.2 through 9.5 of this Article.

9.1.2. Nonconforming projects may be completed only in accordance with the provisions of Section 9.6 of this Article.

SECTION 9.2 NONCONFORMING LOTS.

9.2.1. When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with authorization by the Board of Adjustment, upon request of the property owner. The Board of Adjustment shall authorize such use if it finds that:

9.2.1.1. The proposed use is one permitted by the regulations applicable to the district in which the property is located; and

9.2.1.2. The property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this paragraph, the Board of Adjustment may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.

9.2.2. Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of subsection 9.2.1 of this section.

SECTION 9.3 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

9.3.1. Except as specifically provided in this section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

ARTICLE 9. NONCONFORMING SITUATIONS

9.3.2. Subject to subsection 9.3.4 of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 9.6 of this article (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

9.3.3. Subject to Section 9.6 of this article (authorizing completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if 10% or more of the earth products had already been removed at the effective date of this Ordinance.

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

9.3.5. Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

9.3.5.1. An increase in the total amount of space devoted to a nonconforming use;

9.3.5.2. Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or

9.3.5.3. The enclosure of the previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall or fence.

9.3.6. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation – i.e., work estimated to cost more than 10% of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure (see Section 9.3.8)) may be done pursuant to authorization by the Board of Adjustment, upon request of the owner. The Board of Adjustment shall grant such authorization

ARTICLE 9. NONCONFORMING SITUATIONS

if it finds that the work will not result in a violation of any other sections of this Article (particularly Section 9.3.5) or make the property more incompatible with the surrounding neighborhood.

9.3.7. Notwithstanding Section 9.3.5, any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of the same size or larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a “single-wide” manufactured home may be replaced with a “double-wide.” This subsection is subject to the limitations stated in Section 9.5 on abandonment and discontinuance of nonconforming situations.

9.3.8. A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:

9.3.8.1. The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger manufactured home intended for residential use may replace a smaller one.

9.3.8.2. The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building.

9.3.8.3. The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least 75% or more of the perimeter area is marked by a permanently constructed wall or fence.

9.3.8.4. Except for single-family residential structures (including manufactured homes), if the estimated cost of the reconstruction work exceeds 10% of the appraised value of the structure, the work may be done only after authorization by the Board of Adjustment, upon request of the owner. The Board of Adjustment shall grant such authorization if it finds that the work will be done in accordance with this subsection and that the reconstructed building will not make the property more incompatible with the surrounding property that it was before the destruction occurred.

ARTICLE 9. NONCONFORMING SITUATIONS

SECTION 9.4 CHANGE IN KIND OF NONCONFORMING USE.

9.4.1. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

9.4.2. A nonconforming use may be changed to another nonconforming use only if authorized by the Board of Adjustment. The Board of Adjustment shall grant such authorization if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for. If a nonconforming use is changed to any use other than a conforming use

SECTION 9.5 ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS.

9.5.1. When a nonconforming use is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in subsection 9.5.2 of this section.

9.5.2. The Board of Adjustment may authorize a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that the nonconforming use has been discontinued for less than two (2) years, and the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.

9.5.3. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for 180 days terminates the right to replace it.

ARTICLE 9. NONCONFORMING SITUATIONS

9.5.4. When a structure or operation made nonconforming by this Ordinance is vacated or discontinued at the effective date of this Ordinance, the 180-day period for purposes of this subsection begins at the effective date of the Ordinance.

SECTION 9.6 COMPLETION OF NONCONFORMING PROJECTS.

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

9.6.2. Except as provided in subsection 9.6.1, and except to the extent that a developer has a vested right as set forth in Section 4.7, all work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects shall be revoked unless the developer requests an appeal to the Board of Adjustment to overturn the Zoning Administrator's decision. An appeal shall stay any revocation. The Zoning Administrator shall issue such a permit if he/she finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changes his position in some substantial way in reasonable reliance on the Ordinance as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Zoning Administrator shall be guided by the following, as well as other relevant considerations:

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

9.6.2.2. Except as provided in subdivision 9.7.2.1, no expenditures made more than 180 days before the effective date of this Ordinance may be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

ARTICLE 9. NONCONFORMING SITUATIONS

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

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

9.6.2.5. A person shall be considered to have acted in good faith if the person (i) had actual knowledge of a proposed change in the Ordinance affecting the proposed development site which could not be attributed to him, or (ii) should have known of the proposed change in the Ordinance.

9.6.2.6. Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the Zoning Administrator may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the requirements of the proposed Ordinance. The Zoning Administrator may find that the developer did not proceed in an attempt to avoid requirements of the proposed Ordinance if he/she determines that (i) at the time the expenditures were made it was not clear that the proposed Ordinance would prohibit the intended development, and (ii) the developer had legitimate business reasons for making expenditures.

9.6.2.7. In deciding whether a permit should be issued under this section, the Zoning Administrator shall not be limited to either denying a permit altogether or issuing a permit to complete the project (or phases, sections, or stages thereof) as originally proposed or approved. Upon proper submission of plans by the applicant, the Zoning Administrator may also issue a permit authorizing a development that is less nonconforming than the project as originally proposed or approved but that still does not comply with all the provisions of the Ordinance making the project nonconforming. The Zoning Administrator shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.

ARTICLE 9. NONCONFORMING SITUATIONS

9.6.3. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection 9.6.2 and obtain permits. In addition to the matters and subject to the guidelines set forth in subdivisions 9.6.2.1 through 9.6.2.7, the Zoning Administrator shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

9.6.3.1. Whether any plans prepared or approved regarding incompleting phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

9.6.3.2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

9.6.3.3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or on such a scale, in anticipation of connection to or interrelationship with approved but incompleting phases, that the investment in such utilities or other facilities cannot be recouped if such approved but incompleting phases are constructed in conformity with existing regulations.

9.6.3.4. The Zoning Administrator shall not consider any application for the permit authorized by subsection 9.6.2 that is submitted more than sixty (60) days after the effective date of this Ordinance. The Zoning Administrator may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

SECTION 9.7 AUTHORIZATION OF NONCONFORMING PROJECTS.

Whenever an amendment to this Ordinance becomes effective after an application for a development permit is submitted but before the permit is issued, and the effect of the amendment is to render the proposed development nonconforming in some respect, then the applicant may choose to proceed with the development under the previous requirements or under the amended requirements.

ARTICLE 9. NONCONFORMING SITUATIONS

SECTION 9.8 NONCONFORMING SIGNS.

9.8.1. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued.

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

9.8.3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

9.8.4. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is “destroyed” if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign damaged.

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

9.8.6. Subject to other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50% of the value (tax value if listed for tax purposes) of such sign.

ARTICLE 10.

PERFORMANCE STANDARDS

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ARTICLE 10. PERFORMANCE STANDARDS

PART I. OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

SECTION 10.1 GENERAL REQUIREMENTS.

The requirements herein set forth shall apply to all districts except CBD - Central Business District unless specified in other sections of this Ordinance. Off-street parking space (either garage or properly graded open space with a stable surface) shall be provided in accordance with the requirements set forth below in all classes of districts. Off-street loading space shall be provided in accordance with the requirements set forth below in all classes of districts. Off-street parking and loading space shall also be provided as required under the provisions of the Special Use Regulations.

10.1.1. Each applicant for a building permit or certificate of zoning compliance submitted to the Zoning Administrator shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress between such space and a street or alley. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this Ordinance are met.

10.1.2. The certificate of occupancy for the use of any building, structure or land where off-street parking or loading space is required shall be withheld by the Zoning Administrator until provisions of this section are fully met. If at any time such compliance ceases, any certificate of occupancy shall immediately become void and of no effect.

10.1.3. Where parking or loading areas are provided adjacent to a public street, ingress or egress thereto shall be made through driveways not exceeding 24 feet in width (2 lanes) or 12 feet in width (1 lane) at the curb line of said street, except where the Town finds that a greater width is necessary to accommodate the vehicles customarily using the driveway. Detailed plans of all curb cuts and driveway openings shall be submitted to the Zoning Administrator for approval.

SECTION 10.2 OFF-STREET PARKING.

10.2.1. No part of an off-street parking area required for any building or use for the purpose of complying with the provisions of off-street parking requirements in this Ordinance shall be included as part of any off-street parking area similarly required for another building or use unless the times of usage of such buildings or uses will not be simultaneous, as determined by the Board of Adjustment.

ARTICLE 10. PERFORMANCE STANDARDS

10.2.2. Off-street parking space shall be located on the same lot as the use for which provided or on a separate lot within 200 feet of any entrance to the building, provided that such parking space land is owned by the owner of the building or leased for the same period of time as the building.

10.2.3. The off-street parking requirements for two (2) or more uses on the same lot may be combined and used jointly, provided that the parking space shall be adequate in area to provide the same total off-street parking requirements with all such uses.

10.2.4. All off-street parking spaces shall be provided with shield or bumper guards so located that no part of parking vehicles will extend beyond the parking space onto any public right-of-way.

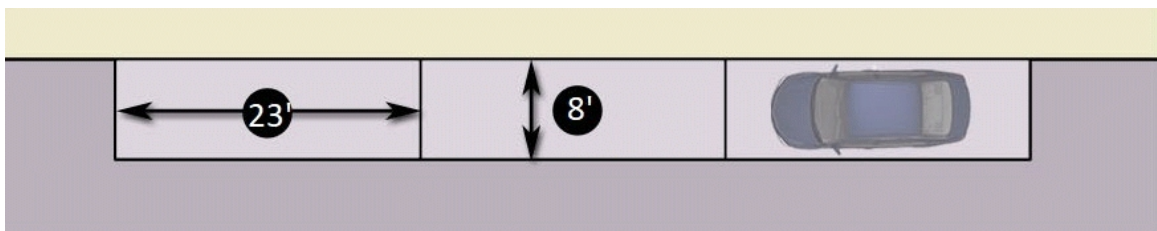
10.2.5. All off-street parking areas shall be graded and paved to Town specifications, if more than six (6) spaces are required.

10.2.6. All multi-family dwellings with more than four (4) units shall have parking areas graded and paved to Town specifications.

10.2.7. The use of streets, sidewalks, alleys, or other public rights-of-way for parking or maneuvering to and from off-street parking spaces is prohibited, except where such maneuvering is necessary in the use of driveways for access to and from single-family and two-family dwellings. All off-street parking areas shall be so arranged that ingress and egress is by forward motion of the vehicle. All parking spaces shall be designed to have access only from parking area driveways and not directly from public streets. If Section 10.2.7 is determined not to be feasible due to particularities of the parcel, the Zoning Administrator, upon approval from the Town Manager, may modify the requirements herein.

10.2.8. *Parking Space Arrangements and Dimensions.*

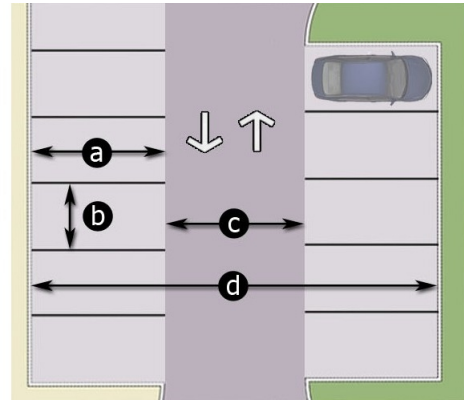
10.2.8.1. *Parallel Parking.* Parallel parking stalls for standard size automobiles shall have a minimum size of eight (8) feet by twenty-three (23) feet. All parallel parking stalls shall have a minimum of ten (10) feet for maneuvering space in one-way traffic and twenty (20) feet maneuvering space in two-way traffic.



ARTICLE 10. PERFORMANCE STANDARDS

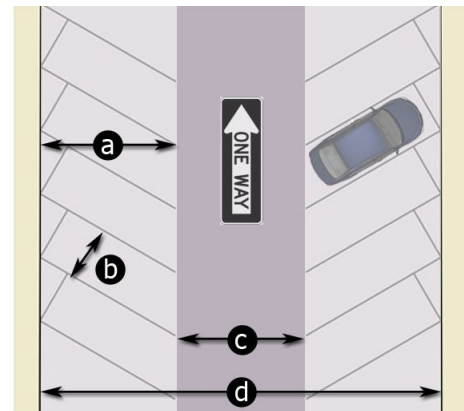
10.2.8.2. 90 Degree Parking.

- (a) Length: 18 feet
- (b) Width: 9 feet
- (c) Aisle Width: 24 feet
- (d) Two Row Parking with Aisle: 60 feet total
- (e) Compact Cars: Length - 16 feet
Width - 8 feet



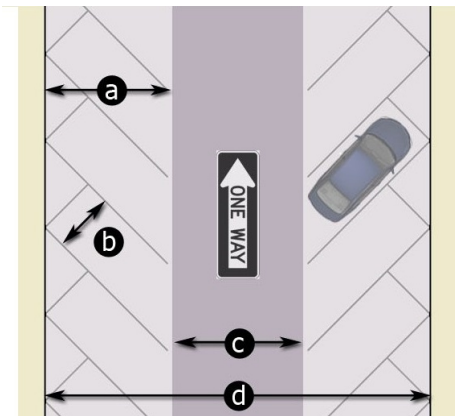
10.2.8.3. 60 Degree Parking.

- (a) Length: 20 feet 1 inch
(measured from the end of striping perpendicular to the curb)
- (b) Width: 9 feet
- (c) One-Way Aisle: 16 feet
Two-Way Aisle: 20 feet
- (d) Two Row Parking with One-Way Aisle: 56 feet 2 inches total
Two Row Parking with Two-Way Aisle: 60 feet 2 inches total
- (e) Compact Cars: Length - 17 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet



10.2.8.4. 45 Degree Parking.

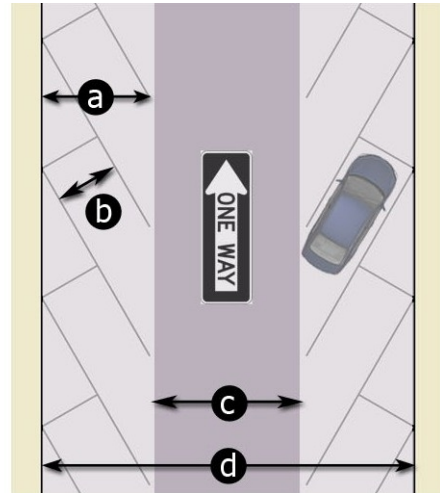
- (a) Length: 19 feet 1 inch
(measured from the end of striping perpendicular to the curb)
- (b) Width: 9 feet
- (c) One-Way Aisle: 15 feet
Two-Way Aisle: 20 feet
- (d) Two Row Parking with One-Way Aisle: 53 feet 2 inches total
Two Row Parking with Two-Way Aisle: 58 feet 2 inches total
- (e) Compact Cars: Length - 16 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet



ARTICLE 10. PERFORMANCE STANDARDS

10.2.8.5. 30 Degree Parking.

- (a) *Length*: 15 feet 11 inches
(measured from the end of striping perpendicular to the curb)
- (b) *Width*: 9 feet
- (c) *One-Way Aisle*: 14 feet
Two-Way Aisle: 19 feet
- (d) *Two Row Parking with One-Way Aisle*:
45 feet 10 inches total
Two Row Parking with Two-Way Aisle:
50 feet 10 inches total
- (e) *Compact Cars*: Length - 14 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet

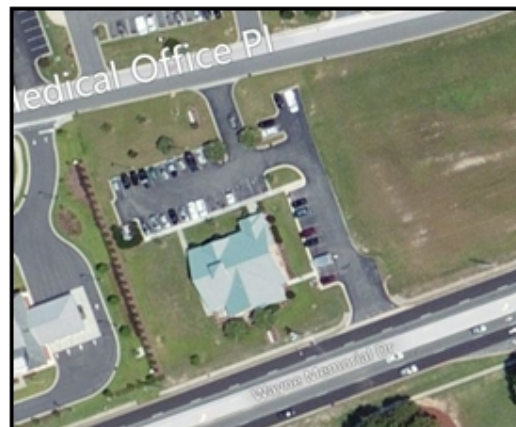


10.2.9. Lateral Access.

All new nonresidential development shall provide lateral access to adjacent property which is either: (1) existing nonresidential, or (2) zoned nonresidential. In the site plan process review, lateral access shall be displayed and labeled clearly by showing the appropriate connections. All lateral access connections shall be a minimum of 20 feet in width and maximum of 24 feet in width. Adjustments to the lateral access constitutes a variance and should be approved by the Board of Adjustment in a quasi-judicial process.



Cross access provided between sites

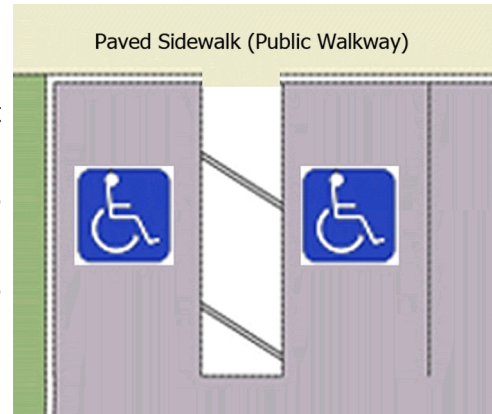


Cross access for future development

ARTICLE 10. PERFORMANCE STANDARDS

10.2.10. Accessible Parking Requirements.

Accessible parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act (ADA), the NC Department of Transportation, the NC Division of Motor Vehicles ADA requirements, the NC State Building Code, and ICC A 117.1. All accessible spaces shall be identified by pavement markings and by appropriate signage approved by the NC Department of Transportation. Accessible parking shall be required on all multi-family and nonresidential sites.



SECTION 10.3 PARKING RATIOS.

The following defines parking ratios for general use classifications as delineated in the Table of Uses and Activities (Section 6.6). All uses are not defined; however, the broad categories listed should correlate with each use listed within the use table included in Section 6.6. If there are questions regarding how a given project should be classified, the methodology for defining a required parking requirement shall be determined by the Board of Adjustment.

