

Village of St. Helena



Unified Development Ordinance

Adopted: April 15, 2021

Village of St. Helena

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Village of St. Helena

Unified Development Ordinance

Amendments

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Chapter 1. General Provisions

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Chapter 1 – General Provisions

1.1 OFFICIAL TITLE

This ordinance shall be officially known as the “Unified Development Ordinance of the Village of St. Helena, North Carolina” and may be referred to as the “Unified Development Ordinance” or “this ordinance” or the “UDO.”

1.2 EFFECTIVE DATE

This UDO was adopted on April 15, 2021 and became effective on April 15, 2021.

1.3 AUTHORITY

A. GENERAL AUTHORITY

This Ordinance consolidates the Village’s zoning and subdivision regulatory authority and is adopted pursuant to the authority contained in Chapter 160D of the North Carolina General Statutes; and the Village of St. Helena Charter, as amended.

B. REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.4 GENERAL PURPOSE AND INTENT

This UDO is adopted to preserve, protect, and promote the public health, safety, and general welfare of residents and businesses within the Village of St. Helena. More specifically, this UDO is adopted to achieve the following objectives:

- A. Implement the policies and goals contained within officially adopted plans, including the Comprehensive Land Use Plan;
- B. Improve the built environment and human habitat;
- C. Conserve and protect the Village’s natural beauty and setting, including trees and cultural and historic resources;
- D. Ensure that new development conserves energy, land, and natural resources;
- E. Encourage environmentally responsible development practices;
- F. Protect and promote appropriately located commercial and industrial activities in order to preserve and strengthen the Village’s economic base;
- G. Provide for orderly growth and development of suitable neighborhoods with adequate transportation networks, drainage and utilities and appropriate building sites;
- H. Save unnecessary expenditures of funds by requiring the proper initial construction of transportation networks, sidewalks, drainage facilities and utilities.

1.5 APPLICABILITY AND JURISDICTION

A. GENERAL APPLICABILITY

This UDO applies to all land, buildings, structures, and uses located within the corporate limits and the extraterritorial jurisdiction of the Village of St. Helena, North Carolina. To the extent allowed by

law, the provisions of this UDO applies to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, County, State, or Federal government agencies.

B. REQUIRED CONFORMANCE TO PROVISIONS

Except as otherwise specifically provided in this Ordinance, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, no land shall be subdivided, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this Ordinance.

1.6 RELATIONSHIP TO THE COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan serves as the basic policy guide for development under this UDO. The policies and action items of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the Village.

1.7 RELATIONSHIP WITH OTHER LAWS

A. PRIVATE PROPERTY RIGHTS

Neither this Ordinance, nor any material included herein by reference nor material used for the administration of this Ordinance, are intended to, nor do they take any property, property right, nor property use, nor convert any of these to public use except by due process of law.

B. CONFLICTS WITH OTHER LAWS, ORDINANCES OR REGULATIONS

1. If any provisions of this UDO are inconsistent with similar provisions of State or Federal law, the more restrictive provision shall control, to the extent permitted by law.
2. Conflicts and duplications among portions of this UDO shall be resolved in favor of the more stringent regulation.
3. The adoption of this Ordinance shall have the following effect upon violations of the previous ordinance that existed on the effective date of this Ordinance:

C. CONFLICTS WITH PRIOR ORDINANCES

If the circumstances that constituted the violation under the previous ordinance do not constitute a violation under this Ordinance, then no further punitive or corrective action shall be taken with respect to the previous violation.

1. If the situation that constituted the violation under the previous ordinance continues to constitute a violation under this Ordinance, then appropriate corrective or punitive action may be taken under this Ordinance.
2. If a non-conforming situation or condition was created under the previous ordinance and that non-conforming situation or condition resulted in a violation of that ordinance, and the violation consisted of the failure to correct or terminate the non-conforming situation when required to do so under the previous Ordinance, and under the new Ordinance the situation or condition is still not permissible, then passage of the new Ordinance shall not prevent appropriate enforcement action to require the termination of the non-conforming situation, even if termination of the non-conforming situation would not be required under this Ordinance.

1.8 SEVERABILITY

It is expressly declared that this UDO and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the UDO are declared invalid or unconstitutional.

- A. If any section, subsection, sentence, or phrase of this UDO is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this UDO shall not be affected.
- B. If any court of competent jurisdiction invalidates the application of any provision of this UDO, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

1.9 ZONING MAP

A. GENERALLY

The Official Zoning Map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The Official Zoning Map and prior zoning maps shall be kept on file with the Village Clerk and is available for public inspection by appointment. The original official version of the map shall be certified by the Clerk. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the Village, and shall only be amended in accordance with this Ordinance. In accordance with N.C. Gen. Stat. § 160D-105, the Village Clerk shall certify the Official Zoning Map for use as evidence in a court of law.

B. INCORPORATED BY REFERENCE

The Official Zoning Map, and all the notations thereon, is incorporated herein by reference and made part of this Ordinance.

C. ZONING CLASSIFICATION OF LANDS ADDED TO JURISDICTION

1. VILLAGE COUNCIL DETERMINATION

The Village Council shall determine the zoning designation of lands added to the village's jurisdiction through annexation or through extensions of the Village's extraterritorial jurisdiction at the time such lands are added based on the following factors: The land's designation on adopted plans addressing the Village's growth and development;

- (a) The land's current land use;
- (b) The existence of a previously-approved site or subdivision plan;
- (c) The character of adjacent lands;
- (d) Current county zoning classifications, if applicable;
- (e) Landowner requests; and
- (f) Other factors considered relevant at the time of the annexation.

2. RELATIONSHIP TO VOLUNTARY ANNEXATION REQUESTS

Where an area is proposed to be added to the village's jurisdiction through a landowner's petition for voluntary annexation, the landowner may submit an application for a Zoning Map Amendment (See *Section 3.5 UNIFIED DEVELOPMENT ORDINANCE, COMPREHENSIVE LAND USE PLAN, AND COMPREHENSIVE PLAN AMENDMENTS*) requesting a specific zoning district classification along with the annexation petition. In such a case, the public hearing for the Zoning Map Amendment application may be held concurrently with any public hearing required for the annexation.

D. INTERPRETATION OF OFFICIAL ZONING MAP BOUNDARIES

1. The Building Inspector shall be responsible for interpretations of the Official Zoning Map in accordance with the following requirements:
 - (a) Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.
 - (b) Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.
 - (c) Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
 - (d) Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundary as they existed when the boundary was established.
 - (e) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
2. If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.
3. Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Building Inspector shall have the authority to interpret the district boundaries. Appeals of the Building Inspector's decision shall be reviewed by the Board of Adjustment in accordance with *Section 3.8, APPEAL*.

E. CHANGES TO OFFICIAL ZONING MAP

Changes made in zoning district boundaries, including requests for a rezoning, or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of *Section 3.5* of this Ordinance. Changes shall be entered on the Official Zoning Map by the Building Inspector promptly after the amendment is approved by the Village Council. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Building Inspector may enter on the Official Zoning Map notations reflecting the ordinance wording. The Building Inspector shall maintain copies of superseded versions of the Official Zoning Map for historical reference.

1.10 TRANSITIONAL PROVISIONS

A. VIOLATIONS CONTINUE

Subject to the specific provisions of *Section 1.7* above, any violation of the previous zoning regulations or subdivision regulations shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in *Section 9, ENFORCEMENT*, and any other applicable ordinances, laws, or statutes, unless

the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

B. COMPLETE APPLICATIONS

1. Any development application submitted and accepted as complete before effective date, but still pending final action as of that date, the applicant may choose which version of the regulation applies to the application as set forth in G.S. 160D-108(b). No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Chapter 9, NONCONFORMITIES*.
2. Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time the application is accepted as complete. If a development is approved, but does not commence and continue within the required time frames, it shall expire and future development of the property shall be subject to the requirements of this Ordinance.
3. An applicant with a pending complete application accepted before effective date may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

C. APPROVED APPLICATIONS

Any development approval granted before the effective date of this Ordinance shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development application for the site shall be subject to the procedures and standards of this Ordinance. To the extent, a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Chapter 9, NONCONFORMITIES*.