Classification	Off-Street Parking Requirement
RESIDENTIAL	
Dwelling, Single-Family	2 spaces
Dwelling, Manufactured Home	2 spaces
Dwelling, Multi-Family <ul style="list-style-type: none"> – One bedroom – Two bedrooms – Three bedrooms or more 	1.5 spaces per unit 1.75 spaces per unit 2 spaces per unit
ACCESSORY USES/BUILDINGS	
Accessory Business or Residential Unit (Including Home Occupations)	2 spaces per business or residence
Accessory Buildings	Same ratio as the principal use
EDUCATIONAL, OFFICE/INSTITUTIONAL, AND RETAIL SALES & SERVICES	
Retail	1 space per 200 square feet
Restaurant	1 space per 150 square feet enclosed floor area
Office	3 spaces per 1,000 square feet
Lodging	1 space per room plus 1 space per employee
Institutional/Civic	1 space per 4 seats or 4 spaces per 1,000 square feet, whichever is greater

ARTICLE 10. PERFORMANCE STANDARDS

Classification	Off-Street Parking Requirement
Schools, Elementary or Junior High	3 spaces for each room used for administration offices, class instruction, or 1 space for each 6 seats in auditorium and other places of assembly or facilities available for the public, whichever is greater
Schools, Senior High	1 space per school employee and 1 space per 4 students
Other	Determined by the Zoning Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering
MANUFACTURING AND INDUSTRIAL USES	
Adult and sexually oriented businesses	1 space per 300 square feet of gross floor area
All other industrial uses	1 space for each employee on the largest shift
RECREATION/CONSERVATION USES	
The most applicable of the following standards shall apply for all recreational uses, including auditoriums, assembly halls, and stadiums:	1 space per 4 fixed seats; 1 space for each 40 square feet of floor area available in establishment as a meeting room; 1 space for each 150 square feet of gross floor area.
TEMPORARY USES/STRUCTURES	
To be determined by the Zoning Administrator based on the site specific conditions and principal use.	
AGRICULTURAL USES	
To be determined by the Zoning Administrator based on the site specific conditions.	

SECTION 10.4 VEHICLE STACKING LANES.

10.4.1. Vehicle Stacking Lanes.

The vehicle stacking standards of this section shall apply unless otherwise expressly approved by the Zoning Administrator. Additional stacking spaces may be required by the Zoning Administrator where trip generation rates suggest that additional spaces will be needed.

10.4.2. Minimum Number of Spaces.

Off-street stacking spaces shall be provided as follows:

Activity Type	Minimum Stacking Spaces	Measured From
Automated teller machine (ATM)	3	Teller
Bank teller lane	4	Teller or Window
Car wash bay, full-service	3	Bay
Car wash bay, self-service	3	Bay
Dry cleaning/laundry drive-through	3	Cleaner/laundry window
Gasoline pump island	3	Pump island

ARTICLE 10. PERFORMANCE STANDARDS

Activity Type	Minimum Stacking Spaces	Measured From
Gate, unstaffed	2	Gate
Gatehouse, staffed	4	Gatehouse
Pharmacy pickup	3	Pharmacy window
Restaurant, drive-through	6	Order box
Restaurant, drive-through	4	Between order box and pick-up window
Valet parking	3	Valet stand
Other	Determined by the Zoning Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering.	

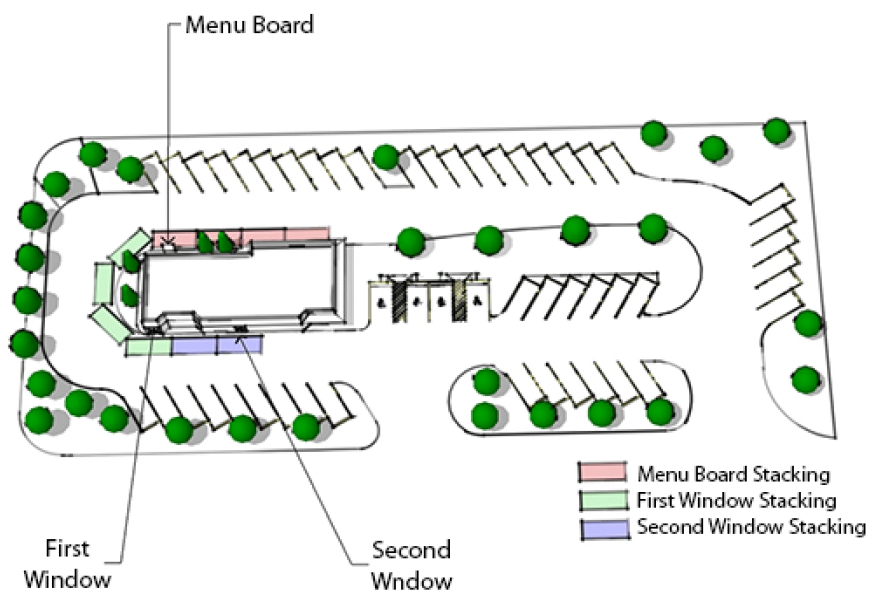
10.4.3. Design and Layout of Stacking Spaces.

Required stacking spaces shall be subject to the following design and layout standards:

10.4.3.1. Size. Stacking spaces shall be a minimum of eight (8) feet in width by twenty-five (25) feet in length.

10.4.3.2. Location. Stacking spaces shall not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

10.4.3.3. Design. Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Zoning Administrator for traffic movement and safety.



ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.5 LIGHTING FOR COMMERCIAL PARKING LOTS AND DRIVEWAYS.

10.5.1. All lighting fixtures used for the purpose of illuminating parking lots and driveways shall be cutoff fixtures.

10.5.2. Directional or floodlighting fixtures must be shielded and properly aimed so that they control glare, do not produce uplighting, and contain light so that it does not encroach on neighboring properties and rights-of-way.

10.5.3. The maximum mounting height for pole-mounted fixtures intended to illuminate parking lots is twenty-five (25) feet measured from the base of the pole.

10.5.4. Incandescent, fluorescent, metal halide, or color corrected high-pressure sodium are preferred. The Zoning Administrator shall have the authority to approve other lamp types (including light emitting diodes (LEDs) and fiber optics) provided the color emitted is similar to the preferred types. Non-color corrected high pressure sodium lamps are prohibited.

10.5.5. Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

10.5.6. Illumination Levels.

All site lighting shall be designed so that the level of illumination as measured in foot-candles (fc) at any one point meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level), measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination. Site lighting and illumination levels must be provided on site plans.

LIGHT LEVEL (foot-candles)			
Type of Lighting	Minimum	Average	Maximum
Multi-family parking lot	0.2	1.0	8.0
Nonresidential and multi-family entrances	1.0	5.0	15.0
Nonresidential parking lot	0.2	1.5	10.0
Storage area (security lighting)	0.2	1.0	10.0
Vehicles sales and display	0.2	3.0	15.0

The maximum level of illumination at the outer perimeter of the site or project shall be 0.5 foot-candles when abutting a residential zoning district and 5.0 foot-candles when abutting all other districts and/or streets.

ARTICLE 10. PERFORMANCE STANDARDS

10.5.7. Excessive Illumination.

10.5.7.1. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

10.5.7.2. All outdoor lighting shall be designed and located such that the maximum illumination measured in foot-candles at the property line does not exceed 0.2 on neighboring residential uses, and 0.5 on neighboring commercial sites and public rights-of-way.

10.5.7.3. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

SECTION 10.6 OFF-STREET LOADING.

10.6.1. General Requirements.

The duty to provide the off-street loading space herein required shall be the joint responsibility of the owner and operator of the structure or structures for which off-street loading space is required. The space shall be provided in accordance with Section 10.6.2 and off-street loading spaces shall be designed so that the vehicles loading and unloading shall not rest upon or cross any public street or alley right-of-way. For buildings which are 10,000 square feet or greater, all off-street loading spaces shall be at least 12 feet wide, 40 feet long, and have an overhead clearance of 14 feet. For buildings which are less than 10,000 square feet, all off-street loading spaces shall be at least 12 feet wide, 20 feet long, and have an overhead clearance of 14 feet.

10.6.2. Off-Street Loading Space Requirements.

Classification	Off-Street Loading Space Requirement
Retail operations with a total usable floor area of 20,000 square feet or more devoted to such purposes; large shopping centers can use common loading zones for small shops approved by the Town Council.	1 space for each 20,000 square feet of floor area. In stores having over 20,000 square feet of floor area, maximum requirement shall be 2 spaces per store.
Retail operations and all first floor nonresidential uses with a gross floor area of less than 20,000 square feet and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet.	1 space
Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes.	1 space for each 100,000 square feet of floor area.

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Classification	Off-Street Loading Space Requirement
Industrial and wholesale operations With a gross floor area of 10,000 square feet or over as follows:	Minimum number of loading berths required:
10,000 - 40,000 square feet	1
40,000 - 100,000 square feet	2
100,000 - 160,000 square feet	3
160,000 - 240,000 square feet	4
240,000 - 320,000 square feet	5
320,000 - 400,000 square feet	6
Each 90,000 above 400,000 square feet	1 additional space

NOTE: The Central Business District is exempt from the Off-Street Loading Requirements.

ARTICLE 10. PERFORMANCE STANDARDS

PART II. BUILDING FACADE DESIGN

SECTION 10.7 INTENT.

In order to present an attractive “face” for the Town of Elizabethtown, buildings along roadways should enhance the image of the Town’s jurisdiction. The emphasis shall be on architectural detail and human-scale design.

SECTION 10.8 APPLICABILITY.

The requirements of this section shall apply in the following circumstances:

10.8.1. Construction of any new use classified as Commercial, Office/Institutional, or Multi-Family.

10.8.2. Construction of any new use classified as Industrial when the building facade is located within 100 feet of a public roadway.

10.8.3. Expansion or modification of an existing Commercial or Office/Institutional use that increase the total enclosed floor area by at least 50% or 5,000 square feet, whichever is greater.

10.8.4. Where compliance with these standards is explicitly required in other portions of this Ordinance.

SECTION 10.9 EXEMPT.

Communication towers shall be exempt from these requirements.

SECTION 10.10 STANDARDS.

10.10.1. Materials.

All facades that are visible from a public roadway or an abutting a residential district or use shall be constructed of one or a combination of the following materials: concrete aggregate, stucco, brick, stone, glass or wood, faced concrete block, vinyl siding. Artificial materials which closely resemble these materials shall also be allowed. Pre-engineered metal building materials shall not be used on facades.

10.10.2. Scale.

Primary facades shall incorporate details at the pedestrian level (below ten feet) that emphasize human scale.

ARTICLE 10. PERFORMANCE STANDARDS

10.10.3. Transparency.

Facades of all commercial structures facing a street or primary travelway shall incorporate transparent features on at least 35% of the surface area on the ground floor.

10.10.4. Roofing Materials.

Recommended roofing materials include slate shingles, asphalt and fiberglass shingles, metal roofing or tiles. Partial (occupying less than three sides) mansard roofs are discouraged.

10.10.5. Excessive Illumination.

10.10.5.1. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

10.10.5.2. All outdoor lighting shall be designed and located such that the maximum illumination measured in foot-candles at the property line does not exceed 0.2 on neighboring residential uses, and 0.5 on neighboring commercial sites and public rights-of-way.

10.10.5.3. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

10.10.6. Screening of Utilities and Mechanical Equipment.

10.10.6.1. Roof top mounted equipment shall not be visible from public rights-of-way or adjacent residential property. Equipment shall be screened by parapet walls or continuous mechanical screens that are compatible with and complementary to the overall building design. Where complete screening is not technically feasible due to differences in grade elevations, then the parapet or screens shall be at least as tall as the tallest piece of equipment.

10.10.6.2. Ground mounted utilities and equipment, including outdoor service, storage, loading, and mechanical areas shall be located on non-character defining facades and shall be screened by garden walls, fences, or solid vegetation so they are not visible from public rights-of-way or adjacent residential properties. The finished side of all screening shall face the property line.

ARTICLE 10. PERFORMANCE STANDARDS

10.10.6.3. Locate noise-generating equipment to mitigate the impact on adjacent properties and public rights-of-way. Equipment that generates more than 60 decibels shall not be located next to a residential development or must incorporate mufflers or other noise-reducing equipment.

10.10.7. Fencing.

Solid fencing shall not be used to obscure the building facade from streets and travelways. Where used, solid fencing shall be located behind the building line of the primary facade(s).

SECTION 10.11 ALTERNATIVE COMPLIANCE.

Alternative compliance may be approved in writing by the Board of Adjustment provided the design alternatives accommodate the following:

10.11.1. Use of high quality, durable materials is required. Materials used for the primary facades shall return along secondary sides a minimum distance as required based on visibility from public rights-of-way or adjacent residential property. Visible rear and side facades shall be designed with as much attention as the other elevations.

10.11.2. Visual balance shall be achieved with the use of order and symmetry within separate building elements.

10.11.3. Architectural elements, details or massing components shall be utilized to create visual organization through repetition and spacing.

10.11.4. Primary facades shall provide appropriate architectural transitions between horizontal elements or differences in apparent floor-to-floor heights.

10.11.5. Design and detailing of materials shall result in an authentic appearing structure, with dimensions and spans of visible materials related to the structural properties. Elements designed to appear as load-bearing shall be visually supported by other elements directly below.

SECTION 10.12 APPROVAL/APPEAL.

The building facade design shall be approved or denied by the Zoning Administrator within fifteen (15) days of submittal to the Zoning Administrator. Appeal of the Zoning Administrator's facade design decisions shall be made to the Board of Adjustment by application submitted within forty-five (45) days of the Zoning Administrator's decision. The Board of Adjustment shall act on the appeal at its next regularly scheduled meeting.

ARTICLE 10. PERFORMANCE STANDARDS

PART III. LANDSCAPE REQUIREMENTS

SECTION 10.13 BUFFERYARD REQUIREMENTS.

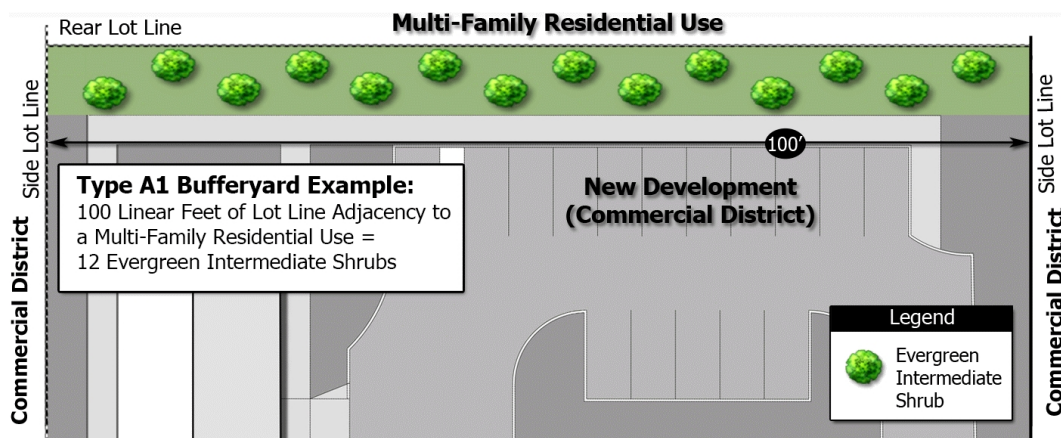
Bufferyards are required for multi-family residential development with ten (10) or more parking spaces and nonresidential development. See the table below to determine the type of bufferyard required.

Zoning District and/or Use To Be Developed (below)	Adjacent Land Use			
	Industrial	Commercial (including O-I)	Single-Family Residential	Multi-Family Residential (10 or more parking), PUDS
Industrial	N/A	Type A	Type B	Type A
Commercial (including O-I)	Type A	N/A	Type B	Type A
Multi-Family Residential (10 or more parking), PUDS	Type A	Type A	Type A	N/A

Bufferyard requirements as they pertain to the Table of Uses and Activities (Section 6.6) are as follows:

1. Industrial shall include all uses allowed within the L-I and H-I districts.
2. Commercial shall include all uses allowed within the O/I, C-1, and C-2 districts.
3. Multi-Family Residential shall include all multi-family uses allowed within the R-10 and O/I districts.
4. Single-Family Residential shall include all single-family uses allowed within the R-A, R-40, R-20, R-15, R-12M, R-12, and R-10, and PUDS.

The following provides an **example** of a **Type A bufferyard** for a developed commercial district adjacent to a multi-family use in a residential district.



ARTICLE 10. PERFORMANCE STANDARDS

- A** Type A Bufferyard Screening. A medium density screen intended to block visual contact between uses and to create special separation.

① Type A1: Minimum of 5 feet wide. For every linear 100 feet, or fraction thereof, the screen shall consist of 14 evergreen Intermediate Shrubs planted 8 feet on center.

-OR-

② Type A2: Minimum of 7.5 feet wide. For every 100 feet, or fraction thereof, the screen shall consist of 21 evergreen Intermediate Shrubs 6 feet on center.

- B** Type B Bufferyard Screening. A high density screen intended to exclude virtually all visual contact between uses and to create a special separation.

① Type B1: Minimum width of 10 feet. For every linear 100 feet, or fraction thereof, the screen shall consist of 21 evergreen Large Shrubs planted 6 feet on center.

-OR-

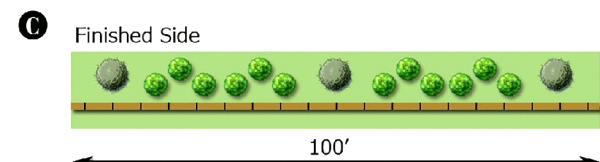
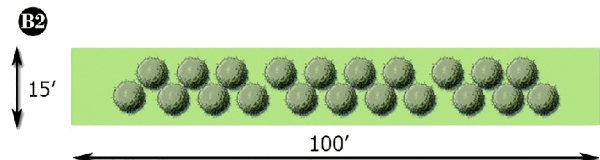
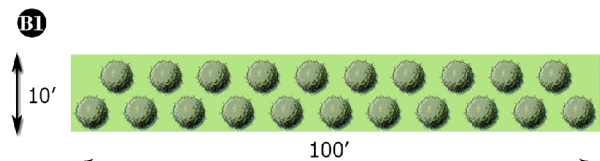
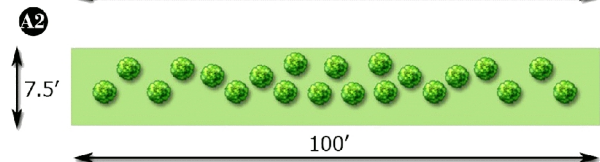
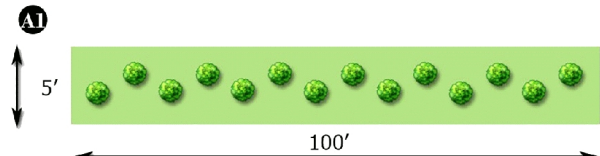
② Type B2: Minimum width of 15 feet, except for the C-2 district which shall have a minimum of 5 feet. For every linear 100 feet, or fraction thereof, the screen shall consist of 21 evergreen Large Shrubs planted 5 feet on center.

OPTIONS TO TYPE A AND/OR TYPE B

- C** Type C Bufferyard Screening. An opaque fence or opaque wall may be used in place of 50% of required bufferyard screening plants. The design, color and materials of any fence or screen used to meet bufferyard requirements shall be approved by the Zoning Administrator. The side of the fence facing the affected property owner shall be the finished side of the fence. All planted screening required to be used in conjunction with a fence shall be approved by the Zoning Administrator and planted on the finished side of the fence facing the affected use, and the remaining plantings shall be equally distributed in the bufferyard. Chain link fences are not permitted.

- D** Type D Bufferyard Screening. A combination earthen berm with vegetation may be used as follows:

- An earthen berm may be used in conjunction with planted vegetation made up of small, intermediate, and large shrubs, as approved by the Zoning Administrator, provided that the combined height of the berm and planted vegetation shall be an installed minimum height of 6 feet.
- The slope of the berm shall be stabilized with vegetation and no steeper than 3:1. The height of the berm shall be a maximum of 6 feet, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.



NOTE: It is recommended and encouraged that native species and related cultivars be planted.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.14 STREET YARD REQUIREMENTS.

Street yards are required for all commercial, industrial, and multi-family residential development with eight (8) or more parking spaces.

10.14.1. Minimum Standards. ①

The minimum depth of all street yards shall be 7.5 feet. For every 50 linear feet of frontage, or fraction thereof, the street yard shall contain a minimum of two (2) Shade Trees and six (6) Intermediate Shrubs. Newly installed plant material shall be evenly distributed, where possible.

10.14.2. Tree Credits. ②

If there are existing trees in the proposed street yard area, the Zoning Administrator may grant credit toward meeting the requirement for preservation of those trees as specified by the Tree Credits table (Section 10.16.1).

10.14.3. Sight Visibility. ③

No planting material will be allowed which, at planting or at maturity, will impede vision between a height of three (3) feet and ten (10) feet in the sight visibility triangle specified by Section 2.17.

SECTION 10.15 PARKING FACILITY REQUIREMENTS.

10.15.1. Minimum Standards. ④

For parking facilities having 15 or more parking spaces, at least 8% of the gross paved area of the parking facility shall be landscaped and located in the interior of the facility.

10.15.2. Planting Islands. ⑤

Planting islands shall include at least one Shade Tree or one Small Tree and six Small Shrubs. At least 50% of the trees planted shall be Shade Trees.

10.15.3. Interior Plantings. ⑥

In support of the above, the following standards shall apply to interior plantings:

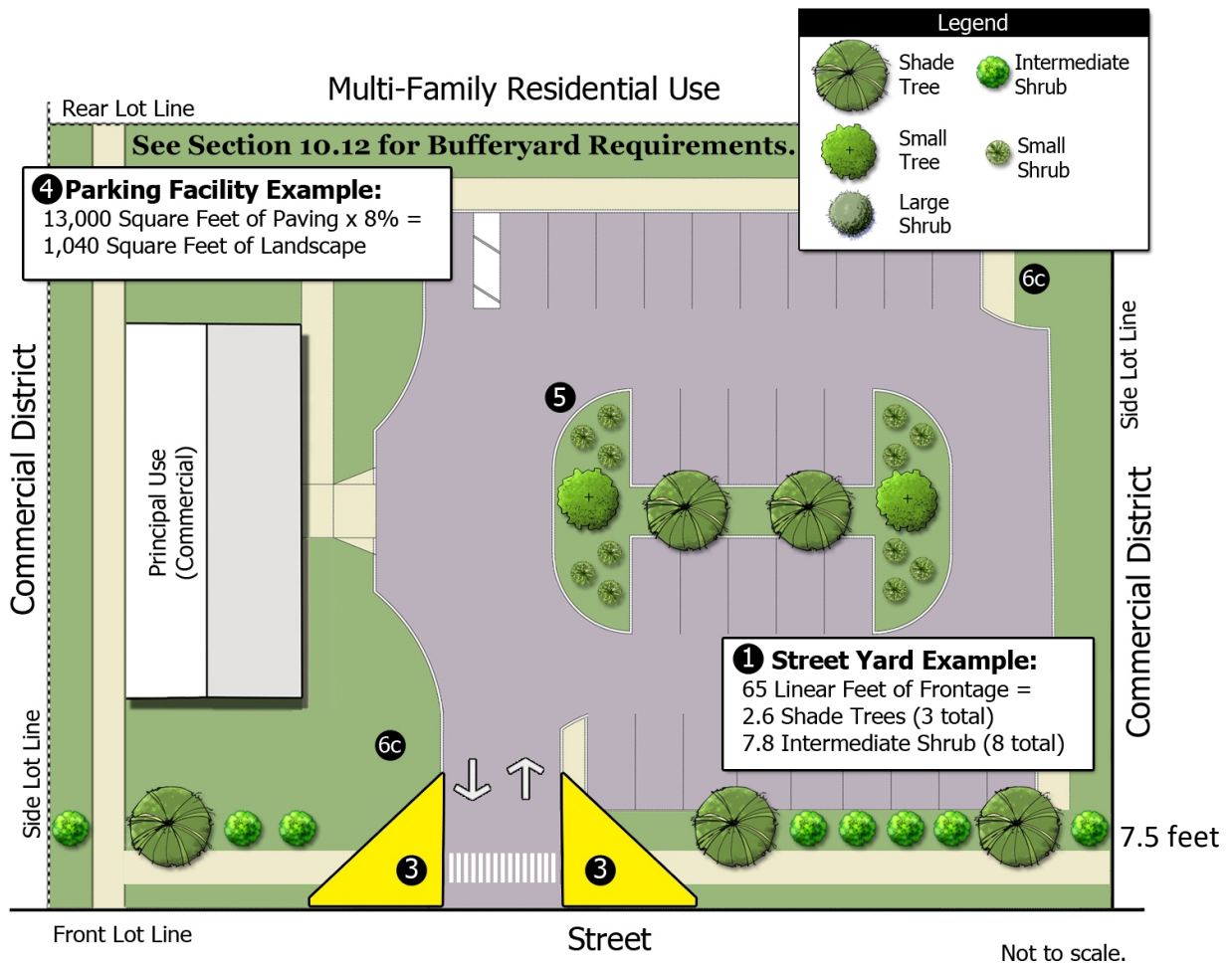
ⓐ ***10.15.3.1.*** All plantings shall be evenly distributed throughout the parking facility.

ⓑ ***10.15.3.2.*** All interior plantings shall be curbed or otherwise physically protected. Depressed landscaped islands and stormwater BMPs shall be permitted for stormwater management purposes as approved by the Zoning Administrator.

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- 10.15.3.3.** Landscaped islands shall be installed at each block of 15 consecutive parking spaces and at the ends of all parking rows. Landscaped islands shall contain at least 100 square feet in area and be at least 8 feet in width, measured from back of curb to back of curb.

Street Yard & Parking Facility Landscape Example (Sections 10.14 & 10.15)



ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.16 ADDITIONAL REQUIREMENTS.

10.16.1. Existing Trees and Shrubs.

Any existing trees or shrubs within required bufferyards shall be encouraged to be utilized and supplemented as necessary to meet bufferyard screening requirements. Existing trees intended to meet bufferyard screening requirements shall be protected from detrimental actions such as vehicle or equipment movement, excavating and grading, and installation of storage or structured elements as required in Section 10.16.2. Credit for existing trees will be based on the following:

Existing Tree Caliper (inches)	Number of Tree Credits Given
2-6	1
7-12	2
13-18	3
19-24	4
25 or greater	5

10.16.2. Protection of Existing Trees.

Any trees preserved on a development tract to receive credit shall meet the following protection standards. A root protection zone shall be established around all trees to be preserved. The root protection zone shall be clearly shown on all grading and site plans.

10.16.2.1. Root Protection Zone. The land area around the base of a tree in which disturbances are prohibited in order to protect the roots of the tree and aid the tree's survival. The root protection zone shall be equal to one (1) foot radius for every inch of tree diameter measured at a point four and one-half (4-1/2) feet above ground. Root protection zone measurements shall be rounded off to the nearest foot.

10.16.2.2. Protective Barrier. A continuous barrier shall be installed at the start of grading, and be located at the outer edge of the root protection zone. Protective barriers shall be posted as a "Tree Save Area." This procedure shall be incorporated as a note on the grading and erosion control plans. Protective barriers shall be at least forty-two (42) inches high and constructed of a material resistant to degradation by sun, wind, and moisture and shall remain in place until all construction is complete.

10.16.2.3. No storage of materials, dumping of waste materials, fill, or parking of equipment shall be allowed within the root protection zone, and no trespassing shall be allowed within the boundary of the root protection zone. Utility easements or borings are permitted.

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10.16.3. Uses in the Bufferyard.

No activities shall occur in the bufferyard except for maintenance of the bufferyard, required ingress and egress and the installation and maintenance of water, sewer, electrical, and other utility systems where the installation causes minimal disturbance of existing vegetation.

10.16.4. Uses in the Rear Yard and Side Yards Abutting a Residential Use.

The following uses shall be shielded from view from the property line of adjacent residentially used or zoned property by means of a 6-foot high Opaque Wooden or Masonry Fence, Opaque Wall, or 6-foot high Solid Vegetative Buffer:

10.16.4.1. Outside storage areas.

10.16.4.2. Loading/unloading areas.

10.16.5. Dumpsters or Other Trash Holding Areas.

All dumpsters or other trash holding areas shall be screened on three (3) sides by means of a 6-foot high Opaque Wooden or Masonry Fence, Opaque Wall, or 6-foot high Solid Vegetative Buffer.

10.16.6. Encroachment into Setbacks.

10.16.6.1. If an existing structure is located within a setback where the implementation of the Streetyard and/or Bufferyard requirements are physically impossible and the encroachment into the yard (streetyard or bufferyard) allows for a minimum of three (3) feet of planting area, only the required shrubs shall be planted.

10.16.6.2. If the encroachment into the yard (streetyard or bufferyard) allows for less than three (3) feet of planting area, no planting shall be required in that yard.

SECTION 10.17 INSTALLATION.

10.17.1. Plants shall meet the standards for plant quality and size as defined in the most recent version of the “American Standard of Nursery Stock” manual, published by the American Horticulture Industry Association.

10.17.2. Plants shall be installed per the installation details included in Appendix B of this Ordinance.

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10.17.3. All buffer strips shall become part of the lot(s) on which they are located, or in the case of commonly owned land, shall belong to the property owners or homeowners association.

SECTION 10.18 MAINTENANCE.

10.18.1. The owner/developer of the project shall be responsible for providing and maintaining the required buffer strip. After the developer sells out, the homeowners association shall be responsible.

10.18.2. Opaque Fences or Opaque Walls shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. Such fencing shall be kept free of litter and advertising. Opaque fences or walls may be subject to periodic inspection by the Zoning Administrator.

10.18.3. All vegetation must be maintained to the standards established by the American National Standards Institute (ANSI) A300, developed by the Tree Care Industry Association.

SECTION 10.19 LANDSCAPE PLAN.

Landscape plans shall be submitted with minor or major site plans, special use permit application, and/or request for a zoning certificate of compliance. These plans shall contain the following information:

10.19.1. Date of plan preparation.

10.19.2. Project name and description of land use.

10.19.3. Project owner and mailing address.

10.19.4. Location of structures

10.19.5. Delineation of required parking spaces, drives, and driveways.

10.19.6. Location of signs with elevation sketch, buffer areas, walkways.

10.19.7. Landscape planting plan with maintenance and replacement schedule.

10.19.8. An approved Soil and Sedimentation Control Plan.

10.19.9. Identification of Best Management Practices (BMPs).

10.19.10. Buffer areas required.

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PART IV. SIGN REGULATIONS

SECTION 10.20 PURPOSE AND INTENT.

The purpose and intent of this Article is to support and complement the various land uses allowed in Elizabethtown's planning jurisdiction by the adoption of policies and regulations concerning the placement of signs.

10.20.1. The Elizabethtown Town Council does hereby find and declare the outdoor placement of signs to be a legitimate use of private property but that the erection of signs should be controlled and regulated in order to promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in Elizabethtown and to promote the reasonable, orderly and effective display of such signs, displays and devices. Signs may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this section is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against encroachment on public rights-of-way, and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This article must be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

10.20.2. A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their, intended purpose while balancing the individual and community interests identified in subsection 10.20.1 of this section.

10.20.3. These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

ARTICLE 10. PERFORMANCE STANDARDS

10.20.4. These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

10.20.5. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

SECTION 10.21 SIGN PERMIT REQUIRED.

10.21.1. With the exception of those signs specifically authorized in Section 10.22 of this article, no sign may be erected without a permit from the Zoning Administrator (including temporary signs exceeding 6 square feet).

10.21.2. Application for permits shall be submitted on forms obtainable at the Office of the Zoning Administrator. Each application shall be accompanied by plans which shall:

10.21.2.1. Indicate the proposed site by identifying the property by ownership, location, and use.

10.21.2.2. Show the location of the sign on the lot in relation to property lines and buildings, zoning district boundaries, right-of-way lines, and existing signs.

10.21.2.3. Show size, character, complete structural specifications and methods of anchoring and support.

10.21.2.4. If conditions warrant, the Zoning Administrator may require such additional information as will enable him to determine if such sign is to be erected in conformance with this Ordinance.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.22 SIGNS NOT REQUIRING A PERMIT

Signs listed in this section are exempt from the permit requirements of Section 10.27 and may be erected in any zoning district provided they comply with the conditions described herein.

10.22.1. Incidental Signs.

The following incidental signs as described are allowed:

10.22.1.1. In the R-A zoning district, one (1) incidental sign is permitted not exceeding twenty-four (24) square feet. Such sign may be freestanding if Section 10.23.4 of this Ordinance is observed, provided however that such sign shall not be required to be set back more than fifteen (15) feet. Illumination of such signs shall conform to Section 10.28.

10.22.1.2. One (1) identification sign shall be allowed for each multiple dwelling unit in a zone permitting multiple dwelling units, provided that it does not exceed sixteen (16) square feet in area, and does not contain more than the following information:

10.22.1.2.1. Name and address of apartment.

10.22.1.2.2. Type of units available.

10.22.1.2.3. Name and address of agent.

10.22.1.2.4. Telephone number.

Said sign may be either attached flat against the wall of the structure or may be freestanding, provided further that if freestanding the sign shall be set back a minimum of fifteen (15) feet from the street right-of-way and shall be no more than six (6) feet in height above the ground.

10.22.1.3. One (1) incidental sign, as follows:

10.22.1.3.1. In residential districts, such signs shall not exceed three (3) square feet in area, shall be flat-mounted against the building and shall not be illuminated.

10.22.1.3.2. In districts other than residential districts, such signs shall not exceed four (4) square feet in area and may be freestanding, provided further that if freestanding the sign shall be set back a minimum of fifteen (15) feet from the

ARTICLE 10. PERFORMANCE STANDARDS

street right-of-way and shall be no more than six (6) feet in height above the ground.

10.22.1.4. In the R-A and R-10 districts, an incidental sign may be installed for a Tourist Home provided that it is on the same premises as the Tourist Home and that it is installed to four (4) square feet in area. Illumination of such sign shall conform with Section 10.28 and shall be non-flashing. Such sign may be freestanding provided that it shall be located a minimum of one-third the principal building setback from the street right-of-way. All other setbacks shall be observed.

10.22.2. Flags.

Flags on a single, straight flagpole provided that:

10.22.2.1. The flagpole is attached to the ground, building, or other object at only one end; it may not be attached to another pole;

10.22.2.2. Flags are not hung or stretched between two (2) poles or a pole and another object or the ground;

10.22.2.3. Flags are attached to the pole (or rope) on one (1) side only and are not weighted on an unattached side;

10.22.2.4. Flags hung from a horizontal or nearly horizontal, pole and displayed against, or nearly against, a wall, fence, or similar structure are prohibited (this applies only to flags permitted by this section);

10.22.2.5. More than one (1) flag may fly on a single pole;

10.22.2.6. The flags are not "feather flag;" and

10.22.2.6. All applicable requirements of Article 10, Part IV are complied with.

10.22.3. Temporary Signs

A banner, pennant, poster, or display constructed of paper, cloth, canvas, plastic sheet, cardboard, metal, wall board, plywood, or other like materials, and that appears to be intended or determined by the Zoning Administrator to be displayed for a limited period of time. Temporary signs do not include signs defined as portable signs. Temporary signs do not require a permit if they are less than six (6) square feet in size.

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10.22.3.1. The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to forty-five (45) calendar days up to four (4) times per year without a zoning permit. Display for longer than 45 days will require issuance of a zoning permit.

10.22.3.2. In nonresidential districts, no temporary sign shall exceed sixteen (16) square feet in area. In residential zoning districts, no temporary sign shall exceed four (4) square feet.

10.22.3.3. No temporary sign, including portable temporary signs, shall be electrified.

10.22.3.4. Banner signs are allowed in nonresidential districts and must not be displayed more than four times per year on any one parcel. Signs must not exceed sixteen (16) square feet in area and only one (1) sign can be displayed at any one time. Banner signs are not allowed on residentially used or zoned property.