D. NONCONFORMITIES

If any use, structure, lot, or sign legally existed on the effective date, but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of *Chapter 9, NONCONFORMITIES*.

1.11 VESTED RIGHTS AND PERMIT CHOICE

A. ESTABLISHMENT

The North Carolina General Assembly, pursuant to GS 160D-108, recognizes that local government approval of land-use development typically follows significant landowner investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land-use planning development regulation process, secure the reasonable expectations of landowners, and

foster cooperation between the public and private sectors in the area of land-use planning and development regulation. These provisions strike an appropriate balance between private expectations and the public interest.

B. PERMIT CHOICE

An application made in accordance with the Village of St. Helena regulation is submitted for a development approval required pursuant to this ordinance and a development regulation changes between the time the application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance development regulation will apply to the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in subsection (d) of this section.

C. PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Village of St. Helena Building Inspector, who shall make an initial determination as to the existence of the vested right. The Building inspector's determination may be appealed under G.S. 160D-4-5. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-4-5(c).

D. TYPES AND DURATION OF STATUTORY VESTED RIGHTS

Except as provided by this section and subject to subsection (b) of this section, amendments in local development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

1. Six months -- Building permits. Pursuant to G.S. 160D-11-9, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
2. One year -- Other local development approvals. Pursuant to G.S. 160D-4-3(c), unless otherwise specified by this section, statute, or local ordinance,⁸³ all other local development approvals expire one year after issuance unless work has substantially commenced.⁸⁴ Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.
3. Two to five years -- Site specific vesting plans.
 - a. Duration. A vested right for a site specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the local

government. A local government may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be in the discretion of the local government and shall be made following the process specified by subsection (c) below for the particular form of a site specific vesting plan involved.

- b. Relation to building permits. A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S.160D-11-9 and G.S. 160D-11-13 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.
- c. Requirements for site specific vesting plans. For the purposes of this section a “site-specific vesting plan” means a plan submitted to a local government describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site specific vesting plan defined by the relevant development regulation and the development approval that triggers vesting shall be so identified. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In the event a local government fails to adopt a regulation setting forth what constitutes a site specific vesting plan, any development approval shall be considered to be a site specific vesting plan. A variance shall not constitute a “site specific vesting plan” and approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site specific vesting plan.
- d. Process for approval and amendment of site specific vesting plans. If a site specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site specific vesting established by this subsection. If the site specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-6-2 shall be held. A local government shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific vesting plan shall be deemed approved upon the effective date of the city’s local government’s decision approving the plan or such

other date as determined by the governing board upon approval thereto. An approved site specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

4. Seven years -- Multi-phase developments. A multi-phased development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For purposes of this subsection, "multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
5. Indefinite -- Development agreements. A vested right of reasonable duration may be specified in a development agreement approved under Article 10 of NCGS 160D.

E. CONTINUING REVIEW

Following approval or conditional approval of a site specific development plan statutory vested right, a local government may make subsequent reviews and require approvals by the city local government to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The local government may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

F. EXCEPTIONS

A vested right, once established as provided for by subdivisions (3) or (4) of subsection (d)

Chapter 2. Administration

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Chapter 2 – Administration

2.1 REVIEW AND DECISION-MAKING BODIES

The following bodies and Village staff have powers and responsibilities in administering and reviewing applications for development under this Ordinance:

- Village Council;
- Planning Board;
- Board of Adjustment; and
- Building Inspector.

2.2 VILLAGE COUNCIL

A. POWERS AND DUTIES

The Village Council (sometimes referred to in this Ordinance as “Council”) has the following responsibilities in relation to this Ordinance:

1. Hear and decide applications for amendments to the text, schedules, and map portions of this Ordinance
2. Hear and decide applications for Special Use Permits, as specified in this Ordinance
3. Establish rules of procedure for the conduct of hearings and other proceedings before the Council.
4. Make the necessary appointments to the Building Inspector, Planning Board, and Board of Adjustment.
5. Provide by appropriation, funds for the administration of this Ordinance.
6. Such other actions as are, or may be, authorized by North Carolina General Statutes Chapter 160D-200.

B. MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

Membership, appointment, and terms of office for Village Council members are established in the Village of St. Helena Charter.

C. QUORUM AND NECESSARY VOTE

Quorum and voting requirements are established in the North Carolina General Statutes.

D. RULES OF PROCEDURE

Amendments to this Ordinance shall be processed in accord with the provisions of *Section 3.5, UNIFIED DEVELOPMENT ORDINANCE, COMPREHENSIVE LAND USE PLAN, AND COMPREHENSIVE PLAN AMENDMENTS*, and with the Rules of Procedure of the Village Council and of the Planning Board. The Village Council, in exercising this power, are bound by the State's enabling legislation, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.

E. CONFLICTS OF INTEREST

Governing board members shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of

the property subject to a rezoning petition or the applicant for the text amendment is a person with whom the member has a close familial, business, or other associational relationship. A member of the Village Council 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 not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affect person, or a financial interest in the outcome of the matter.

2.3 PLANNING BOARD

The Planning Board is hereby established in accordance with the North Carolina General Statutes 160D-301.

A. POWERS AND DUTIES

A planning board may be assigned the following powers and duties:

1. Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;
2. Facilitate and coordinate citizen engagement and participation in the planning process;
3. Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
4. Advise governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
5. Exercise any functions in the administration and enforcement of various means for carrying out plans that the council governing board may direct;
6. Provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board;
7. Perform any other related duties that the governing board may direct.

B. MEMBERSHIP

The Village of St. Helena Planning Board shall consist of at least six (6) members. All members appointed to boards shall, before entering their duties, qualify by taking an oath of office as required by 160D-309.

C. APPOINTMENT

Five (5) members shall be citizens and residents of the Village of St. Helena and shall be appointed by the Village Council; One (1) member shall be a citizen and resident of the territory surrounding the Village as described in the North Carolina General Statute 160D-307, and shall be appointed by the Pender County Board of Commissioners. The member appointed as extraterritorial member shall have equal rights, privileges, and duties as other board members, regardless of whether the matters at issue arise within the Village or the extraterritorial area

D. STAFF

The Building Inspector shall provide staff support to assist the Planning Board in carrying out its duties.

E. MEETINGS

1. MEETING MINUTES

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2. OPEN TO THE PUBLIC

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by the North Carolina General Statutes, as amended.

F. QUORUM

A quorum shall consist of a majority of the full board, less any empty seats.

G. RULES OF CONDUCT

Members of the Board may be removed for cause, including violation of any rule stated below.

1. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from three (3) regularly scheduled Board meetings during any one (1) calendar year shall be considered cause for dismissal from the Board.
2. No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided, however, that members may receive and/or seek information pertaining to the case from any other member of the Board or Building Inspector prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board. Failure to do so may be grounds for dismissal from the Planning Board.
3. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.
4. If a Planning Board member is discovered to have violated the above rules of conduct, the Planning Board may decide whether to recommend dismissal to the Village Council. It shall be the responsibility of the Village Council to remove a Planning Board Member for cause whether or not recommended for dismissal by the Planning Board.

H. CONFLICT OF INTEREST

Members of the Planning Board shall not vote on any matter that the member is likely to have a direct, substantial, and readily identifiable financial impact. The member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.4 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby established in accordance with the North Carolina General Statutes.