10.22.4. Construction Signs.

An on-site temporary sign identifying the names of the individuals and/or firms connected with the construction of an active project. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the Town may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

10.22.5. Directional or Informational Signs.

No building permit shall be required for Directional or Informational signs of a public or quasi-public nature not exceeding four (4) square feet in area and four (4) feet in height. Such signs may be illuminated in conformance with Section 10.28 of this Ordinance; or they may be of the beaded reflector type. Such signs shall be used only for the purpose of stating or calling attention to:

10.22.5.1. The name or location of a city, town, village, hospital, community center, public or private school, church or other place of worship.

10.22.5.2. The name or place of meeting of an official or civic body.

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10.22.5.3. An event of public interest.

10.22.5.4. Permission shall be obtained from the Zoning Administrator to mount, erect, or maintain over a public street or right-of-way, any sign announcing events of public interest as specified in Section 10.22.5.3 or any banner or decoration.

10.22.6. Marquee Sign Usage.

Businesses located in the Elizabethtown planning jurisdiction may utilize marquee signs in accordance with the following:

10.22.6.1. Marquee signs may not exceed eight (8) feet in width and four (4) feet in height.

10.22.6.2. There may be one (1) marquee sign per business except where multiple businesses share a common lot, and then only one (1) sign per lot allowed.

10.22.6.3. Marquee signs may be internally illuminated but, shall be non-flashing and shall not be colored or color changing.

10.22.6.4. Marquee signs must have white background with black or red lettering. No neon lettering is permitted.

10.22.6.5. Marquee signs are prohibited from projecting into right-of-ways.

10.22.6.6. All other sign requirements must be met, where applicable.

10.22.7. A-Frame Sign Usage.

Businesses located in the Elizabethtown planning jurisdiction may utilize A-Frame signs in accordance with the following:

10.22.7.1. A-Frame signs cannot exceed two (2) feet in width and three (3) feet in height, and shall be placed no more than five (5) feet from the front entrance of a business.

10.22.7.2. A-Frame signs may only be used on premises and during hours of operation.

10.22.7.3. All other sign requirements must be met, where applicable.

10.22.7.4. In the CBD zoning district, A-frame signs are permitted in public rights-of-way (sidewalk areas) with approval from the Town, and where applicable, NCDOT.

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10.22.8. Signs on the Interior of Glass.

10.22.8.1. Temporary signs on the interior of glass, provided they do not exceed 25% of the area of any given window or glass door, and are not illuminated except by normal interior business lighting or by soft indirect lighting of an entire window unit. Signs described in Section 10.22.8.2, displays of merchandise in windows, and photographs of homes or other properties in the windows of real estate offices may be placed in commercial windows in addition to the 25% area restriction.

10.22.8.2. Permanent signs indicating charge card information or general instructions, restriction, etc., provided that they shall be limited to not more than three (3) per business site, shall not display the name of the business, and shall not exceed one (1) square foot in surface area.

10.22.9. Identification Signs.

Identification signs of no more than four (4) square feet per business or tenant in non-residential zoning districts and signs of no more than three (3) square feet in area in residential zoning districts, including signs bearing only property identification numbers and names, post office box numbers of occupants of the premises, or other identification of premises so that public safety agencies can easily identify the property from a public street. In cases where the building is not located within view of the public street, the identifier shall be located on a mail box or other suitable device visible from the street. Such signs shall not be illuminated. The size and location of the identifying numerals and letters (if any) must be proportional to the size of the building and the distance from the street to the building.

10.22.10. Miscellaneous Exemptions.

10.22.10.1. Handicapped parking space signs; signs associated with the operation of equipment or other functional elements such as menu boards, automatic teller machines, gas pumps, vending machines, scoreboards, and similar incidental signs; signs visible only from the premises, markers which are non-commercial in nature.

10.22.10.2. Memorial signs, plaques or grave markers.

10.22.10.3. All signs located within the interior of a business or operation.

10.22.10.4. Public interest signs (i.e., historical markers).

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10.22.10.5. Address and name signs. Signs or plates on residential structures giving the name and/or address of the occupant.

10.22.10.6. Integral decorative or architectural features of buildings or works of arts, provided such features or works of art do not contain advertisements, trademarks, moving parts, or lights.

10.22.10.7. Displays, including lighting, erected in connection with the observance of holidays. Such displays shall not be considered as illuminated signs and they shall be removed within ten (10) days following the holiday.

10.22.11. Political Signs.

Political signs erected in accordance with NC General Statutes §136-32 as follows:

10.22.11.1. During the period beginning on the 30th day before the beginning date of “one stop” early voting under NC General Statutes §163-227.2 and ending on the 10th day after the primary or election day, person may place political signs in the right-of-way of the State highway system or Town street as provided in this section. Signs must be placed in compliance with subsection 10.22.11.2 below and removed by the end of the period prescribed herein.

10.22.11.2. The permittee must obtain the permission of the property owner of a residence, business or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

10.22.11.2.1. No sign shall be permitted in the right-of-way of a fully controlled access highway.

10.22.11.2.2. No sign shall be closer than three (3) feet from the edge of the pavement of the road.

10.22.11.2.3. No sign shall obscure motorist visibility at an intersection.

10.22.11.2.4. No sign shall be larger than six (6) square feet.

10.22.11.2.5. No sign shall obscure or replace another sign.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.23 PROHIBITED SIGNS

The following list of signs are prohibited in the Town; any violation is subject to the regulations as stated in this Ordinance.

10.23.1. No sign may be located so that it obstructs the line of sight of motorists at intersections or along a public right-of-way.

10.23.2. Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public.

10.23.3. No sign shall be erected or continued that would tend by its location, color or nature, to be confused with or obstruct the view of traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle.

10.23.4. Signs shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, structure, or lot. This provision does not apply to temporary paper signs.

10.23.5. No sign shall be permitted on any public right-of-way except as specifically authorized herein. Traffic regulation, information, or warning signs erected by the State Department of Transportation, signs erected by the Town, or signs located in the Central Business District are exempt.

10.23.6. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.

10.23.7. Flashing, fluttering lights, swinging, rotating signs (except governmental signs and signs, which give time and temperature and other commercial public information message).

10.23.8. No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this article, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to roof displays, including lighting, erected in connection with the observation of holidays.

10.23.9. Electronic message boards in all Residential districts.

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10.23.10. All Beacons and Spotlights. Illumination system(s) shall not contain or utilize any beacon, spot, search, or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property, nor shall such lights be operated outside, under any circumstances, except by authorized agencies for emergency services purposes.

10.23.11. Flood lights shall not be utilized as a part of a sign illumination system which are not hooded or shielded so that the light source is not visible from any public right-of-way or adjacent property, nor shall any sign otherwise reflect or emit a glaring light so as to impair driver vision.

10.23.12. Any sign or sign structure that is structurally unsafe as determined by the Building Inspector.

10.23.13. No sign shall be attached to or painted on any telephone pole, telegraph pole, power pole, or other man-made object not intended to support a sign, nor on any tree, rock, or other natural object, except as specifically authorized herein (snipe signs).

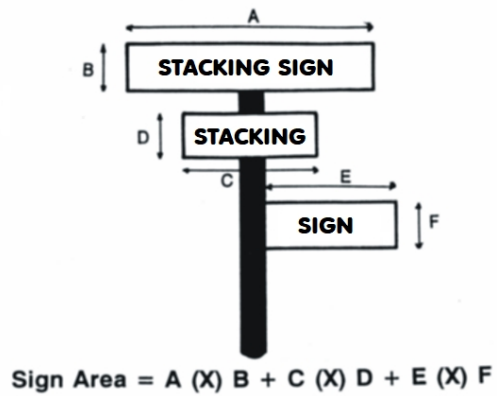
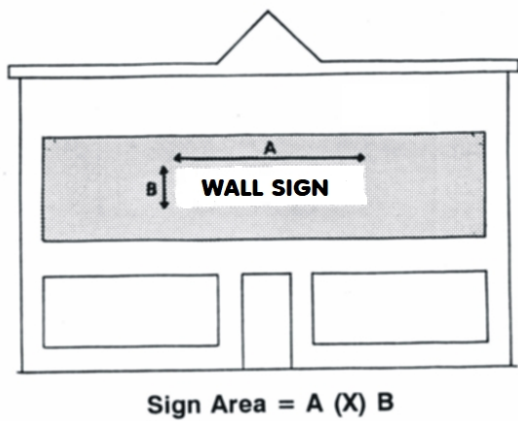
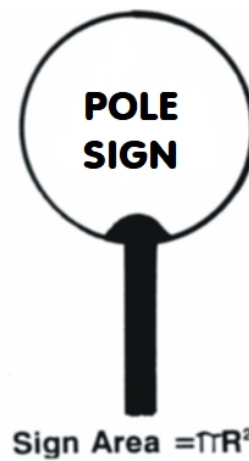
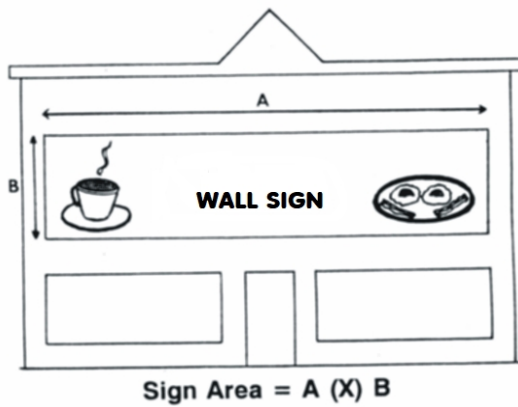
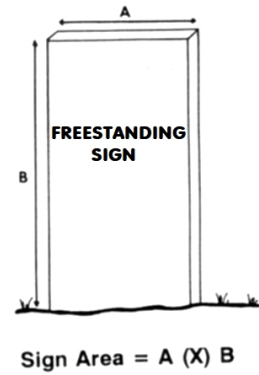
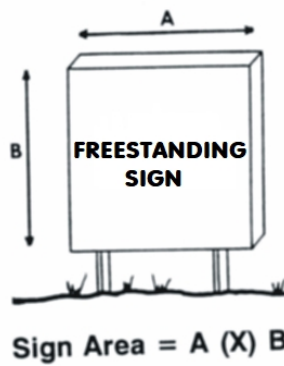
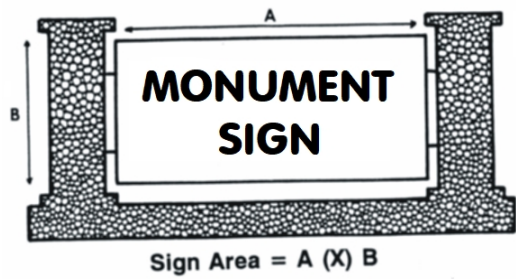
10.23.14. Pavement markings except those of a customary traffic-control nature, as found in the Manual of Uniform Traffic Control Devices.

SECTION 10.24 SIGN AREA

The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface. In the case of signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area is to be computed as part of the total surface area of the sign. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign area.

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SECTION 10.25 DISTRICT SIGNS

10.25.1. Residential District Signs (R-A, R-40, R-20, R-15, R-12M, R-12, and R-10).

10.25.1.1. Residential districts contain developments that may require signage. Such developments include, but are not limited to: Single-Family Subdivisions, Multi-Family Developments, Manufactured Home Parks, Churches, and Recreational Facilities. At any entrance to a subdivision or multi-family development, there may be not more than two (2) signs located at the entrance to a development comprised of two (2) or more lots. A single side of any such sign may not exceed sixteen (16) square feet in area, nor may the surface area of all such signs exceed thirty-two (32) square feet in area. Signs in residential districts shall not be more than four (4) feet tall.

10.25.1.2. Additionally, home occupations may install one sign with an area of no greater than four (4) square feet. Home occupation signage shall be permanently fixed to the residence within which the home occupation resides.

10.25.1.3. For residentially zoned and used properties: Temporary signs not exceeding four (4) square feet in area, and three (3) feet in height if freestanding are allowed in all residential districts. The number of these signs is limited to one (1) per one hundred (100) feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three (3) such signs allowed per lot. The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

10.25.1.4. For residentially zoned permitted non-residential uses: One freestanding sign or one wall sign per zoning lot of no more than thirty-two (32) square feet in area, with a maximum height of eight (8) feet if ground mounted or no higher than the roof line if wall mounted.

10.25.2. Business Identification Sign Requirements.

Business identification signs shall be permitted only in the O-I, C-1, B-C, C-2, CBD, and I Districts, and shall be subject to the limitations of the table below. Marquee signs shall be permitted in the C-1, C-2, and B-C Districts (see Section 10.22.6). A-Frame signs shall be permitted in C-1, C-2, and B-C (see Section 10.22.7).

ARTICLE 10. PERFORMANCE STANDARDS

Table of Business Sign Requirements

District	Number of Signs Permitted	Total Area of Signs Permitted (see Note 1)	Locational Requirements (see Note 2)	Additional Requirements
O-I	One (1) monument and wall sign per street frontage	Forty (40) square feet Wall signs shall be 10% of the wall area up to 40 square feet	Flat-mounted on building or 15 feet from property line if monument sign	The maximum height of freestanding sign is 15 feet Permitted illumination shall be non-flashing
C-1/C-2	One (1) projecting sign per street frontage or one pole or monument sign per street frontage <u>AND</u> One (1) wall sign per building wall <u>AND</u> One (1) entrance sign per building entrance, maximum size of four (4) square feet	Two (2) square feet per linear foot of building frontage for projecting signs up to a maximum of 25 square feet or two (2) square feet per linear feet of lot frontage for freestanding signs up to a maximum of 120 square feet for monument signs and 100 square feet for pole signs. 10% of wall area up to a maximum of 100 square feet Six (6) square feet for each entrance sign	Flat-mounted on building or two (2) feet from property line if freestanding Projections and canopy signs shall be located so that the bottom edge of the sign is at least eight (8) feet above the sidewalk	Signs directing the public to off-street parking areas shall be limited to two (2) such signs per lot, provided further the size of each sign shall not exceed ten (10) square feet The maximum height of a freestanding sign shall be twenty (20) feet for a pole sign and ten (10) feet for a monument sign A projecting sign may not project more than five (5) feet from the building wall The maximum height of an entrance sign shall be four (4) feet from ground level.
B-C	One (1) pole or monument sign per street frontage <u>AND</u> One (1) wall sign per building wall	Two (2) square feet per linear foot of lot frontage up to a maximum of 300 square feet 10% of the wall area up to a maximum of 200 square feet	Flat-mounted on building or two (2) feet from property line if freestanding	The maximum height of a freestanding sign shall be thirty (30) feet for a pole sign and ten (10) feet for a monument sign Illumination shall be non-flashing

ARTICLE 10. PERFORMANCE STANDARDS

District	Number of Signs Permitted	Total Area of Signs Permitted (see Note 1)	Locational Requirements (see Note 2)	Additional Requirements
CBD	<p>One (1) projecting sign per street frontage or one monument sign per street frontage</p> <p style="text-align: center;"><u>AND</u></p> <p>One (1) wall sign per building wall</p> <p style="text-align: center;"><u>AND</u></p> <p>One (1) entrance sign per building entrance</p>	<p>One (1) square foot per linear foot of building frontage for projecting signs or one (1) square foot per linear feet of lot frontage for monument signs up to a maximum of 60 square feet for either type of sign</p> <p style="text-align: center;">See Note 3 below</p> <p>Six (6) square feet for each entrance sign</p>	<p>Flat-mounted on building or two (2) feet from property line if freestanding</p> <p>Projections and canopy signs shall be located so that the bottom edge of the sign is at least eight (8) feet above the sidewalk</p>	<p>Signs directing the public to off-street parking areas shall be limited to two (2) such signs per lot, provided further the size of each sign shall not exceed six (6) square feet</p> <p>The maximum height of a freestanding sign shall be eight (8) feet</p> <p>A projecting sign may not project more than five (5) feet from the building wall</p>
I	<p>One (1) freestanding sign per street frontage (does not include directional signs)</p> <p style="text-align: center;"><u>AND</u></p> <p>One (1) wall sign per building wall</p>	<p>Two (2) square feet per linear foot of street frontage up to a maximum of 100 square feet</p> <p>10% of the wall area up to a maximum of 150 square feet</p>	<p>Flat-mounted on building or two (2) feet from property line if freestanding</p> <p>Each freestanding sign shall be spaced at least 300 feet apart</p>	<p>Freestanding signs shall not exceed a height of forty (40) feet</p> <p>Illumination shall be non-flashing</p>

NOTE 1: Marquees for indoor theaters in the C-1 and C-2 districts shall not be subject to the sign area limitation. Wall area is defined as the entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this section, wall area will be calculated for the first three (3) stories or 45 feet in height, whichever is less.

NOTE 2: Regardless of the regulations in the Table of Business Sign Requirements, no sign shall be erected that obstructs the line of sight of motorists at intersections or along a public right-of-way.

NOTE 3: Wall signs including permanent window signs for walls with one hundred (100) feet or less in linear footage, shall have a total sign surface area in square feet no greater than three and one-half (3.5) times the linear frontage in feet of the wall of the building to which the sign is attached, but in no case greater than three hundred fifty (350) square feet. Wall signs for walls which exceed one hundred (100) feet in length may have a total sign surface area in square feet equal to one (1) foot per linear foot of wall or four hundred (400) square feet, whichever is greater. In all zoning districts, the total number of wall signs shall not exceed three (3) signs.

NOTE4: The bottom of pole signs must be a minimum of ten (10) feet above ground level in all districts, except for the O-I District. In the O/I district, the bottom of pole signs must be a minimum of eight (8) feet above ground level.

10.25.3. Pole Signs in the C-1, B-C, and I Districts.

10.25.3.1. Pole signs shall be permitted only in the C-1, B-C, and I zoning districts.

ARTICLE 10. PERFORMANCE STANDARDS

10.25.3.2. Pole signs shall observe all setback requirements of the districts in which they are located, provided further that in those districts having not setback requirements, a pole sign structure shall not be located closer than ten (10) feet to any right-of-way line. In any case, no pole signs shall be located closer than 150 feet to a lot zoned for residential purposes. A pole sign shall not project over any public right-of-way.

10.25.3.3. Pole signs may be illuminated provided such illumination is in accordance with Section 10.28 and shall be non-flashing.

10.25.3.4. When located so as to attract attention from motorists traveling along major thoroughfares, pole signs on either side of such major thoroughfare shall not be located nearer to another pole sign on the same side of the street than 300 feet in all permitted districts if the pole sign is greater than 150 square feet per sign side.

10.25.3.6. On vacant parcels, double-sided and “V” configured pole signs shall be permitted.

10.25.4. *Setback from Residential Zone.*

If the lot on which a sign is to be located is zoned other than residential, but is immediately adjacent to a lot zoned for residential use, then a distance of at least twenty (20) feet shall intervene between the closest part of such sign and the adjacent lot line of the property in the residential district. Provided further, that all pole signs shall conform to Section 10.25.3 and no sign shall be located within a public right-of-way or within thirty (30) feet of the centerline of a public thoroughfare.

SECTION 10.26 SUPPLEMENTAL SIGN STANDARDS FOR THE BUSINESS DISTRICTS

Sign standards for specific business operations are in addition to the general standards outlined in this Article and recognize the different types of traffic, use and need of signs for the assistance of the traveling public and the prosperity of business owners and employees through the attraction, retention, and furtherance of commerce throughout the Town. Establishments in the O-I, C-1, C-2, B-C, CBD, and I zoning districts may avail themselves of the maximum signage allowable under Section 10.25 and additionally may supplement such maximum via the standards of this subsection.

10.26.1. *Banners.*

Limited to one banner per business; may be allowed up to four (4) times per year for a maximum of 45 days each time with a 30-day break between each period. Banners shall be limited to sixty

ARTICLE 10. PERFORMANCE STANDARDS

(60) square feet in size and shall not extend above the top of the front wall. Banners shall contain the imprint or logo of the business in which the banner is intended.

10.26.2. Feather/Flutter Flags.

Feather/flutter flags are allowed in the C-1, C-2, and B-C zoning districts as temporary signs. One (1) feather/flutter flag is allowed in the front yard area for each twenty-five (25) feet, or portion thereof, of street frontage. Flags may be allowed up to four (4) times per year for a maximum of 45 days each time with a 30-day break between each period. Flags must be securely anchored. The size is limited to ten (10) feet in height and no greater than four (4) feet in width and, on a temporary basis, shall be permitted and may contain the imprint or logo of the business in which the flag is intended. No flag shall be placed in the vehicular zone including parking areas, driveways, or vehicular ways. Placement of flags shall not impede ingress/egress to any building. Feather/flutter flags are not permitted in the CBD zoning district.

10.26.3. Portable Signs.

Portable signs are permitted in the C-2 and B-C zoning district. One (1) portable sign per parcel is allowed not to exceed fifty (50) square feet. Portable signs may not be located on a parcel for more than thirty (30) calendar days within any 365 day period of time. Portable signs shall not be located on any public right-of-way. Portable signs shall comply with ingress/egress of driveways as specified in Section 2.17.

10.26.4. Sale/Event/Holiday Signs.

For no more than thirty (30) days annually, special signage for sales/events/holidays may be placed by a business on premises with the issuance of a permit. Such signs shall be of one of the categories above with the following supplemental standard: for each item in this subsection, the quantity of signs shall double.

SECTION 10.27 SPECIFICATIONS FOR SIGNS REQUIRING A PERMIT

The following are general specifications applicable to the various signs permitted. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

10.27.1. Specifications for all Permitted Signs.

Unless specifically exempted by other sections of the Article, all signs will be required to have proper permits prior to construction or installation. Whether the sign is new, part of new construction, or an existing sign, the following information will be required as part of the permit application.

ARTICLE 10. PERFORMANCE STANDARDS

10.27.1.1. A detailed description of any new sign for which a permit is requested. This will include, but not necessarily be limited to, a detailed drawing of the sign showing size, height, and site location relative to property lines and street right-of-way.

10.27.1.2. Existing signs must meet the requirements of Article 10, Part IV, if, for any reason, the sign is to be changed or altered. Normal copy changes and routine maintenance matters are exceptions to this requirement.

10.27.1.3. Prior to issuance of a sign permit, all fees in accordance with the associated fee schedule shall be paid.

10.27.1.4. Upon notification of completion by the permit holder, the Zoning Administrator shall inspect the sign to verify conformance with applicable codes.

10.27.2. Wall Signs.

10.27.2.1. No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend on the roofline, parapet, or mansard roof.

10.27.2.2. Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall a canopy or awning sign extend into a street right-of-way. This requirement does not apply to overhead metal canopies, such as those covering gasoline pump islands. Signs on such overhead canopies may be displayed on the face of two sides of the canopy not to exceed 50% of the canopy side on which the sign is located.

10.27.2.3. No wall sign shall be attached to any cupola, tower, or other architectural feature that is above the roofline.

10.27.2.4. Signs affixed flat against the walls of buildings or vertical surfaces of canopies and not more than 12 inches in thickness shall not be deemed a projecting sign. Business identification signs mounted on the parapet or on the roof line and not projecting more than 18 inches beyond the building face shall not be deemed a projecting sign. The thickness of such non-projecting signs shall not be used in measuring setbacks. In no case shall the signs covered in this section extend closer than two (2) feet to a vertical plane at any street curb line.

ARTICLE 10. PERFORMANCE STANDARDS

10.27.3. Projecting Signs.

10.27.3.1. A projecting sign will not project more than four (4) feet from a building wall.

10.27.3.2. A projecting sign will not extend vertically above the roofline or parapet of a building.

10.27.3.3. Projecting signs, pole signs (except in the Central Business District), and overhanging devices, where they are permitted, shall be at least ten (10) feet above the finished grade of any sidewalk or other walkway. Signs attached to the underside of a canopy shall be at least eight (8) feet above the finished grade of any sidewalk or other walkway. No sign shall extend closer than two (2) feet to a vertical plane at any street curb line. Signs and canopies which extend into service street and alley right-of-way shall not interfere with passage of motor carriers using the service entrances at the rear and side of commercial establishments adjacent to such rights-of-way. In addition, no sign shall extend above the second floor.

10.27.3.4. Project signs, where permitted to project over a public street or sidewalk right-of-way, shall remain only at the sufferance of the Town of Elizabethtown and shall be removed within five (5) days of formal notification by the Building Inspector of any conditions necessitating removal.

10.27.4. Signs for Identification of Manufactured Home Parks.

Permanent identification sign(s) shall be required for every manufactured home park. The size of the signs shall be as follows: Not more than two signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five feet from any side property lines. Only indirect non-flashing lighting may be used for illumination, and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.

10.27.5. Temporary Use Signs.

A zoning permit for a temporary use may also authorize one temporary sign, not to exceed 40 square feet in sign surface area, associated with the temporary use. Such temporary sign shall conform to the requirements of Article 10, Part IV.

10.27.6. Telecommunication Tower Signage.

Refer to Section 7.48.5.4.2 for requirements regarding telecommunication towers.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.28 SIGN ILLUMINATION.

Where illuminated signs are permitted, they shall conform to the following criteria:

10.28.1. Illuminated signs may have either interior or exterior source of illumination or a combination of both.

10.28.2. Illuminated signs may have either an exterior or interior source of illumination. Exterior illumination, where the source of illumination is provided by such devices as spot or floodlights, shall be placed so that it is not directly visible from any residential district, or from adjacent properties. Internal illumination refers to a source of illumination within the sign itself.

10.28.3. No illuminated signs shall be permitted to have flashing lights other than signs which contain only time and temperature information.

10.28.4. No sign within 150 feet of a residential zone may be illuminated between the hours of 12 midnight and 6:00 am unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

10.28.5. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premise.

SECTION 10.29 SIGN CONSTRUCTION.

All signs shall be designed, constructed and maintained in accordance with the following additional standards:

10.29.1. All sign shall comply with applicable provisions of the Town's Building code and Electrical Code as referenced in the Town of Elizabethtown Code of Ordinances.

10.29.2. Except for permitted banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Zoning Ordinance, all signs shall be constructed of permanent materials and shall be attached to the ground or building.

SECTION 10.30 SIGN MAINTENANCE.

All signs shall be maintained in good structural condition, in compliance with applicable building and electrical codes and the provisions of this Zoning Ordinance. Specifically:

ARTICLE 10. PERFORMANCE STANDARDS

10.30.1. A sign shall not display disfigured, cracked, ripped or peeling paint, poster paper, or other material for a period of more than sixty (60) consecutive days.

10.30.2. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than ten (10) consecutive days.

10.30.3. A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than thirty (30) consecutive days.

10.30.4. An illuminated sign shall not be allowed to stand with partial illumination for a period of more than thirty (30) consecutive days.

10.30.5. Whenever a sign becomes structurally unsafe or endangers the safety of the public health and welfare, the Zoning Administrator shall order said sign to be made safe or removed. Such order shall be complied with within five (5) days of notification, unless the sign is an immediate danger to the public health, safety, and welfare, in which case the Zoning Administrator may reduce the 5-day notice.

SECTION 10.31 NONCONFORMING SIGNS.

10.31.1. Any permanent sign legally in existence prior to the effective date of this Ordinance, or any applicable amendment thereto, which does not satisfy the requirements of this Ordinance, is declared non-conforming. The eventual elimination, as expeditiously and fairly as possible, of non-conforming signs is as much a subject of health, safety, and welfare as is the regulation of new signs.

10.31.2. All nonconforming signs made nonconforming by an amendment to this Ordinance shall either be made to conform to all provisions of this Ordinance or shall be removed within ten (10) years after the date of such amendment, unless explicitly prohibited by federal or state law. Any sign that does not conform at the end of the aforesaid period shall be considered an illegal sign and must be removed by the owner at that time.

SECTION 10.32 RECONSTRUCTION OF DAMAGED SIGNS OR SIGN STRUCTURES.

10.32.1. Any conforming or permitted nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30)

ARTICLE 10. PERFORMANCE STANDARDS

days and completed within sixty (60) days of such damage. However, if the sign should be declared unsafe by the Zoning Administrator, the owner of the sign or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the Zoning Administrator.

10.32.2. For the purposes of this Section, a nonconforming sign or its structure shall be considered destroyed, and therefore not repairable, if it receives damage to the extent of more than 50% of its value as listed for tax purposes by the Bladen County Tax Office.

SECTION 10.33 DISCONTINUED SIGNS.

Upon the discontinuance of a business or occupancy of an establishment for a consecutive period of one hundred eighty (180) days, the Zoning Administrator shall require the removal of the on-premise sign(s) advertising or identifying the establishment. The Zoning Administrator shall give thirty (30) days' notice to the property owner to remove the sign(s). Failure to remove the sign(s) within the thirty-day period shall constitute a violation of this article and shall be remedied in accordance with the provisions of Section 1.6.

APPENDIX A.
DEFINITIONS

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APPENDIX A. DEFINITIONS

SECTION A.1 PURPOSE.

For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except where specifically defined herein, all words used in this Ordinance shall have their customary dictionary definition.

SECTION A.2 INTERPRETATION.

A.2.1. As used in this Ordinance, words importing the masculine gender include the feminine and neuter.

A.2.2. Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.

A.2.3. Words used in the present tense include future tense.

A.2.4. The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.

A.2.5. The words “may” and “should” are permissive; an officially adopted course or method of action intended to be followed.

A.2.6. The words “shall” and “will” are always mandatory and not merely directive; expresses determination to implement/take action.

A.2.7. The word “used for” shall include the meaning “designed for.”

A.2.8. The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”

A.2.9. The word “lot” shall include the words “plot,” “parcel,” “site,” and “premises.”

A.2.10. The word “building” shall include the word “structure.”

A.2.11. The word “street” includes the word “alley,” “road,” “cul-de-sac,” “highway,” or “thoroughfare,” whether designated as public or private.

APPENDIX A. DEFINITIONS

A.2.12. The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

A.2.13. The word “Zoning Administrator” shall mean the Zoning Administrator or his/her designee.

A.2.14. The words “Planning and Zoning Commission” shall mean the “Town of Elizabethtown Planning and Zoning Commission.”

A.2.15. The word “Town” shall mean the “Town of Elizabethtown,” a municipality of the State of North Carolina.

A.2.16. The words “map,” and “zoning map” shall mean the “Official Zoning Map for the Town of Elizabethtown, North Carolina.”

A.2.17. The words “Board of Adjustment” shall mean the “Town of Elizabethtown Board of Adjustment.”

SECTION A.3 DEFINITIONS.

A

Abutting

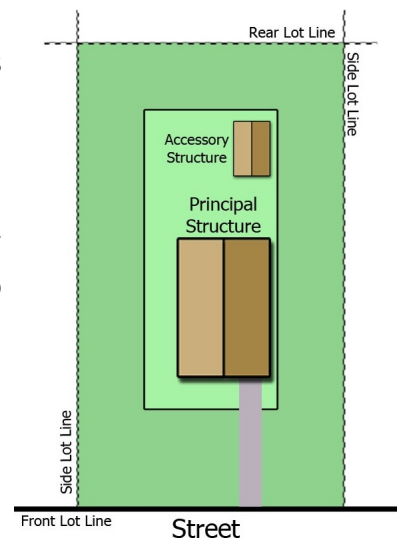
Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, right-of-way, alley, easement or stream.

Access

A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.

Accessory Building/Structure

A detached subordinate building operated and maintained under the same ownership, the use of which is customarily incidental to that of the main building and which is located on the same lot as the main building. Accessory buildings include the following but are not limited to: detached garages, storage buildings, playhouses, and workshops, all of which are totally for personal use. Accessory buildings cannot be a manufactured home.



APPENDIX A. DEFINITIONS

Accessory Use

A use incidental to and customarily associated with the Use By Right, and located on the same Zone Lot with the Use By Right, and operated and maintained under the same ownership with the operation of the Use By Right.

Administrative Approval

Approval that the Zoning Administrator or designee is authorized to grant after Administrative Review.

Administrative Review

Non-discretionary evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing.

Adult Day Care Center

The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled.

Adult Establishment

An establishment defined and described in Article 26A of General Statutes 14-202-10 to mean an adult bookstore, adult motion picture theater, adult mini motion picture theater, adult live entertainment, or massage business.

Agricultural Production (Crops)

The production of (and activities relating or incidental to the production of) crops, fruits, vegetables, ornamental and flowering plants, and nursery products such as bulbs, trees, vines, shrubbery, flower and vegetable seeds and plants, and sod. Included in this definition are establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities.

Agricultural Production (Livestock)

The production of (and activities relating or incidental to the production of) dairy, livestock, poultry products. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, fur-bearing animals in captivity, and fish in captivity. This definition does not include animal feeder/breeder operations.

APPENDIX A. DEFINITIONS

Air Compressors

A device that converts power (using an electric motor, diesel or gasoline engine, etc.) into potential energy stored in pressurized air (i.e., compressed air). By one of several methods, an air compressor forces more and more air into a storage tank, increasing the pressure.

Airport

Curtis L. Brown, Jr. Field

Airport Elevation

The highest point of an airport's usable landing area measured in feet from mean sea level. At Curtis L. Brown, Jr. Field, that elevation is 133.0 feet above sea level.

Airport Hazard

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Alley

A public or private roadway which affords only a secondary means of access to abutting property.

Alter

To make any structural changes in the supporting or loadbearing members of a building, such as bearing walls, columns, beams, girders, floor joists.

Animal Feeder/Breeder Operations

Establishments primarily engaged in the production, feeding, or fattening of cattle, hogs, chickens, or turkeys in a confined area for a period of at least 45 days on a contract or fee basis.

Antenna

Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Antenna Array

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

APPENDIX A. DEFINITIONS

Apartment House

See Dwelling, Multiple Family.

Appeal

A request for a review of the Zoning Administrator's interpretation of any provision of this Ordinance.

Applicable Codes

The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application, Wireless Communication Facility

A request that is submitted by an applicant to a Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

Approach Surface

A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 7.49. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones

These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined on the Curtis L. Brown, Jr. Field Hazard Zoning Map.

Assembly

A joining together of completely fabricated parts to create a finished product.

Assisted Living Residence

Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There

APPENDIX A. DEFINITIONS

are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services. As used in this definition, “elderly person” means: (i) any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services; or (ii) any adult who has a primary diagnosis of Alzheimer’s disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer’s and dementia care unit.

- (1) **Adult Care Home.** An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes include halfway houses and drug rehab facilities.
- (2) **Multi-Unit Assisted Housing with Services.** An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency’s established plan of care.

Attached Building

A building that is joined to another building at one or more sides by a party wall or walls.

APPENDIX A. DEFINITIONS

Automated Teller Machine

A mechanized consumer banking device operated by or associated with a financial institution for the convenience of its customers, whether outside, in an access controlled facility or a location remote from the controlling financial institution. ATM's located within a building or on site of the controlling financial institution shall be considered accessory to the principal use.

A-Weighted Sound Level (dBA)

A number in decibels, which is read from a sound-level meter, when the meter is switched to its weighting scale labeled "A." The number approximately measures the relative noisiness or annoyance level of many common sounds, including aircraft.

Bar, Lounge

An establishment used primarily for sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption on the premises as an accessory to the principal use.

Base Station

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Battery Charging Station

An electrical component assembly or cluster or component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed federal, state, and/or local requirements.

Battery Exchange Station

A fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds federal, state, and/or local requirements.

Bed and Breakfast Establishment

An overnight lodging business located within a structure originally designed and built as a single family residence. Overnight guest facilities are limited in number, and maximum stay by guests is restricted to seven (7) consecutive days. Meals may be provided to overnight guests only at no additional cost. Bed and Breakfast establishments are further divided into Bed and Breakfast Guest Homes and Bed and Breakfast Inns.

APPENDIX A. DEFINITIONS

- (A) A Bed and Breakfast Guest Home is an owner-occupied, single-family residential structure with accommodations for up to six (6) guest sleeping rooms.
- (B) A Bed and Breakfast Inn has accommodations for up to twenty-three (23) persons in no more than twelve (12) guest sleeping rooms.