A. POWERS AND DUTIES

The Board of Adjustment shall have the following powers:

1. Hear, review, and decide appeals from and review any order, requirement, decision, or determination made by the Building Inspector in the performance of official duties.
2. Hear and decide applications for variances in accordance with *Section 3.7, VARIANCES*. Nothing in this Ordinance shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted use nor Conditional Use.
3. Pass upon, decide, or determine such other matters as may be required by this Ordinance.

B. MEMBERSHIP

The Village Board of Adjustment shall consist of five (5) members and the Village at its discretion may appoint as many as two (2) alternate members. All members appointed to boards shall, before entering their duties, qualify by taking an oath of office as required by 160D-309.

C. APPOINTMENT

Four (4) members and one alternate shall be citizens and residents of the Village of St. Helena and shall be appointed by the Village Council; One (1) member and one alternate shall be citizens and residents of the territory surrounding the Village as described in the North Carolina General Statute 160D-307, and shall be appointed by the Pender County Board of Commissioners. The members appointed as extraterritorial members shall have equal rights, privileges, and duties as other board members, regardless of whether the matters at issue arise within the Village or the extraterritorial area. All Board of Adjustment appointments shall be for a term of three (3) years.

D. TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term.

E. STAFF

The Building Inspector shall provide staff support to assist the Board of Adjustment in carrying out its duties.

F. MEETINGS

1. Meeting Minutes

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2. Open to the Public

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by the North Carolina General Statutes, as amended.

G. QUORUM AND NECESSARY VOTE

1. A quorum of the Board of Adjustment, necessary to conduct any business of the Board, shall consist of four (4) members.

2. A simple majority vote of those Board members present shall be sufficient to conduct administrative business of the Board.

H. RULES OF CONDUCT

Members of the Board may be removed for cause, including violation of any rule stated below.

1. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from three (3) scheduled Board meetings during any one (1) calendar year shall be considered cause for dismissal from the Board.
2. No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided, however, that members may receive and/or seek information pertaining to the case from any other member of the Board or Building Inspector prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board. Failure to do so may be grounds for dismissal from the Board of Adjustment.
3. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.
4. If any objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

I. CONFLICTS OF INTEREST

A member 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 not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affect person, or a financial interest in the outcome of the matter.

2.5 VILLAGE STAFF

A. BUILDING INSPECTOR

The Building Inspector shall accept all applications, issue or deny all Zoning Permits, investigate all complaints, give notice of violations, and enforce the provisions of this ordinance. All violations of this Ordinance shall be reported to the Village Attorney who shall have authority to bring actions for proceeding to enforce the provisions of this Ordinance.

The Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to ensure compliance with this Ordinance.

B. CONFLICTS OF INTEREST

No staff member shall make a final decision on an administrative decision required by this Unified Development Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the Village Council. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Unified Development Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Chapter 3. Administrative Procedures

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Chapter 3 – Administrative Procedures

3.1 FEES

- A. 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, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, and other administrative relief. The amount of the fees charged shall be as set forth in the Village’s budget or as established by resolution of the council filed in the office of the Village clerk.
- B. Fees established in accordance with subsection A shall be paid upon submission of a signed application or notice of appeal.
- C. Attorneys’ fees; cities acting outside the scope of their authority in any action in which a city is a party, upon a finding by the court that a city violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys’ fees and costs to the party who successfully challenged the city’s or county’s action. In any action in which a city county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of N.C. GS 160D-108 the court shall award reasonable attorneys’ fee and costs to the party who successfully challenged the local government’s failure to comply with any of those provisions. In all other matters, the court may award reasonable attorneys’ fees and cost to the prevailing private litigant. For the purposes of this section “unambiguous” means that the limits of authority are not reasonably susceptible to multiple constructions. N.C. GS 6-21.7 Section 1.11.

3.2 COMMON REVIEW PROCEDURES

A. COMPLETE APPLICATIONS

All applications for any approval required by this Ordinance must be complete. The Building Inspector will review applications for completeness before continuing the application process. Applicants who submit incomplete applications will receive a written notice stating the information needed to complete the application. No application will be considered complete until all fees required by the Village’s fee schedule have been paid in full.

1. COMPLETENESS REVIEW

Upon receipt of an application, the Building Inspector shall determine if the application is complete. A complete application is one that:

- (a) Contains all information and materials established by the Building Inspector as required for submittal of the particular type of application;
- (b) Is in the form established by the Building Inspector as required for submittal of the particular type of application;
- (c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this Ordinance; and
- (d) Is accompanied by the fee established for the particular type of application.

B. EXPEDITIOUS REVIEW

Village shall make every reasonable effort to process applications expeditiously, consistent with the need to ensure that all development conforms to the requirements of this chapter.

C. FEES

Filing fees for all development approvals pursuant to this ordinance shall be established by the Fee Schedule adopted by the Village Council.

D. AUTHORITY TO FILE

Applications for any approval or permit required by this Ordinance must be signed by the property owner, a designated owner's agent, or a contract purchaser of a property with authorization of the property owner. Written proof of authority must be submitted with every application.

3.3 TYPOGRAPHICAL ERRORS

Typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes may be corrected by the Building Inspector without formal adoption by the Village Council provided that such corrections do not change the meaning of the Ordinance. Any correction made pursuant to this section shall be reported in writing to the Village Council and made a part of the Council's regular meeting minutes.

3.4 CREATION OF NEW LOTS/DIVISION OF LAND

A. AUTHORITY

The Village of St. Helena may by ordinance regulate the subdivision of land within its planning and development regulation jurisdiction as per North Carolina General Statute 160D-801.

B. APPLICABILITY

Subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition on or be subject to the regulations authorized by this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Village of St. Helena as shown in its subdivision regulations.
2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Village of St. Helena, as shown in the subdivision regulations.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

C. REVIEW REQUIRED

Subsequent to the effective date of this Ordinance, no land within the Village of St. Helena planning jurisdiction shall be subdivided, or re-subdivided and offered for sale, gifted, exchanged, or in any other way conveyed until a plat thereof has been approved as herein provided. No plat shall be recorded by the Pender County Register of Deeds until this approval is entered in writing on the face of the plat as herein provided.

D. THE REVIEW REQUIRED IS DETERMINED BY THE NUMBER OF NEW LOTS TO BE CREATED AS FOLLOWS:

1. EXEMPT PLATS: Exempt plats as defined by North Carolina General Statute 160D-802 shall be reviewed by Village Staff and must meet standards defined in 3.4(E), EXEMPT PLATS below.
2. FAMILY DIVISION: must meet the standards in Section 3.5 (F), FAMILY DIVISION below.
3. MAJOR SUBDIVISIONS: Divisions of land resulting in the creation of two (2) or more new lots from a single tract of land

E. EXEMPT PLATS

1. Property owners or their authorized agents must present a paper or recordable map to Building Inspector for determination of whether the action created by the recording of the map meets the Ordinance standards to be exempt.
2. If the proposal meets the exemptions listed in this Ordinance or in N.C. Gen. Stat. § 160D-802, the Building Inspector shall sign an exemption note on the face of the recordable map before it is recorded.
4. If the proposal does not meet the exemptions, the Building Inspector shall return the unsigned map to the property owner or authorized agent with a written description of why the map does not qualify to be exempt.

F. FAMILY SUBDIVISION

1. Limitations

- a. Family Subdivisions are permitted on parcels that have been created and recorded in the Registry before August 29, 2003.
- b. All resulting parcels (including the remnant parcel) shall meet the requirements of this Ordinance.
- c. The division does not create a new public or private street.

2. Requirements

- a. The plat shall be clearly designated “Family Subdivision” in bold letters.
- b. The Grantor and grantee statement shall appear on the plat and be signed by the Grantor(s) prior to approval.
- c. Certification by the licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 foot drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,
- d. The plat shows any designated Special Food Hazard Areas located within the subdivision,
- e. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance.