Bedroom

A room designated as sleeping or bedroom on the plans.

Bingo Hall

A facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use.

Board of Adjustment

A semi-judicial body that is given certain powers under this Ordinance.

Bona Fide Farm

Land that receives or is eligible to receive an agricultural use exemption from the county tax office and is used for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. The term does not include nonfarm activities conducted on farmland.

Buffer Strip

A buffer strip shall consist of an approved wall, fence or planted strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart. Buffer strip requirements are separate requirements from front, side, or rear yard requirements. Buffer strips may be located within any required front, side, or rear yard.

Building

Any structure enclosed and isolated by exterior walls, constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, freestanding signs, and similar structures whether stationary or movable.

APPENDIX A. DEFINITIONS

Building, Height of

The vertical distance measured from the grade of the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

Building Line

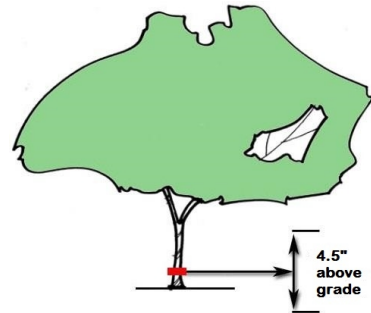
A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, gutters, and similar fixtures, and the right-of-way line of any street when measured perpendicular thereto.

Building Permit

An official administrative authorization issued by the Town prior to beginning construction consistent with the provisions of NCGS 160A-417.

Caliper

The measurement of the diameter of a tree trunk. Measurement shall be taken four and a half (4.5) feet above grade.



Cemetery

Land and facilities, including offices and chapels, used for or intended to be used for the burial of the dead, whether human or animal. Such a facility includes any burial ground, mausoleum, or columbarium.

Certificate of Occupancy

Official certification that a premises conforms to provisions of the zoning code and building code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

Certificate of Zoning Compliance

A statement, signed by the Zoning Administrator, setting forth that the building, structure or use complies with the Zoning Ordinance and that the same may be used for the purpose stated therein.

Certify

Whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner

APPENDIX A. DEFINITIONS

that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

Certiorari, nature of

The review of the record of a case (minutes of a hearing) by a court for the issuance of a ruling to a board having some judicial power.

Child care

A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

Child care facility

Includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86 (2) that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

- (1) ***Child care center.*** An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- (2) ***Small child care center.*** Small centers in a residence that are licensed for six to twelve children which may keep up to three additional school age children, depending upon the ages of other children in care. When the group has children of different ages, staff-child ratios and group size must be met for the youngest child in the group.
- (3) ***Family child care home.*** A child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care.

Chimney

A vertical shaft of reinforced concrete, masonry, or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

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Churches/Places of Worship

Facilities used primarily for nonprofit purposes by a recognized and legally established sect to provide assembly and meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, pastor's housing, and permanent group living facilities such as convents. Examples include churches, temples, synagogues, and mosques, but not associated schools, day care facilities, or other facilities not devoted to religious activity.

Circulation area

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

City Right-of-Way

A right-of-way owned, leased, or operated by a Town, including any public street or alley that is not a part of the State highway system.

City Utility Pole

A pole owned by a Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

Clubs and Lodges

An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities, operated on a nonprofit basis for the benefit of its members.

Code Official

An employee of the town with responsibility for administration and enforcement of development ordinances.

Collocation

The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term “collocation” does not include the installation of new utility poles, Town utility poles, or wireless support structures.

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Communications Facility

The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications Service

Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

Communications Service Provider

A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Competent evidence

NC General Statutes require that the rules of evidence as applied in the trial division of the General Court of Justice ordinarily be followed but adds the important exception that “when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available.” The Board just limit itself to the type of evidence that ought to be admissible before local administrative agencies generally. The term “competent” is essentially a synonym for “admissible before a local board.”

Condominium Development

A development of one or more structures containing two or more units intended for owner occupancy, where the land beneath each unit and all common areas (as defined in the North Carolina Unit Ownership Act) are owned proportionately by each unit owner in the development. Units and the land on which they are built do not meet conventional lot requirements for street frontage and yard sizes, and walls between units are constructed in accordance with North Carolina State Building Code requirements. All such projects shall conform to the density requirements as outlined in Section 7.18 and Article 8, and shall be approved in accordance with the provisions of Article 5.

Conical Surface

A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

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Convenience store

A one-story, retail store containing no more than four thousand (4,000) square feet of gross building area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of “stop and go” traffic. Illustrative examples of convenience stores are those operated by the “Fast Fare,” “7-11,” and “Pantry” chains.

Curb Line

On the basis of orientation of the existing structure the line located at the back of the street curb perpendicular to the structure. Such line shall be fixed by the Zoning Administrator subject to review by the Board of Adjustment.

Customary Home Occupations

Any use conducted for gain within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person not a resident on the premises shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over 25% of the total floor space or 400 square feet of any structure, whichever is less, shall be used for home occupations.

Day-Night Average Sound Level (Ldn)

A measure of noise which considers the 24-hour average sound level, 365 days a year, in “A” weighted decibels. Those events occurring between 10:00 pm and 7:00 am, incur a 10 decibel penalty. This is the accepted parameter for determining the impacts of noise on people.

Decibel (dB)

Sound is measured in decibels. The zero on the decibel scale is based on the lowest sound level that is the healthy, unimpaired human ear can detect. Decibels are not linear units, but representative points on a sharply rising (exponential) curve. Thus, an increase of 10 decibels represent an approximate doubling of acoustic energy.

Deck

An open and roofless platform that adjoins a house and is supported by a means other than the principal structure.

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Detached Building

A building having no party or common wall with another building except an accessory building.

Developer

A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit, or sign permit.

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.

Distillery

A distillery as permitted by NCGS is an enterprise which engages in one or more of the following:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor;
- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations;
- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

District

Any section of the Town of Elizabethtown in which zoning regulations are uniform.

Drawings, construction

Drawings utilized during construction prepared by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina.

Drawings, as-built

Engineering plans prepared after the completion of construction, by the engineer by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina, in such a manner as to accurately identify and depict the location of all on-site improvements, which includes but is not limited to all structures, parking facilities, detention/retention areas, curbs, gutters, and sidewalks.

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Driveway

A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

Driveway Approach

An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide for vehicles from the roadway to the adjacent property.

Dwelling

Any building, or portion thereof, which is designed for living and/or sleeping purposes.

Dwelling, Single-Family

A building arranged, or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, Two-Family

A building arranged or designed to be occupied by two families living independently of each other (the structure having only two dwelling units).

Dwelling, Multi-Family

A building arranged or designed to be occupied by three or more families living independently of each other.

Dwelling Unit

A dwelling or that portion of a multiple dwelling used or designed as a residence for one family. In Nursing Homes, Homes for the Aged, Convalescent Homes and other such multi-unit facilities, two resident persons shall be equivalent of one dwelling unit.

Easement

A grant by the property owner for use, by the public, a corporation, or a person(s), of a strip of land for a specified use.

Eave

An overhanging roof extension not exceeding three feet.

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Effective Date of this Ordinance

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

Effective Perceived Noise Level (EPNL)

A physical measure designed to estimate the effective “noisiness” of a single noise event, usually an aircraft flyover; it is derived from instantaneous Perceived Noise Level (PNL) values by applying corrections for pure tones and for the duration of the noise.

Electric Vehicle

Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purpose. Electric vehicle includes: (1) a battery powered electric vehicle; and (2) a plug-in hybrid electric vehicle.

Electric Vehicle Charging Station

A public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An electric vehicle charging station is permitted as an accessory use to any principal use.

Electric Vehicle Parking Space

Any marked parking space that identifies the use to be exclusively for an electric vehicle.

Eligible Facilities Request

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment Compound

An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Equipment Facility

Any structure used to contain ancillary equipment for a Wireless Communication Facility which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.

APPENDIX A. DEFINITIONS

Erect

Build, construct, erect, re-build, re-construct, or re-erect as the same is commonly defined.

Ex parte

A Latin legal term meaning "from (by or for) [the/a] party". An *ex parte* decision is one decided by a judge without requiring all of the parties to the controversy to be present.

Extraterritorial Jurisdiction (ETJ)

An area outside the municipal corporate limits extending up to one (1) mile from these limits, where the Town of Elizabethtown exercises planning, zoning and subdivision powers.

Fabrication

Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

Fall Zone

The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family

An individual or two or more persons related by blood, marriage or adoption and living together in a dwelling; or a group of not more than four unrelated persons living in a single unit.

Family Care Home

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities. "Person with disabilities" means a person with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS Section 122C-3(11)b.

Family foster home

The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more

APPENDIX A. DEFINITIONS

children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

Farm stand

A temporary open air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site.

Federal Aviation Administration

FAA

Federal Communications Commission

FCC

Federal Telecommunications Act of 1996

FTA

Fine Arts and Crafts

Individual art pieces, not mass produced consisting of one or more of the following: paintings, drawings, etchings, sculptures, ceramics, inlays, needlework, knitting, weaving, and/or craftwork, leather, wood, metal, or glass.

Flea Market

Buildings or open areas in which sales areas or stalls are set aside or rented, and which are intended for use by one or more individuals or by educational, religious, or charitable organizations to sell a variety of articles such as those which are either homemade, homegrown, handcrafted, old, obsolete or antique.

Forestland

Land that is devoted to growing trees for the production of timber, wood, and other forest products.

Forestry

The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

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Forestry activity

Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

Frontage

All property abutting on one side of a street measured along the street line.

Game Room

A use providing video games or other games for playing for amusement and recreation. Any table games such as air hockey, football, pinball, or the like shall be included under this definition. More than three such games shall constitute a primary use and shall be allowed only in those zoning districts permitting game rooms as a listed permitted use. Three or fewer such games shall constitute an accessory use and may be permitted in any licensed retail business.

Garage, Private

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

Garage, Public

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

Garage, Storage

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

Granny Pod/Temporary Health Care Structure

A temporary structure that will house a single mentally or physically impaired person in accordance with NCGS 160A-383.5. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.

APPENDIX A. DEFINITIONS

Grocery Store

A retail establishment, not a convenience store, for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, bakery products, dairy products, wine, beer, and similar items for human consumption and may include a bakery, delicatessen or prescription pharmacy.

Gross Floor Area

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

Group Care Facility

A facility licensed by the State of North Carolina (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than 30 people.

Habitable Room

A room or heated floor space used or intended to be used for living or sleeping, excluding bathrooms, kitchens, places for cooking or eating purposes, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets, and storage spaces.

Hazardous Material

Any material defined as a hazardous substance under 29 Code of Federal Regulations §1910.120(a)(3).

Hazard to Air Navigation

An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Health Spa

A profit-making business or a private club as opposed to YMCA. Spa would include such activities as weight lifting, exercising, steam room, whirlpool, sauna, and possibly other gymnastics.

Height, Airport Hazard Ordinance

For the purposes of Section 7.49, the datum shall be mean sea level elevation unless otherwise specified.

APPENDIX A. DEFINITIONS

Height, Wireless Communication Facility

When referring to a Wireless Communication Facility, the vertical distance measured from the base of the tower to the highest point on the Wireless Communication Facility, including the Antenna Array and other attachments.

Home for the Aged

A boarding home with more than six (6) beds meeting all of the requirements of the State of North Carolina for the boarding and care of persons who are not critically ill and who do not need regular professional medical attention.

Home Occupation

Any profession or occupation carried on entirely within a dwelling providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than 25 percent of the total floor area is used for such purposes, and that there is no outside or window display. No mechanical equipment shall be installed or used other than is normally used for domestic or home occupation purposes.

Horizontal Surface

A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan, coincides with the perimeter of the horizontal zone. At the Curtis L. Brown, Jr. Field, this elevation is 283 feet above mean sea level.

Hotel

A building used as an abiding place of more than 14 persons who for compensation are lodged with or without meals and in which no provision is made for cooking in any individual room or suite.

Inoperable vehicle

Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered inoperable.

Institutionalized persons

Persons who are committed through some legal process (jail, hospital ward for the dangerously mentally ill), or persons committed to an institution, such as a halfway house, on a time-of-day basis.

APPENDIX A. DEFINITIONS

Itinerant Merchant, Transient Merchant, or Itinerant Vendor

Any person, firm or corporation whether as owner, agent, consignee, or employee, whether a resident of the Town or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Town, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building or land, structure, motor vehicle, tent, trailer, railroad box car, truck or boat, public room in hotel, motel, lodging houses, apartments, shops, or any street, alley, or other place within the Town for the exhibition and sale of such goods, wares, and merchandise, either privately, or at public auction provided that such definition shall not be construed to include:

- (A) Any person selling at a yard sale who has received the appropriate permits and licenses from the Town.
- (B) Internet sales.
- (C) Any vendor lawfully participating in sales at the Cape Fear Farmers Market.
- (D) Non-profits, civic and religious organizations.

Junk Yard

The use of more than 600 square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap, metal, or other junk, and including storage of motor vehicles, and dismantling of such vehicles or machinery.

Kennel

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

Land Clearing and Inert Debris Landfill (LCID)

A landfill facility for waste generated from land clearing, concrete, brick, concrete block, uncontaminated soil, gravel and rock, unpainted wood, and yard trash. "Yard trash" is solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative materials.

Large Retail

A retail structure or group of structures having a total in excess of 25,000 square feet of gross floor area.

APPENDIX A. DEFINITIONS

Larger Than Utility Runway

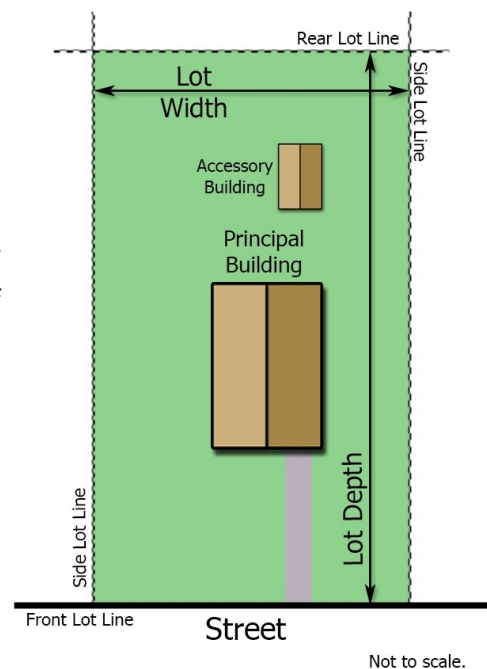
A runway that is constructed for and intended to be used by propeller driven or jet powered aircraft of greater than 12,500 pounds maximum gross weight.

Loading Area or Space, Off-Street

An off-street area logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking in computing required off-street parking space.

Lot

A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by this ordinance and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds.



Lot, Area

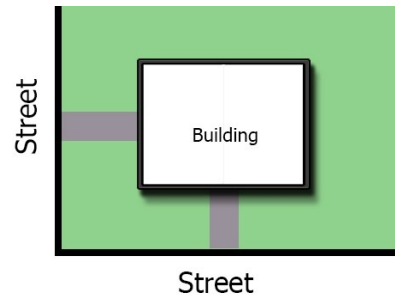
The total area circumscribed by the boundaries of a lot, except that:

- (A) When the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street; or
- (B) In a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

APPENDIX A. DEFINITIONS

Lot, Corner

A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.



Lot, Depth Of

The average horizontal distance between front and rear lot lines.

Lot Line, Rear

- (A) If the lot has one front line, the boundary opposite that front line shall be the rear line.
- (B) If the lot has two front lines the boundary opposite the shorter of the two front lines shall be the rear line, provided that if both front lines are of equal length, the rear line shall be fixed by the Building Inspector, subject to review by the Board of Adjustment, on the basis of orientation of existing structures.
- (C) If the lot has three or more front lines, there shall be no rear line.

Lot of Record

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

Lot, Width Of

The average horizontal distance between side lot lines.

Manufactured Home

A dwelling unit that:

- (A) Is not constructed in accordance with the standards set forth in the North Carolina State Building code, and

APPENDIX A. DEFINITIONS

- (B) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and
- (C) Exceeds forty (40) feet in length and eight (8) feet in width.

Manufactured Home, Class A

A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and satisfies each of the following additional criteria:

- (A) The home has a length not exceeding four (4) times its width;
- (B) The pitch of the home's roof shall have a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (C) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (D) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home, Class B

A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.

Manufactured Home, Class C

Any manufactured home that does not meet the definition criteria of a Class A or Class B manufactured home. Class C manufactured homes are not permitted within Elizabethtown's planning jurisdiction.

APPENDIX A. DEFINITIONS

Manufactured Home Park

Land used or intended to be used, leased or rented for occupancy by six or more mobile homes, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking spaces and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

Microbrewery

A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise.

Micro Wireless Facility

A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Modular Home

A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code applicable to site built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Motel or Motor Lodges

A building or group of buildings containing sleeping rooms, designed for or used temporarily by automobile transients, with garage or parking space conveniently located to each unit.

Nightclub

An establishment dispensing alcoholic beverages for consumption on the premises and in which music, dancing, or entertainment is conducted. The hours of operation generally limit to weeknights and weekends. The sale of meals for on-site consumption may also be a component of the operation.

Noise Abative Construction

Includes insulation, storm windows and/or air conditioning designed to reduce interior noise due to aircraft activity. Landscaping may reduce ground noise, but has little impact on noise reduction from airborne produced noise.

APPENDIX A. DEFINITIONS

Noise Exposure Forecast (NEF)

A scale that has been used by the federal government in land use planning guides applied in connection with airports. In the NEF scale, the basic measure of magnitude for individual noise events is the effective perceived noise level (EPNL), in units of Effective Perceived Noise Decibels (EPNdb). This magnitude measure includes the effect of duration per event. The terms account for number of flights and/or weighting by time period.