F. SKETCH PLAN

If the land to be subdivided contains more than ten (10) acres, the subdivider shall submit a sketch plan prior to submitting a preliminary plat. Smaller subdivisions may be submitted in sketch plan form if the developer wishes. Sketch plans shall conform to the following requirements:

1. *Number of Copies and Graphic Media.* A minimum of six (6) copies of a sketch design plan shall be submitted. No specific graphic media must be employed.

2. *Size of Plan and Scale.* No specific size requirements apply to sketch design plans; it is suggested that the requirements applicable to preliminary and final plats be utilized.
3. *Administrative Fees.* No administrative fees are charged in connection with the submission of sketch design plans.
4. *Certification Required.* No certificates must be provided in connection with the submission of sketch design plans.
5. *Contents Required.* The sketch design plan shall depict or contain the following information:
 1. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
 2. The boundaries of the tract and the portion of the tract to be subdivided;
 3. The total acreage to be subdivided;
 4. The existing and proposed uses of the land within the subdivision and adjacent to it;
 5. The proposed street and layout;
 6. The name, address, and telephone number of the owner;
 7. Streets and lots of adjacent developed or platted properties;
 8. The zoning classification(s) of the tract and of adjacent properties.
6. *Review Procedure.* The Planning Board shall review the sketch design plan for general compliance with the requirements of this Ordinance; the Planning Board shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. His review shall in no way be constructed as constituting an official action of approval for recording of the subdivision by the Planning Board or Village Council as required by this Ordinance.
7. *Disposition of Copies.* One copy shall be retained as a part of the minutes of the Planning Board with the other copy being returned to the subdivider or his authorized agent.

G. PRELIMINARY PLAT

A preliminary plat shall be submitted to the Planning Board at least fourteen (14) days prior to a regular meeting of the Planning Board and at least one meeting after a sketch design has been submitted, for every subdivision of land which is located within the territorial jurisdiction established by Section 2-2, hereof.

1. *Number of Copies and Graphic Media.* Eight (8) copies of the preliminary plat shall be submitted; no specific graphic media must be employed. Three (3) copies shall be disposed of as provided under Subsection (H); five (5) copies shall be distributed for review as provided in Subsection (G).

2. *Size of Plat and Scale.* The size and scale shall be the same as that required for a final plat.
3. *Administrative Fees.* Administrative fees may be charged in accordance with a schedule set by the Village Council.
4. *Certifications Required.* No certifications must be provided in connection with the submission of preliminary plats. See Section 21-8, regarding approval of utilities.
5. *Contents Required.* The preliminary plat shall depict or contain the information outlined in Section 20-5; plats not illustrating or containing the required data shall be returned to the subdivider, or his authorized agent for completion and resubmission.
6. *Environmental Impact Statement.* Pursuant to Chapter 113A of the North Carolina General Statutes, the Planning Board may require the subdivider to submit an environmental impact statement with his preliminary plat if:
 - a) The development exceeds two acres in area, and
 - b) If the Board deems it necessary due to the nature of the land to be subdivided, or peculiarities in the proposed layout;
7. *Review Procedure.* The Planning Board shall review and take action on each preliminary plat within thirty (30) days after first consideration by the Planning Board. First consideration shall be at the next regularly scheduled meeting of the Planning Board that follows at least fourteen (14) days after the plat is submitted. Before taking final action on the plat, the Planning Board shall refer copies of the plat and any accompanying material to those public officials and agencies concerned with new development, including, but not limited to Code Enforcement Office, Pender County Health Department, the District Engineer of the NCDOT Division of Highways (four copies), Pender County Soil Conservation Service Office, and Pender County School Board for review and recommendation.
8. *Disposition of Copies.* If the plat is approved, approval shall be noted on at least three (3) copies of the plat by the Secretary of the Planning Board. One (1) copy shall be transmitted to the Village Clerk who shall retain it for public examination, one (1) copy shall be returned to the subdivider, and one (1) shall be retained by the Planning Board.

If the preliminary plat is disapproved, the planning Board shall specify the reasons for such action in writing. One (1) copy of such reasons shall be retained by the Planning Board, one (1) copy shall be given to the subdivider, and one (1) copy shall be transmitted to the Village Clerk. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Village Council.

H. FINAL PLAT

1. *Improvements Installation or Guarantees.* Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the

installation or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance.

Prior to approval of a final plat, the subdivider shall have installed improvements specified in this Ordinance or guaranteed their installation as provided.

2. *Performance Guarantee.* In lieu of prior construction of the improvements required by this Ordinance, the Village of Saint Helena may, for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out according to the Village's specifications at his expense. Such guarantee may be in the form of :

- Surety bond issued by any company authorized to do business in this state,
- Letter of credit issued by any financial institution licensed to do business in this state,
- Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

Such guarantee shall be in the amount of not less than 100% not more than 125% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Village Council. Performance guarantees shall run for a period of one (1) year and may be renewed once for a period of one (1) year upon written approval from the Village Council.

3. *Defects Guarantee.* The Village Council may require a bond guaranteeing utility taps, curbs, gutters, street payment, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one (1) year. This bond shall be in the amount determined by the Director of Public Works or Consulting Engineer and shall be in cash or be made by a surety company authorized to do business in North Carolina.

4. *Maintenance Guarantee.* The Village Clerk shall secure from all subdividers a letter in which said subdivider shall agree to maintain the backfill and any improvements located thereon and therein and any ditch which has been dug in connection with the installation of such improvements. Such letter shall be binding on the subdivider for a period of one (1) year after the acceptance of such improvements by the Village of Saint Helena.

5. *Final Plat Review Contingent upon Execution of Guarantees.* No final plat will be accepted for review by the Planning Board of Village Council unless accompanied by written notice by the Code Enforcement Officer acknowledging compliance with this Ordinance.

6. *The Final Plat.* The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of this Ordinance.

No final plat shall be approved unless and until the subdivider shall have installed in that area represented on the final plat all improvements required by this Ordinance or shall have guaranteed their installation as provided for in Subsections A, B, and C hereof.

7. *Plat Submitted.* The subdivider shall submit the final plat, so marked, to the Chairman of the Planning Board or his designee not less than fourteen (14) days prior to the Planning Board meeting, at which it will be considered for approval; further, the plat shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved, otherwise such approval shall be null and void unless a written extension of this time limit is granted by the Planning Board on or before the on-year anniversary of this approval.

8. *Plat Prepared.* The final plat shall be prepared by a surveyor or professional engineer licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of Section 47-30 of the General Statutes of North Carolina.

9. *Number of Copies and Graphic Media.* Five (5) copies of the final plat shall be submitted; two (2) of these shall be drawn in ink on linen or film suitable for reproduction; three (3) shall be black or blue line paper prints.

10. *Size of Plat and Scale.* Final plats may have an outside marginal size of not more than twenty-four (24) inches by thirty-six (36) inches nor less than eight and one-half (8 ½) inches by fourteen (14), including one and one-half (1 ½) inch border on each of the other sides. Where size of land areas or suitable scale to assure legibility require, maps may be placed on two or more sheets with appropriate match lines. Final plats shall be drawn at a scale of one (1) inch equals two hundred (200) feet or greater.

11. *Certification Required.* The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning Board by the Subdivider.
 - a) Certificate of Ownership and Dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Village of Saint Helena and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, open space, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the Village of Saint Helena.

Owner(s)

Date

- b) Certificate of Survey and Accuracy. In accordance with G.S. 47-30: There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The

execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments, and shall be in substantially the following form:

"I, _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book __, Page __, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D. 20____."

Seal or Stamp

Surveyor

Registration Number

The certificate of the Notary shall read as follows:

North Carolina, _____ County.

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

Seal or Stamp

Notary Public

My commission expires _____.

- c) Certification of Approval of Water Supply and Sewage Disposal Systems. I hereby certify that the water supply and sewage disposal systems installed, or proposed for installation in _____ Subdivision meet necessary public health requirements (as described in Article 23 of the this Ordinance) and are hereby approved.

County Health Officer
or his Authorized Representative

Date

(Certification not required for subdivisions which are connected, or will be connected, to existing publicly owned and operated water supply and sewage disposal systems.)

- d) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements. I hereby certify that all streets, utilities, and other required improvements have been installed in accordance with NC Department of Transportation specifications and standards, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Village of Saint Helena has been received, and that the filing fee for this plat, in accordance with the Village's Fee Schedule, has been paid.

Building Inspector

Date

- e) Certificate of Disclosure; Pender County Floodplain Management Regulations, if applicable, to be signed by owner: I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of Pender County floodplain management regulations prior to the issuance of building permits.

Date

Owner's Signature

Owner's Signature

- f) Acknowledgment of Compliance (Private Developments). I, _____, (name of developer and/or seller) hereby certifies that the streets, parks, open space, or other areas delineated hereon and dedicated to private use, and all traffic markings and control devices shall not be the responsibility of the public or the municipality, acting on behalf of the public, to maintain. Furthermore, prior to entering any agreement or any conveyance with any prospective buyer, I shall prepare and sign, and the buyer of the subject real estate shall receive and sign, an acknowledgment of receipt of a disclosure statement. The disclosure statement shall fully and completely disclose the private areas and include an examination of the consequences and responsibility as to the maintenance of the private areas, and shall fully and accurately disclose the party or parties upon whom the responsibility for construction and maintenance of such private areas shall rest.

Date

Signature of Developer and/or Seller

Signature of Developer and/or Seller

- g) Notwithstanding any other provision contained in this Section, it is the duty of the surveyor, by a certificate on the face of the plat, to certify to one of the following:
1. That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
 2. That the survey is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
 3. That the survey is of an existing parcel or parcels of land;
 4. That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, and other exception to the definition of a subdivision;
 5. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in Section 20-4(K)(1) through (K)(5) above.

However, if the plat contains the certificate of a surveyor as stated in (a), (d), or (e) above, then the plat shall have, in addition to said surveyor's certificate, a certification of approval, or no approval required, as may be required by local ordinance from the appropriate government authority before the plat is presented for recordation. If the plat contains the certificate of a surveyor as stated in (b) and (c), above, nothing shall prevent the recordation of the plat if all other provisions have been met.

12. *Contents Required.* The final plat shall depict or contain the information outlined in Section 20-5; plat not illustrating or containing the required information shall be returned to the subdivider or his authorized agent for completion and resubmission.
13. *Review Procedure.* Final plats shall be reviewed according to the following procedure:
- a) *Planning Board Review.* The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration.

During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, in the opinion of the Planning Board, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

If the Planning Board approves the final plat, such approval shall be indicated on each copy of the plat by the following signed certificate:

Certification of Approval by the Planning Board. The Village of Saint Helena Planning Board hereby approves the final plat for the _____ Subdivision.

Chairman, Saint Helena Planning Board Date

If the Planning Board disapproves the final plat, the Planning Board shall state in writing its reasons for such action, specifying the provisions of this Ordinance with which the plat does not comply. One (1) copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval; one (1) copy shall be retained by the Planning Board as a part of its proceedings, and one (1) copy shall be sent to the Village Clerk. If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Planning Board.

If the Planning Board fails to approve or disapprove the final plat within thirty (30) days after first consideration, as previously defined in Section 20-3(G), such failure shall be deemed approval and shall constitute grounds for the subdivider to apply for final approval by the Village Council.

- b) *Village Council Review.* If the Village Council approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Village of Saint Helena, North Carolina, and that this plat has been approved by the Village Council for recording in the Office of the Register of Deeds of Pender County.

Village Clerk Date
Saint Helena, North Carolina

If the final plat is disapproved by the Village Council, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this Ordinance with which the final plat does not comply. One (1) copy of such reasons shall be retained by the Village Council as a part of its proceedings, one (1) copy shall be transmitted to the Planning Board; and one (1) copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this Ordinance and resubmit same for reconsideration by the Planning Board.

14. *Effect of Plat Approval on Dedication.* The approval of the final plat shall not be deemed to constitute or effect the acceptance by the Village of Saint Helena of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Village of Saint Helena may by resolution of the Village Council accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedications of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the Village shall not require the Village to open, operate, repair, or maintain any street utility line or other land or facility, and the Village shall in no event be responsible in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

15. *Disposition of Copies.* If the final plat is approved by the Village Council, the original tracing and one (1) print of the plat shall be returned to the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Village Clerk; one (1) print shall be retained by the Planning Board.

16. *Recording of the Final Plat.* The subdivider shall file the approved final plat with the Register of Deeds of Pender County for recording within ninety (90) days after the date of Village Council approval; otherwise, such approval shall be null and void.

17. *Resubdivision Procedures.* For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that (a) no lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan; (b) drainage, easements, or rights-of-way shall not be changed; (c) street alignment and block sizes shall not be changed; (d) the property line between the back of the lots shall not be changed; (e) the rear portion of lots shall not be subdivided from the front part; and (f) the character of the area shall be maintained.

I. INFORMATION TO BE CONTAINED IN OR DEPICTED ON ALL PRELIMINARY AND FINAL PLATS

The preliminary and final plats shall depict or contain the information indicated in the following table. An “x” indicates that the information is required.

Information	Preliminary Plat	Final Plat
Title Block Containing:		
• Property Designation	X	X
• Name of Owner	X	X
• Location (including township, county, and state)	X	X
• Date or dates survey was conducted and plat prepared	X	X
• A scale of drawing in feet per inch listed in words or figures	X	X

Information	Preliminary Plat	Final Plat
<ul style="list-style-type: none"> • A bar graph • Name, address, registration number, and seal of the Registered Land Surveyor 	X X	X X
The name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area. Scale: 1" = 400'	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X
The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	X	X
The registration numbers and seals of the professional engineers	X	X
Date of plat preparation	X	X
North arrow and orientation	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjacent lands		X
The names of owners of adjacent property	X	X
The names of any adjacent subdivisions of record or proposed and under review	X	X
Building line minimum	X	X
The zoning classifications of the tract to be subdivided and adjacent properties	X	
Existing property lines on the tract to be subdivided and on adjacent properties		X
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjacent	X	X
Proposed lot lines, lot and block numbers, and approximate dimensions	X	
The lots numbered consecutively throughout the subdivision		X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural	X	

Information	Preliminary Plat	Final Plat
features affecting the site		
The exact location of the flood hazard, floodway, and floodway fringe areas from the Pender County Official Flood Insurance Map	X	X
The following data concerning streets:		
Proposed public streets	X	X
Proposed private streets	X	X
Existing and platted streets on adjacent properties and in the proposed subdivision	X	X
Rights-of-way, location, and dimensions in accordance with Section 21-9 of this Ordinance	X	X
Pavement widths	X	X
Approximate grades	X	X
Design engineering data for all corners and curves	X	X
Typical street cross-sections	X	X
Street names	X	X
For private streets, a street maintenance agreement in accordance with Section 21-9(C) of this Ordinance		X
Type of street dedication; all streets must be designated either “public” or “private”. The subdivider must submit all public or private street plans to the Land Use Administrator for approval prior to preliminary plat approval. Where public streets are involved which will not be dedicated to the Village of Saint Helena, the subdivider must submit the following documents to the NC Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths, and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	X	X
Where streets are dedicated to the public, but not accepted into the Village of Saint Helena system or the state system before lots are sold, a statement explaining the status of the street in accordance with Section 21-9 of this Ordinance		X