Nonconforming Lot

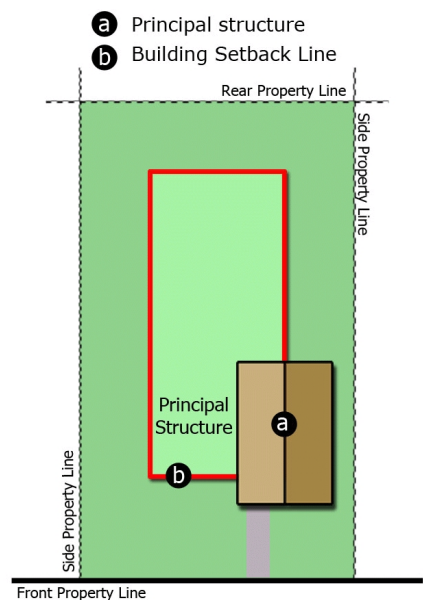
A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.

Nonconforming Project

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

Nonconforming Situation

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



Nonconforming Use

A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

APPENDIX A. DEFINITIONS

Nonconformity, Dimensional

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

Non-precision Instrument Runway

A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction

Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.

Office

Quarters maintained by individuals or corporation for the purpose of offering services in which no goods or merchandise are sold or displayed over the counter.

Official maps and plans

Any maps or plans officially adopted by the City Council as a guide for the future development and growth of the City and the area immediately adjacent to it. Such maps or plans may consist of maps, charts, and text.

Open space

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

Open Storage

Unroofed storage areas, whether fenced or not.

Ordinance

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

Overlay District

A zoning district established by the ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

APPENDIX A. DEFINITIONS

Parking Lot or Area

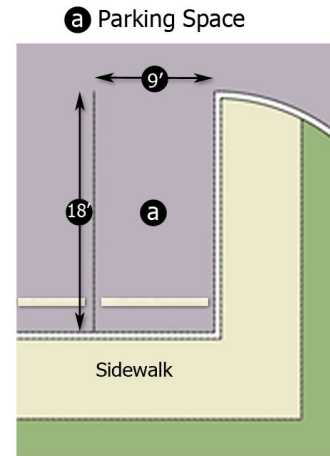
An area or plot of land used for, or designated for, the parking of vehicles, either as a principle use or as an accessory use.

Parking Space

The storage space for one (1) automobile of not less space than prescribed by this Ordinance, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

Parking Space, Off-Street

A parking space located outside of a dedicated street right-of-way.



Permitted use

Any use permitted as a right in a zoning district and subject to the limitations of the regulations of the zoning district.

Person

An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Planned Unit Development (PUD)

A Planned Unit Development shall consist of a group of buildings on a single lot or tract or structures on a site where the developer may reduce the size of individual lots. A PUD must be in accordance with the provisions of Article 5.

Planning and Zoning Commission

A Board appointed by the Town Council and the County Board of Commissioners to study Elizabethtown and its environs, to recommend plans and policies for the future, and to advise the Town Council in matters pertaining to planning and zoning.

Planning Jurisdiction

The area within the town limits as well as the extraterritorial jurisdictional (ETJ) area beyond the town limits within which the town is authorized to plan for and regulate development.

APPENDIX A. DEFINITIONS

Precision Instrument Runway

A runway having an existing or planned instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR) providing horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Pre-School

A facility for the care and/or education of children of pre-school age, including kindergartens and day care centers.

Primary Surface

A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 1,000 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Processing

Any operation changing the nature of material or materials, such as chemical composition or physical qualities. Does not include operations described as fabrication.

Property Owner's Association

An incorporated organization operating under land agreements through which:

- (A) Each lot owner is automatically a member;
- (B) Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

Public

Belonging or open to, enjoyed and used by and/or maintained for the public generally, but not limited to a facility the control of which is wholly or partially exercised by some governmental agency.

Public Street

A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Elizabethtown or the State of North Carolina.

APPENDIX A. DEFINITIONS

Quasi-judicial decisions

Those decisions that require the finding of facts and the application of standards that involve judgment and discretion. Examples include special use permits and variances.

Reasonable accommodations

Accommodations held to be reasonable include conversion of a motel to a shelter and a variance from setback requirements. A total exclusion of all nursing home facilities and assisted living residences from a residential district has been held to be a failure to make reasonable accommodations.

Recreational vehicle

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 passenger motor vehicle or a light-duty truck or designed to be carried on a pickup truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational vehicle park

A lot, parcel or tract of land designed to accommodate two or more recreational vehicles, motor homes and tents, but not manufactured homes, together with supporting facilities and required open spaces. This definition shall not include migrant labor camps, manufactured home parks or recreational vehicle sales lots.

Residential child-care facility

A staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care, but not family care homes.

Restaurant

An establishment where food service is a primary activity. The facility may be designed to cater or accommodate the consumption of food either on or off the premises. The serving of alcoholic beverages in a restaurant shall be in compliance with the ABC laws.

APPENDIX A. DEFINITIONS

Retail Trade

Businesses which sell goods (that are not for resale) to the public and which are open on a regular basis for consumer shopping. At least 40% of the floor space of a retail business must be open to the public and devoted to the sale and display of goods on the premises.

Right-of-Way

Any public or private area that allows passage of people or goods, to include: passageways such as freeways, streets, bike paths, alleys, sidewalks, and walkways. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and is under the control of a public agency.

Rooming House

A building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy by, or which are occupied by, four (4) or more but not exceeding nine (9) individuals for compensation, whether the compensation be paid directly or indirectly.

Runway

A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Search Ring

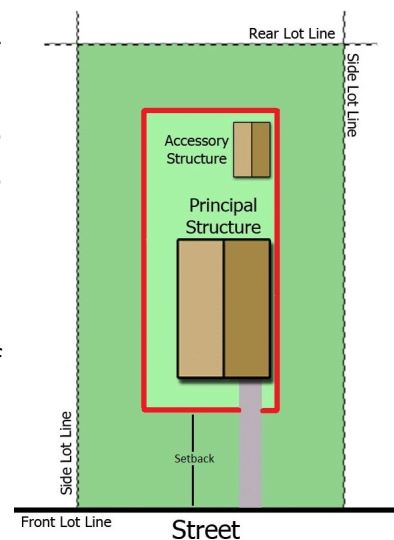
The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structures.

Service Station

Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and flat tire repair are only performed incidental to the conduct of the service station.

Setbacks

The required distance between every structure and the lot lines of the lot on which it is located.



APPENDIX A. DEFINITIONS

Setback, Wireless Communication Facility

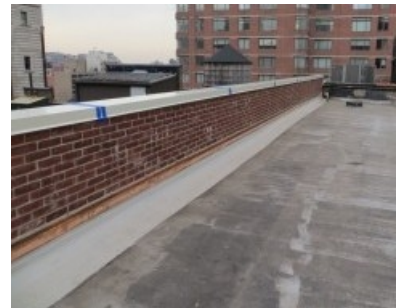
The required distance from the property line of the parcel on which the Wireless Communication Facility is located to the base of the Support Structure and Equipment Shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

Sidewalk

All that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

Sign Regulations Definitions

- (1) ***Animation*** means the movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving, or intermittent illuminating shall be employed.
- (2) ***Beacon*** means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same property as the light source. Also, any light with one or more beams that rotate or move.
- (3) ***Copy*** means any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface.
- (4) ***Parapet*** means the extension of a false front or a false wall above the roofline.
- (5) ***Roof Line.*** The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.
- (6) ***Sign*** means any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention. This definition includes signs painted on building exterior walls.



APPENDIX A. DEFINITIONS

- (7) **Sign, Accessory** means an advertising device used to disseminate information concerning the particular use of the lot upon which it is located.

- (8) **Sign, A-Frame** means any sign constructed in such a manner as to form an “A” or tent-like shape, hinged or not hinged at the top; each angular face held at an approximate distance by a supporting member. Also referred to as sandwich boards.



- (9) **Sign, Animated** means any sign that utilizes movement, the illusion of movement, change of lighting, change of copy, or other means to depict action or create a special effect.

- (10) **Sign, Area** means the surface area of a sign which shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

- (11) **Sign, Banner** means a temporary sign composed of cloth, canvas, plastic, fabric, or similar light-weight, nonrigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.



- (12) **Sign, Business Identification** means any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

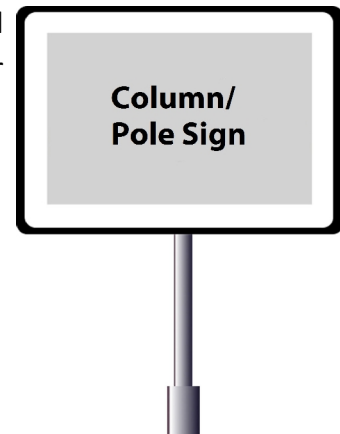


- (13) **Sign, Canopy or Awning** means any sign that is a part of or attached to an awning, canopy, or other structural protective covering above a door, entrance, window, or walkway.



APPENDIX A. DEFINITIONS

- (14) **Sign, Column/Pole** means a freestanding sign supported by one or more columns or poles or other similar support.



- (15) **Sign, Construction** means a sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

- (16) **Sign, Electronic Message Center** means a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

- (17) **Sign, Face** means the entire display surface area of a sign upon, against, or through which copy is placed.

- (18) **Sign, Feather/Flutter Flag** means a freestanding temporary sign typically constructed of a single plastic or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft.

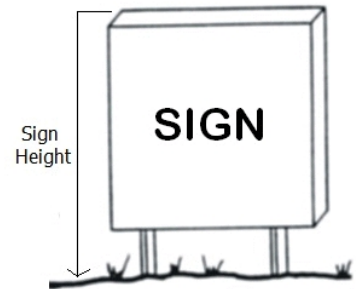


- (19) **Sign, Flag.** A device generally made of flexible material, usually cloth, paper or plastic, typically used as a symbol of a government, school, or religion. The term "Flag" does not include feather flag signs.

- (20) **Sign, Freestanding** means a sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign.

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- (21) **Sign, Height Of** means the vertical distance measured from the natural ground to the top of the sign face or sign structure, whichever is greater. Fill may not be used to raise the sign height.



- (22) **Sign, Incidental** means those signs that are permitted without need for a sign permit.

- (23) **Sign, Kinetic** means a wall-mounted computer-programmable lighting system that displays changing and moving colors.

- (24) **Sign, Marquee** means any sign that is attached to, in any manner, or made a part of any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.



- (25) **Sign, Message Board** means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This definition does not include menu and sandwich board signs.

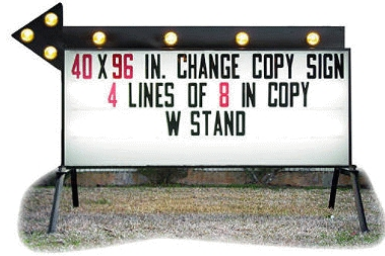


- (26) **Sign, Monument** means any sign permanently attached to the ground and not attached to any building advertising multiple tenants, multiple uses, multiple buildings or multiple parcels. The design of the monument sign is to advertise multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign.



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- (27) **Sign, Non-Conforming** means a sign which was legally erected prior to the effective date of this Ordinance, but which does not conform to these regulations.
- (28) **Sign, Political** means a sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.
- (29) **Sign, Portable** means a sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other nonmotorized mobile structure with or without wheels.
- (30) **Sign, Projecting** means a sign which is attached to and projects more than twelve (12) inches from a building face or wall.
- (31) **Sign, Roof.** Any sign erected, constructed, or maintained upon or over the roof of a building, or extending above the highest wall of the building, and having its principal support on the roof or walls of the building.
- (32) **Sign, Snipe** means a sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or to other objects.
- (33) **Sign, Stacking** means the placing of one sign above another in the same location.
- (34) **Sign, Structure** means any structure that is built to support, supports, or has supported a sign.



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- (35) **Sign, Subdivision** means a sign identifying a recognized residential subdivision, condominium complex, or residential development.



- (36) **Sign, Temporary** means a sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than fifteen (15) calendar days prior to and/or following the associated circumstance, situation, or event.



- (37) **Sign, Wall** means any sign attached to, painted on, or erected against any wall of a building or structure so that the exposed face of the sign is on a plane parallel to the plane of said wall and which does not extend more than twelve (12) inches from the wall. Wall signs also include any sign erected against, installed on, or painted on a penthouse above the roof of a building as long as the wall of the penthouse is on a plane parallel to the wall of the building. Wall signs also include a sign attached to, painted on, or erected against a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the adjoining wall elevation.
- (38) **Sign, Window** means any sign appearing in, on or through a window of a structure and visible from outside. The term window sign shall not be used to define a window display.

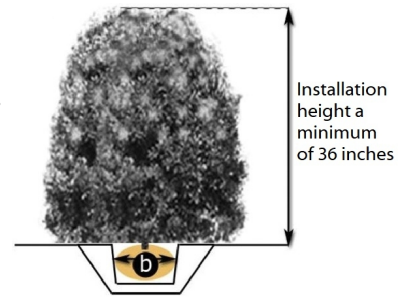


APPENDIX A. DEFINITIONS

Shrub, Intermediate

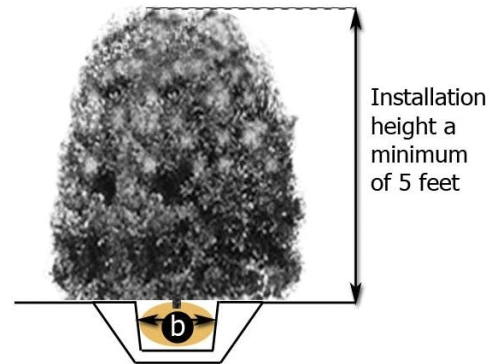
Deciduous or evergreen plants installed at a minimum height of 36 inches, a minimum of 5 canes, and a minimum spread of roots or rootball diameter of 14 inches.

b Rootball or Root Spread



Shrub, Large

Deciduous and/or evergreen plants, as required in the applicable sections, installed at a minimum height of 5-feet, a minimum of 6 canes, and a minimum spread of roots or rootball diameter of 24-inches. Large shrubs shall be maintained at a height of 6 to 10 feet, and shall be of a vegetation family which normally does not grow taller than 10 feet.



Site plan

A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade and, depending on requirements, the location of proposed utility lines.

Site plan, major

All site plans not meeting the requirements for a minor site plan.

Site plan, minor

Includes the following:

- (1) Buildings or additions with an aggregate enclosed square footage of less than 7,000 square feet;
- (2) Buildings or additions involving land disturbance of less than one (1) acre;
- (3) Multi-family development involving fewer than ten (10) dwelling units;
- (4) Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area;
- (5) Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance;
- (6) Accessory uses which comply with the requirements of this Ordinance;

APPENDIX A. DEFINITIONS

- (7) Site plans which do not require a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance; and
- (8) Site plans which do not require easement dedication or street construction.

Small Wireless Facility

A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Sound Transmission Class (STC)

A single-number rating which provides an estimate of sound transmissions loss performance of a wall or floor as related to airborne sound generated by a limited class of household sound sources. The higher the number, the better the performance.

Special Event

Temporary street fairs, festivals, farmers' markets, or other types of special events that:

- (A) Run for longer than one day but not longer than two weeks;
- (B) Are intended to or likely to attract substantial crowds; and
- (C) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Use

A use permitted in a zone district only after recommendation by the Planning and Zoning Commission and specific findings by the Town Council.

APPENDIX A. DEFINITIONS

Stables, Commercial

Establishments primarily engaged in providing services involving boarding and training of horses on a contract or fee basis.

Standing

The following persons shall have standing to file a petition or appeal under this Ordinance:

- (1) Any person meeting any of the following criteria:
 - (a) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
 - (b) Has an option or contract to purchase the property that is the subject of the decision being appealed.
 - (c) Was an applicant before the decision-making board whose decision is being appealed.
- (2) Any other person who will suffer special damages as the result of the decision being appealed.
- (3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (4) A town whose decision-making board has made a decision that the Council believes improperly grants a variance or is otherwise inconsistent with the proper interpretation of an ordinance adopted by the Town Council.

Story

That portion of a building, other than the basement, included between the surface of any floor and the surface floor next above it; or, if there be no floor above it, the space between the floor and the ceiling next above it.

APPENDIX A. DEFINITIONS

Story, Half

A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which not more than two-thirds (2/3) of the floor area is finished off for use.

Street

A right-of-way or easement fifty (50) feet or more in width containing a roadway which provides or is used primarily for vehicle 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 State of North Carolina and that is not maintained by the Town of Elizabethtown or State of North Carolina.

Street, Public

A street consisting of a publicly dedicated right-of-way and a roadway maintained by the town of Elizabethtown or the State of North Carolina.

Structure

Anything constructed or erected, the use of which requires permanent location of the ground, or attachment to something having a permanent location on the ground, including signs.

Structure, Airport Hazard Ordinance

An object, including but not limited to, a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Substantial Modification

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

APPENDIX A. DEFINITIONS

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Support Structure

A structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (Attachment Device) which is used to attach an Attached Wireless Communication Facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.

Temporary emergency, construction or repair residence

A subordinate residence (which may be a Class B manufactured home, travel trailer) that is: located on the same lot as a single-family dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed.

Temporary storage facility (portable storage units)

Any container intended for storing or keeping household goods, other personal property or business related goods intended to be filled, refilled, or emptied while located outdoors and later removed from the property for storage or disposal off-site. Temporary storage facilities are sometimes also known as portable storage units or portable storage containers.

Temporary Wireless Communication Facility

A Wireless Communication Facility to be placed in use for ninety (90) or fewer days.

Therapeutic foster home

A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the

APPENDIX A. DEFINITIONS

supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission.

Tiny house

A single-family detached home that is 200 square feet to 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.

Tourist Home

A dwelling where lodging only is provided for compensation for not exceeding fourteen (14) persons, and open to transients.

Tower and Antenna Use Application (TAA)

A form provided to the applicant by the Town for the applicant to specify the location, construction, use and compliance with the development standards of a proposed Wireless Communications Facility.

Town Council

The Town Council of the Town of Elizabethtown, North Carolina.

Townhouse Development

A development of one or more structures containing a total of two (2) or more units intended for owner occupancy, where ownership of the land beneath each unit runs with that unit, where units and the individually owned lands on which they rest do not meet conventional lot requirements for street frontage and yard sizes, and where walls between units are constructed in accordance with North Carolina State Building Code requirements. All such projects shall conform to the density requirements as outlined in Section 7.18 and Article 8, and shall be approved in accordance with the provisions of Article 5.