Information	Preliminary Plat	Final Plat
If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Regulations. Evidence that the subdivider has obtained such approval	X	
The location and dimension of all of the following:		
Utility and other easements	X	X
Riding trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the zoning classification of each stated	X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands	X	
The plans for utility layouts including: Sanitary sewers Storm sewers Other drainage facilities, if any Water distribution lines Natural gas lines Telephone lines Electric lines illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains, and gate valves	X X X X X X X	X X X X X X X
Plans for individual water supply and sewage disposal systems, if any	X	X
Profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers	X	
Site calculations including:		
Acreage in total tract to be subdivided	X	
Acreage in parks and recreation and open space areas and other nonresidential areas	X	
Total number of parcels created	X	
Acreage in the smallest lot in the subdivision	X	

Information	Preliminary Plat	Final Plat
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute		x
The accurate locations and descriptions of all monuments, markers, and control points		x
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas or open space areas are established	x	x
Where land disturbing activity is an acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of Environment and Natural Resources, which complies with NCGS ' 113A, Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to submittal of a final plat for approval	x	
Topographic maps with contour intervals of no greater than five (5) feet at a scale of no less than one (1) inch equals four hundred (400) feet	x	
404 wetland areas as determined by the Wilmington District office of the U.S. Army Corps of Engineers	x	x
All certifications required in Section 20-4(K)		x
Any other information considered by either the subdivider, the Planning Board, or Village Council, to be pertinent to the review of the plat	x	x
All mapping shall comply with G.S. 47-30	x	x

J. APPEALS OF DECISIONS ON SUBDIVISION PLATS

Appeals of subdivision decisions may be made pursuant to North Carolina General Statute 160D-1403

3.5 UNIFIED DEVELOPMENT ORDINANCE, COMPREHENSIVE LAND USE PLAN, AND COMPREHENSIVE PLAN AMENDMENTS

A. INTENT

It is the intent of this section to set forth the procedures for amending this Ordinance, including the Official Zoning Map, as well as the Comprehensive Land Use Plan. Amendments shall be made by

formal action of the Village Council. All proposed amendments shall be referred to the Planning Board for its consideration and recommendation. In no case shall final action be taken to amend this Ordinance until a duly advertised public hearing is held.

B. GENERAL STANDARDS/FINDINGS OF FACT

Before amending this Ordinance or the Official Zoning Map, the Village Council must find, after conducting the process below, that the request is not inconsistent with the adopted Comprehensive Plan for the Village of St. Helena, or, if found to be inconsistent with the Comprehensive Plan, the Village Council must amend the Comprehensive Plan.

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of the Village Council. In determining whether to adopt a proposed amendment, the Village Council shall consider and weigh the relevance of the following factors:

1. The extent to which the proposed amendment is consistent with all applicable Village-adopted plans;
2. The extent to which there are changed conditions that require an amendment;
3. The extent to which the proposed amendment addresses a demonstrated community need;
4. The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land;
5. The extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;
6. The extent to which the proposed amendment would encourage premature development;
7. The extent to which the proposed amendment would result in strip or ribbon commercial development;
8. The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts;
9. The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and
10. The extent to which the proposed amendment would result in significantly adverse environmental impacts , including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

C. AUTHORITY TO APPLY

1. AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE

Subject to the limitations of the foregoing statement of intent, an amendment to this Ordinance, including the Official Zoning Map, may be initiated by:

- (a) The Village Council on its own motion;
- (b) The Planning Board;
- (c) The Board of Adjustment;
- (d) Building Inspector
- (e) Any person or agency

2. AMENDMENTS TO THE COMPREHENSIVE LAND USE PLAN

Any property owner or other person or entity establishing a sufficient legal interest in a parcel may apply to amend the Comprehensive Land Use Plan designation on the parcel.

D. PRE-APPLICATION

Applicants seeking to amend the Official Zoning Map shall, before submitting an application for a Zoning Map Amendment, participate in a pre-application meeting with the Building Inspector.

E. STAFF REVIEW

Upon receipt of an application to amend this Ordinance, the Official Zoning Map, or the Comprehensive Land Use Plan the Building Inspector shall first determine if the application is complete (including the submission of the required application fee).

Applications which are not complete, or which otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Building Inspector, but shall be returned to the applicant with a notation by the Building Inspector of the deficiencies in the application. Once the application is deemed complete, it will be placed on the next available public hearing agenda.

F. PLANNING BOARD RECOMMENDATION

The Planning Board shall within thirty (30) days after notification of an application hold a meeting to discuss, prepare, and submit for the Village Council a recommendation concerning the application.

G. PUBLIC HEARING

The Village Council shall hear applications for amendments to these documents at a Public Hearing. The Village Council, in its discretion, shall schedule the date and time for public hearings on applications.

1. NOTICE OF PUBLIC HEARING

All notices required under this Ordinance shall comply with the North Carolina General Statutes. In addition, all notices shall, unless otherwise specified in this Ordinance, comply with the following.

(a) Published Notice

Notice of each public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the Village, stating the time and place of such hearing and the substance of the proposed amendment, in accordance with the provisions of N.C. Gen. Stat. § 160D-601. This notice shall appear in said newspaper for two (2) successive weeks prior to the public hearing, the first publication not less than ten (10) days nor more than twenty-five (25) days prior to the hearing.

(b) Mailed Notice

In the case of a proposed Zoning Map amendment, in addition to the public notice requirement established in *Section 3.5(G)(1)(a)* above, the Building Inspector shall give notice by first class mail to the owner of the subject property and to all abutting property owners of the subject property. The Building Inspector shall certify to the Village Council that such notice was given.

(c) Posted Notice

In the case of a proposed Zoning Map amendment, the Building Inspector shall post notice on the subject property(ies) of the time, date, and location of the public hearing, and a summary of the requested amendment in a form established by the Building Inspector, at least ten (10) days before the date fixed for public hearing. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. The posted notice shall remain in place until after a final decision is rendered on the application. The posted notice shall be placed in a manner to provide visibility from the public right-of-way. The applicant shall ensure that the posted notice is maintained on the land until completion of the public hearing on the application.

2. POST-HEARING PROCESS

The public hearing on an amendment to this Ordinance, the Zoning Map, or the Comprehensive Land Use Plan, is formally closed by a motion and vote of the Council members present at the hearing.

I. VILLAGE COUNCIL ACTION

The Village Council shall not take action on the proposed amendment until thirty (30) days after the date the Planning Board was notified of the application or until the Planning Board makes its recommendation, whichever comes first.

J. FORMALIZING THE OUTCOME

The Village Council's action on a proposed amendment shall be in the form of an ordinance amending the applicable document. An amendment is effective immediately, unless some other effective date is specified in the amending ordinance.

K. APPEAL

Text and map amendments are legislative actions of the Village Council. Any person seeking to challenge the validity of any amendment to this Ordinance may challenge such amendment by filing an appropriate action in the Pender County Superior Court within the time established by N.C. Gen. Stat. § 160D-1405.

L. EFFECT OF DENIAL OR WITHDRAWAL

An applicant may withdraw his or her application for an amendment at any time by written notice to the Building Inspector. When the Village Council shall have acted upon an application or the application shall have been withdrawn after the first notice of the public hearing thereon, the Village shall not accept another application for the same or similar text or Official Zoning Map amendment, affecting the same property or a portion of it, until the expiration of a six (6) month period, extending from the date of action or withdrawal. The Village Council may on its own motion, however, initiate an amendment of this nature prior to the expiration of the six (6) month period.

M. VESTING

Amendments to this Ordinance, the Zoning Map, or the Comprehensive Land Use Plan do not qualify as site specific development plans and do not establish statutory vested rights.

N. DEVIATIONS, MODIFICATIONS, REVOCATION, EXPIRATION

Text and map amendments enacted by the Village Council are legislative actions and are not subject to deviations, modifications, revocation, or expiration except through specific action to further amend these documents.

3.6 SPECIAL USE PERMIT

A. INTENT

Special Uses because of their inherent nature, extent of development, or external effects, require special care in the control of their location, design and methods of operation, in order to insure protection of the public health, safety and welfare. It is the intent of this section to set forth the information to be submitted with applications for Special Use Permits and to state the standards by which each application shall be judged.

The criteria and procedures established in this section are intended to ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the proposed development to natural features and

neighboring developments, access and circulation systems, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring development and streets, and mitigation of traffic impacts.

B. APPLICABILITY

An application for a Special Use Permit (SUP) may be submitted when the use is designated Special Use in the Permitted Use Table.

C. GENERAL STANDARDS/FINDINGS OF FACT

The Village Council shall not approve an application for a Special Use Permit unless it makes each of the following findings concerning the proposed special use:

1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
2. The use meets all required conditions and specifications;
3. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property, or the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the St. Helena Comprehensive Land Use Plan.

D. APPLYING THE ORDINANCE TO DETERMINE COMPLIANCE WITH STANDARDS TO MAKE FINDINGS OF FACT

1. All of the requirements in this ordinance apply to applications for Special Use Permits.
2. Certain uses require specialized information, which are contained in *Chapter 5, USE STANDARDS*. To the extent that any person applies for a Special Use Permit not specifically listed in *Section 5*, the requirements in *Section 5.2(MM) USE REQUIRING SPECIAL USE PERMITS BASED ON THE SIZE, INTENSITY, OR LOCATION OF THE USE* shall apply.
3. As Special Uses may have unique characteristics that may not be adequately addressed with development standards for routine uses, an applicant may request a waiver to any provision in *Chapter 6* (excluding *Section 6.20, STORMWATER ORDINANCE*), together with an explanation of why the waiver or modification is appropriate, including testimony as to why the proposed solution included in the application is equal or superior to the result achieved through the strict application of the provisions in *Chapter 6*. The Building Inspector and Planning Board may offer recommendations to the Village Council regarding any requested waiver or modification and the sufficiency of the evidence in support of granting the waiver or modification. Any approval of a Special Use Permit shall specifically detail any and all waiver(s) or modification(s) granted to the applicant.

E. SPECIALIZED INFORMATION AND FINDINGS REQUIRED FOR ALL SPECIAL USE PERMITS

The Village of St. Helena recognizes that the Special Use Permit process affords the Village and applicant a unique opportunity to cooperate and encourage development that is mutually beneficial. The Village requires applicants for Special Use Permits to provide additional information and amenities within their projects to offset the possible waiver of strict ordinance compliance and to recognize the impacts of sizable or unique developments can have on quality of life for St. Helena residents. All applicants for Special Use Permits shall include information about the following in their submittals and shall address how their proposal satisfies each of the findings of fact in *Section 3.6(C), GENERAL STANDARDS/FINDINGS OF FACT*:

F. PROCEDURE

1. **AUTHORITY TO APPLY**

Applications for Special Use Permits may be made by the owner of the property or the owners authorized representative (including but not limited to a contract purchaser of the property, provided that such contract purchaser or other authorized representative produces evidence of authority to proceed with the application)

2. **PRE-APPLICATION**

Applicants are encouraged to meet with Building Inspector before filing a Special Use Permit application to review specific permit and application requirements.

3. **APPLICATION REQUIREMENTS**

Special Use Permit applications shall be filed with the Building Inspector. The Building Inspector shall prescribe the form(s) on which applications are made.

4. **STAFF REVIEW**

Upon receipt of a Special Use Permit application, the Building Inspector shall first determine whether the application is complete, including the payment of all required application fees. If the Building Inspector determines that the application is not complete, it shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Building Inspector shall analyze the application in conjunction with qualified representatives of the Village and such other agencies or officials as may be appropriate, to determine conformity with the Comprehensive Land Use Plan, the provisions of this Ordinance, and other regulations applicable in the case.

G. BURDEN OF PRESENTING EVIDENCE

The burden of presenting a complete application shall at all times be upon the applicant. However, unless the Building Inspector informs the applicant at or before the hearing on the application that, and in what way, the application is incomplete, and offers the applicant an opportunity to complete the application, the application shall be presumed to be complete.

Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to allow the permit-issuing board to conclude that the application should be denied for any reasons stated in *Section 3.6(C), GENERAL STANDARDS/FINDINGS OF FACT*, shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any other reasons set for in *Section 3.6(C), GENERAL STANDARDS/FINDINGS OF FACT*, rests on the party or parties urging the requested permit should be denied.

H. PLANNING BOARD REVIEW AND RECOMMENDATION

The Planning Board shall within thirty (30) days after notification of an application hold a meeting to discuss, prepare, and submit for the Village Council a recommendation concerning the application.

I. PUBLIC HEARING

After notice in accordance with *Section 3.6(I)(1), NOTICE OF PUBLIC HEARING*, is given the Village Council shall hold a public hearing on the application. The Village Council, in its discretion, schedules the date and time for a public hearing for a Special Use Permit application.

The public hearing on a Special Use Permit application shall be a quasi-judicial hearing open to the public. At the hearing, the applicant and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions. Reasonable and equitable limitations may be placed on the presentation of evidence and arguments, and the cross-examination of witnesses, so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

When the applicant presents substantial and competent evidence that the proposed development will satisfy the general standards established by *Section 3.6(C), GENERAL STANDARDS/FINDINGS OF FACT*, above and will conform to all specific provisions applicable to that particular special use as established by this Ordinance, persons opposed to the application shall have the burden of presenting substantial and competent evidence contrary to the applicant's evidence or substantial and competent evidence that the proposed development will violate one or more of the general standards set forth in *Section 3.8(C), GENERAL STANDARDS/FINDINGS OF FACT*, or any of the specific standards for the particular special use established by this Ordinance. If no such evidence is submitted, the applicant shall be granted the permit. If substantial and competent evidence in opposition to the application is submitted, the applicant shall have the burden of overcoming that evidence with further evidence of his/her own.

A record of the proceedings of the hearing shall be made and shall include all application materials and documentary evidence presented at the hearing.

1. NOTICE OF PUBLIC HEARING

Notice of the public hearing on a Special Use Permit application shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation. The notice shall be published the first time not less than ten (10) days no more that twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Written notice shall be sent to all adjacent property owners not less than ten (10) days before the hearing date. Adjacent property owners are those whose property lies within one hundred and fifty (150) feet of the affected property and whose names and addresses are currently listed in the county tax records.

Posted notice shall be posted by the Building Inspector on the subject property stating the date, time and location of the public hearing at least ten (10) days before the date fixed for public hearing.

2. POST-HEARING PROCESS

The public hearing on a Special Use Permit application is formally closed by a motion and vote of the Council members present at the hearing.

3. VILLAGE COUNCIL ACTION

The Village Council shall not consider the approval of the Special Use Permit until the Planning Board makes its recommendation.

The Village Council shall review the record of the public hearing, the Planning Board's recommendation, and the Building Inspector's report and shall take action on the application based on findings of fact as to the determinations required in *Section 3.6(C), GENERAL STANDARDS/FINDINGS OF FACT*, and the applicable standards for the specific special use as

established by this Ordinance. All findings shall be based on competent evidence presented at the public hearings.

The Village Council may impose such reasonable conditions upon approval of a SUP as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and equitable treatment provided. Written consent to all conditions related to the special use permit must be received from the applicant to ensure enforceability.

All conditions of approval shall run with the land and use and shall be binding on the original applicant(s) as well as all successors, assigns, and heirs. If the Village Council denies the permit, the reasons for its action shall be recorded in the minutes of the meeting.