Transitional Surfaces

These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

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Travel Way

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.



Tree

Any object of natural growth.

Use

The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Use, Accessory

See Accessory Use.

Use By Right

A use which is listed as a Use By Right in any given zone district in this Ordinance.

Use, Special

See Special Use.

Utility Pole

A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Variance

An authorization to do something contrary to the strict terms of the Zoning Ordinance, such as building a structure inside a required setback area. Variances are quasi-judicial decisions that require an evidentiary hearing. They may be issued only upon a finding of unnecessary hardships as a result of strict compliance and that the variance would be consistent with the spirit, purpose, and intent of the Ordinance. Variance petitions are usually assigned to the Board of Adjustment for hearing and decision. See NCGS 160A-388.

APPENDIX A. DEFINITIONS

Vehicle Stacking Lane

The space specifically designated as a waiting area for vehicles whose occupants will be patronizing a drive-in business. Such space is considered to be located directly alongside a drive-in window, facility, or entrance used by patrons and in lanes leading up to and away from the business establishment.

Visual Runway

A runway intended solely for the operation of aircraft using visual approach procedures.

Warehouse

A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped.

Warehousing

The depositing or securing of goods, wares, and/or merchandise in a warehouse.

Water Tower

A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wholesale

Sale for resale, not for direct consumption.

Winery

An agricultural processing facility producing wine from fruit or fruit juice through fermentation or the re-fermenting of still wine. A winery includes crushing, fermenting and re-fermenting, bottling, blending, bulk product and bottle storage, aging, shipping, receiving, laboratory equipment and product analysis, maintenance facilities, and administrative office functions.

Wireless Communications

Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

APPENDIX A. DEFINITIONS

Wireless Communication Facility

Any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an Antenna Array, connection cables, an Equipment Facility, and a Support Structure to achieve the necessary elevation.

Wireless Facility

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider

Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider

A wireless infrastructure provider or a wireless services provider.

Wireless Services

Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider

A person who provides wireless services.

Wireless Support Structure

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

APPENDIX A. DEFINITIONS

Yard

An open space on the same lot with a principal building, unoccupied and unobstructed by any structure from the surface of the ground upward except for drives, sidewalks, lamp posts, entrance steps, retaining walls, fences, landscaping, and as otherwise provided herein.

Yard, Front ①

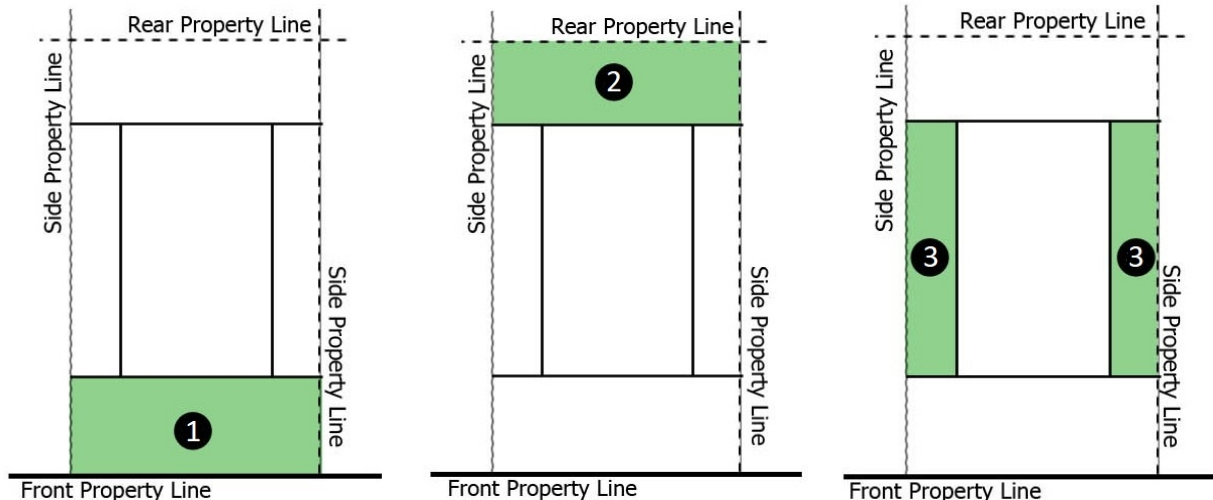
An open space on the same lot with a building, between the front line of the building (exclusive of steps) and the front property line or street right-of-way line and extending the full width of the lot.

Yard, Rear ②

An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot; may be used for accessory building.

Yard, Side ③

An open, unoccupied space on the same lot with a building between the side line of the building (exclusive of 6-8 steps) and the side line of the lot and extending from the front yard line to the rear yard line.



Zone

An area abutting and completely surrounding the Curtis L. Brown, Jr. Field in which aircraft noise may occasionally interfere with certain activities of the residents. The Zones are identified as Land Use Guidance or "LUG" zones; "A," "B," "C," or "D." The Zones are defined as:

- (A) Zone "A" - That area having a Day-Night Sound Level (Ldn) of 55 and less.
- (B) Zone "B" - That area having a Day-Night Sound Level (Ldn) between 55 and 65.

APPENDIX A. DEFINITIONS

- (C) Zone "C" - That area having a Day-Night Sound Level (Ldn) between 65 and 75.
- (D) Zone "D" - That area having a Day-Night Sound Level (Ldn) of 75 or greater.

Zoning Administrator

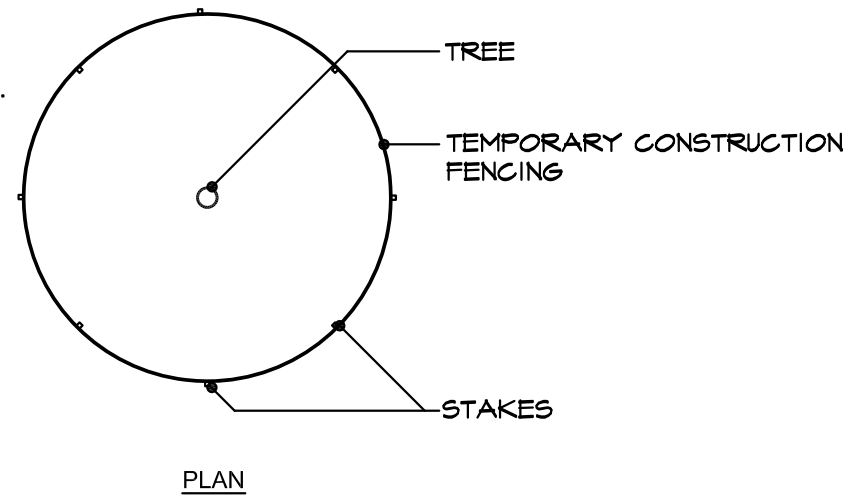
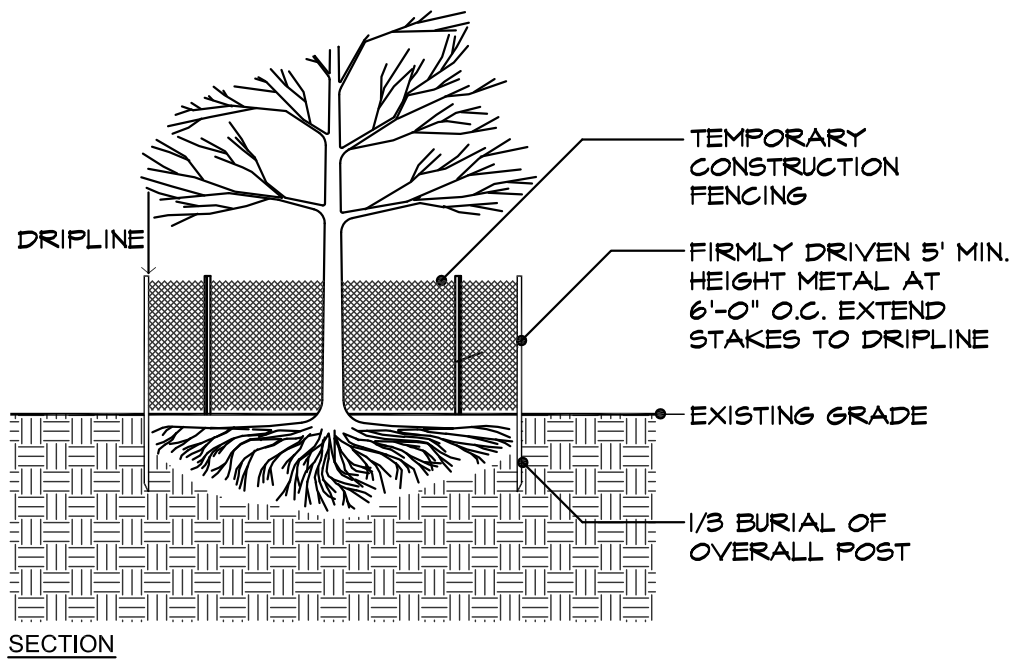
The official (as designated by the Town Manager) charged with the enforcement of the Zoning Ordinance for the Town of Elizabethtown.

Zoological Garden

A public park or large enclosure where live animals are kept for display to the public.

APPENDIX B

INSTALLATION DETAIL

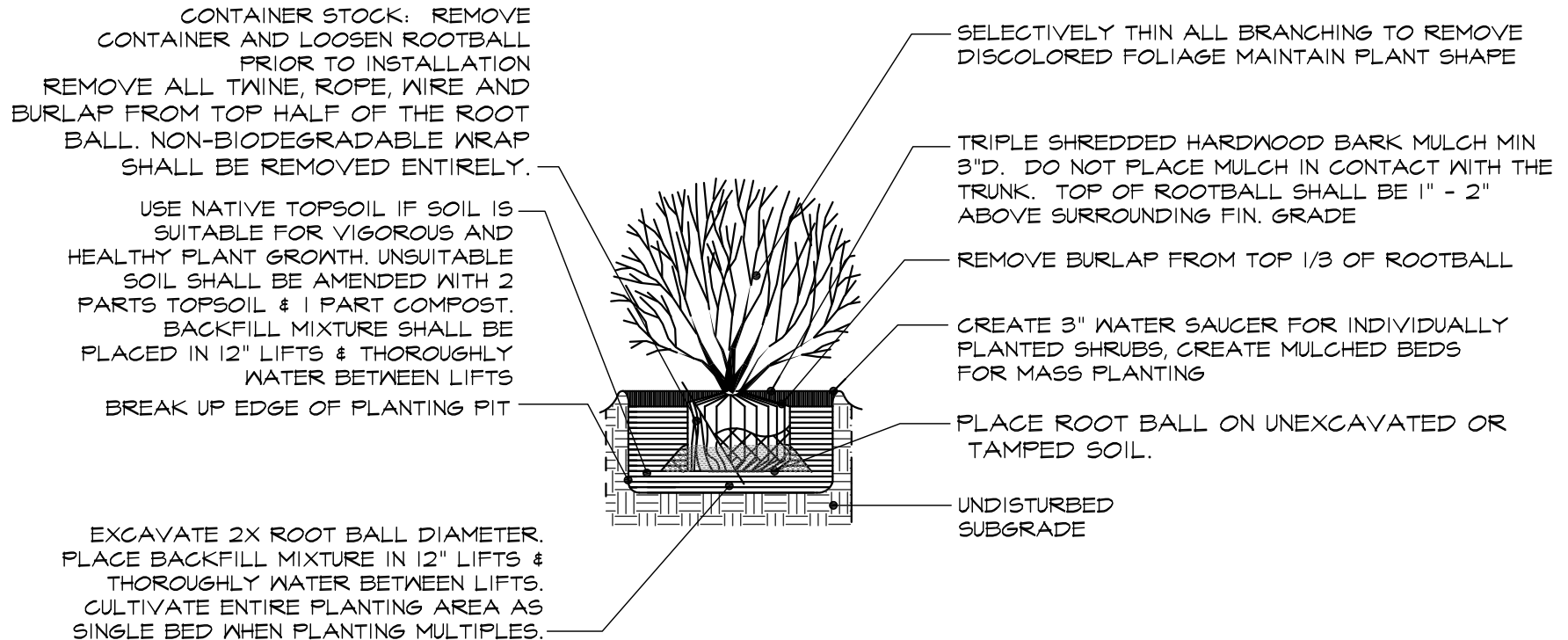


TREE PROTECTION

SCALE: N.T.S.

NOTES:

1. VERIFY THAT ADEQUATE DRAINAGE AND SOIL EXISTS PRIOR TO PLANTING. SOIL ANALYSIS SHALL BE OBTAINED PRIOR TO PLANTING. SOIL SHALL BE AMENDED AS RECOMMENDED.
2. ALL PLANTS SHALL CONFORM TO AMERICAN STANDARDS FOR NURSERY STOCK PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSEYMEN (A.A.N.).
3. TO ADEQUATELY PROVIDE WATER, NUTRIENTS, AND AIR CIRCULATION TO THE PLANT'S ROOTS TO SUPPORT HEALTHY AND VIGOROUS PLANT GROWTH, THE USE OF LANDSCAPE FABRIC IS HIGHLY DISCOURAGED.



SHRUB PLANTING

SCALE: N.T.S.

NOTES:

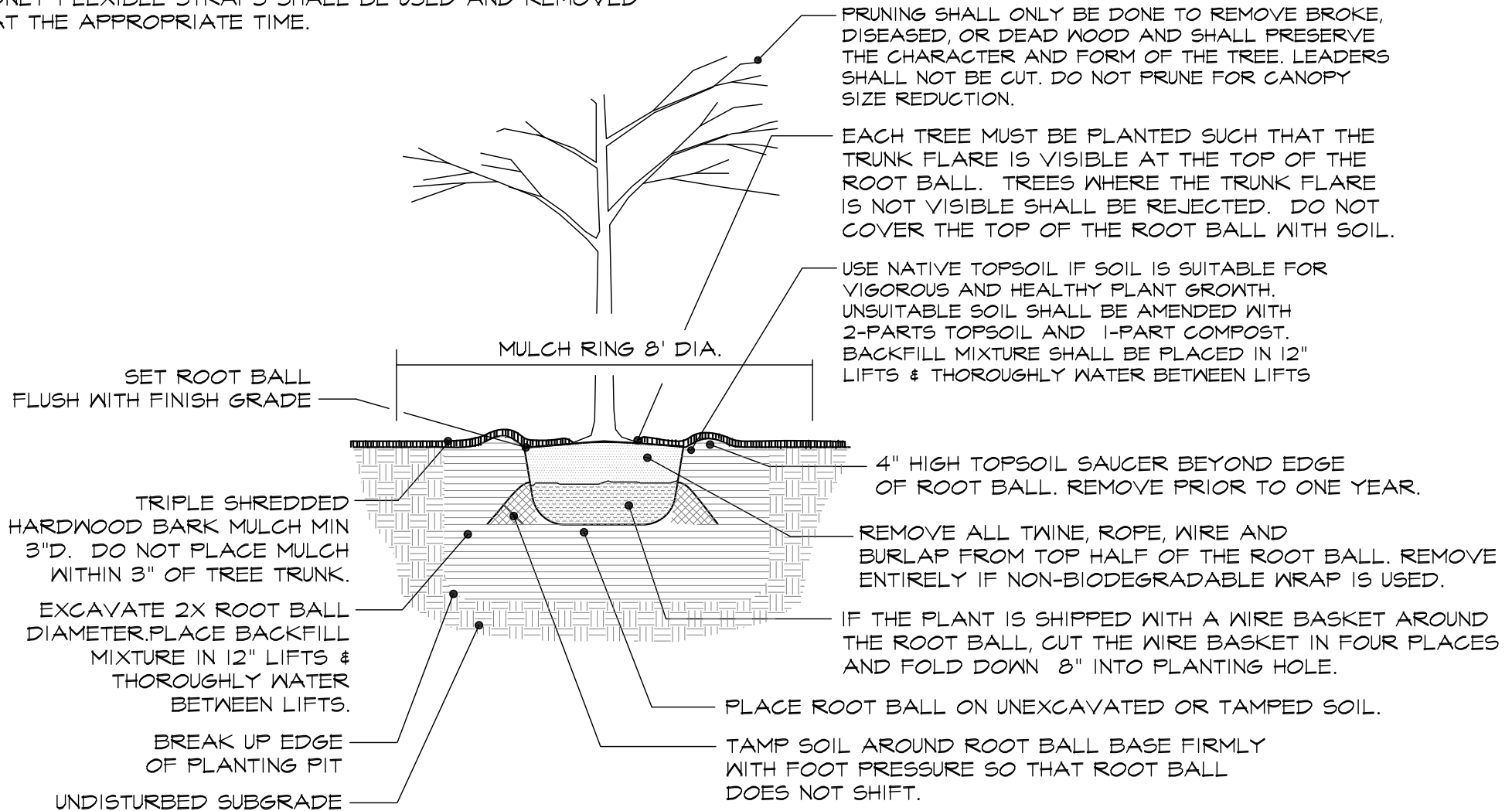
1. VERIFY THAT ADEQUATE DRAINAGE AND SOIL EXISTS PRIOR TO PLANTING. SOIL ANALYSIS SHALL BE OBTAINED PRIOR TO PLANTING. SOIL SHALL BE AMENDED AS RECOMMENDED.

2. ALL PLANTS SHALL CONFORM TO AMERICAN STANDARDS FOR NURSERY STOCK PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSEYMEN (A.A.N.).

3. STAKING IS ONLY RECOMMENDED FOR WINDY SITES. ONLY FLEXIBLE STRAPS SHALL BE USED AND REMOVED AT THE APPROPRIATE TIME.

4. DO NOT WRAP TRUNK OF TREE.

5. TO ADEQUATELY PROVIDE WATER, NUTRIENTS, AND AIR CIRCULATION TO THE PLANT'S ROOTS TO SUPPORT HEALTHY AND VIGOROUS PLANT GROWTH, THE USE OF LANDSCAPE FABRIC IS HIGHLY DISCOURAGED.



SHADE & SMALL TREE PLANTING

SCALE: N.T.S.