J. FORMALIZING THE OUTCOME

The Building Inspector shall cause notice of the disposition of the application to be delivered to the applicant and any party who has filed a written request for a copy with the Building Inspector at the time of the hearing, and shall cause a copy of the decision to be filed in the Building Inspector.

Any construction authorized by a Special Use Permit must receive construction drawing approval and a Zoning Compliance Permit as detailed in *Section 3.10, ZONING COMPLIANCE PERMITS*.

K. APPEAL

An aggrieved party may appeal a decision by the Village Council on an application for a Special Use Permit to the Pender County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N. C. Gen. Stat. § 160D-1405(d).

L. EFFECT OF DENIAL OR WITHDRAWAL

When the Village Council shall have denied an application or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in *Section 3.6(I), NOTICE OF PUBLIC HEARING*, the Building Inspector shall not accept another application for the same or similar Special Use, affecting the same property or a portion thereof, until the expiration of six months from the date of denial or withdrawal.

M. VESTING

A vested right pursuant to *Section 1.11, VESTED RIGHTS* is established by the issuance of a Special Use Permit pursuant to this section.

N. DEVIATIONS

After a Special Use Permit has been approved, the Building Inspector is authorized to approve minor changes in the approved plans of Special Uses, as long as they are in harmony with action of the Village Council but the Building Inspector shall not have the authority to approve changes that constitute a modification of the approved plans. A modification shall require approval of the Village Council. If the Building Inspector is uncertain whether a requested deviation is a "minor change" or a "modification", it shall be treated as a modification and referred to the Village Council for review and approval.

O. CRITERIA USED FOR DETERMINATION

The Building Inspector shall use the following criteria in determining whether a proposed action is a minor change or a modification:

1. Any change in a specific condition imposed during the approval of a Special Use Permit shall constitute a modification.

2. A substantial change in use or enlargement by greater than ten (10) percent of an authorized use shall constitute a modification.
3. A ten (10) percent or greater increase in intensity of use shall constitute a modification. An increase in the number of dwelling units is an example of an increase in intensity of use.
4. An increase of intensity of less than ten (10) percent may be considered a minor change if the Building Inspector finds that the development, as changed or modified, will continue to be in general conformance with the approved Special Use Permit.
5. Structural alterations which significantly affect the basic size, form, style, ornamentation, and/or character of buildings shown on an approved plan or described in the applicant's narrative shall be considered a modification.
6. Substantial change in the amount and/or location of open space, recreation facilities or landscape screening shall constitute a modification. Changes to signage which increase the number of signs, or increase the sign face area, beyond that approved as part of the Special Use Permit process shall be considered modifications.
7. Any change in parking areas resulting in an increase or reduction of ten (10) percent or more in number of spaces shall constitute a modification.
8. Substantial change in pedestrian and/or vehicular access or circulation patterns shall constitute a modification.
9. Any change in a setback required by the provisions of this Ordinance or imposed as a condition of approval shall constitute a modification.
10. Substantial change in the location or extent of street and utility improvements or rights-of-way, including water, sewer, and storm drainage facilities, which would result in a different level of service than was represented to the Village Council during the public hearing process, shall constitute a modification.
11. Any combination of minor changes that in the determination of the Building Inspector are, taken together, substantial in nature.

P. REVIEW OF RECORD REQUIRED

The Building Inspector shall, before deciding whether a proposed change to a special use is a minor change or modification, review the record of the proceedings of the original Special Use Permit approval. The Building Inspector's decision shall be based upon the applicant's request, a review of the record of the original request, and the Building Inspector's findings under the criteria of *Section 3.6(O), CRITERIA USED FOR DETERMINATION*.

Q. ACTION REQUIRED ON PROPOSED MINOR CHANGES

If the Building Inspector determines that the proposed action is a minor change, he/she shall state its findings in writing to the applicant. The applicant shall file with the Building Inspector's an amended site plan, or written statement, outlining in detail the minor change(s) proposed. The Building Inspector shall file the amended site plan or written statement with the originally approved site plan.

R. ACTION REQUIRED ON PROPOSED MODIFICATIONS

If the Building Inspector determines that the proposed action is a modification, he shall require the applicant to submit a request for modification of the approved Special Use Permit. The applicant shall provide an amended site plan and written narrative outlining the specific changes requested. The Building Inspector shall submit the request to the Village Council. If the Village Council finds the modification substantial in its impact, or wishes to have additional public input, it may set a public hearing to receive testimony concerning the modification request. Any public hearing called pursuant to a request for a modification of an approved SUP shall be held in conformity with the requirements of *Section 3.6(I), PUBLIC HEARING*. The Village Council may approve, approve with conditions or disapprove the application for a modification.

S. REVOCATION

The Village Council may revoke a Special Use Permit if it finds that any one, or more, of the following conditions:

1. That any governmental license or permit required for the activity authorized by a Special Use Permit has not been obtained or has been terminated; or
2. That any of the applicable requirements of this Ordinance or any conditions attached to the Special Use Permit, or modification thereof, have been violated.

The Village Council may consider reapplication for a Special Use Permit on property on which a previous permit has expired pursuant to *Section 3.6(T), EXPIRATION* or has been revoked under this section, provided that all of the standards which are set forth in this Ordinance are met.

T. EXPIRATION

An approved Special Use Permit expires 12 months from the date of approval if the Zoning Permit has not been issued for the project unless an extension of the expiration date has been granted by the Village Council. Extensions may be in the form of a longer expiration time approved with the initial Special Use Permit, or a separate request made in writing before the expiration of the standard 24 months.

3.7 VARIANCE

A. INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers requests for relief relating to the requirements of this Ordinance. Nothing in this section shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted, nor Special Use.

B. APPLICABILITY

When a property owner claims that he or she cannot make reasonable use of their property if they are required to comply with the dimensional standards established by this Ordinance, such as but not limited to setback requirements, minimum lot width requirements, minimum lot area requirements and maximum height requirements, they may seek a variance from such requirement. Only the Board of Adjustment has authority to grant such variances, and then only upon application of established legal standard as set forth in this Ordinance.

C. GENERAL STANDARDS/FINDINGS OF FACT

A Variance application shall be approved only upon a finding that all of the following standards are met:

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.
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.
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. 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.

D. INSUFFICIENT JUSTIFICATION FOR VARIANCE

The following do not constitute grounds for a Variance:

1. The existence of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

E. SUBSEQUENT DEVELOPMENT

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance and/or any other applicable regulations. The granting of a Variance does not constitute and shall not be deemed to constitute a forecast that the development receiving a Variance will receive any other required approval.

F. PROCEDURE

1. APPLICATION REQUIREMENTS

An Application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Building Inspector.

2. STAFF REVIEW

Upon receipt of a variance application, the Building Inspector shall first determine whether the application is complete, including the payment of all required application fees. If the Building Inspector determines that the application is not complete, it shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Building Inspector shall analyze the application in conjunction with qualified representatives of the Village and such other agencies or officials as may be appropriate, to determine conformity with the Comprehensive Land Use Plan, any other adopted plans, the provisions of this Ordinance, and other regulations applicable in the case. The Building Inspector shall schedule the complete application for the next available meeting of the Board of Adjustment.

3. PUBLIC HEARING

Following receipt of the application from the Building Inspector, the Board of Adjustment shall conduct a quasi-judicial public hearing on the application.

4. NOTICE OF PUBLIC HEARING

Notification of hearings on variance applications shall be provided in the same manner as hearings on Special Use Permit applications as detailed in *Section 3.6(I)(1), Notice of Public Hearing*.

5. PUBLIC HEARING

Following receipt of the application from the Building Inspector, the Board of Adjustment shall conduct a quasi-judicial public hearing on the application. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions, based on the standards in *Section 3.6(C)(1) through 3.6(C)(4), GENERAL STANDARDS/FINDINGS OF FACT*:

- (a) Approve the application as submitted;
- (b) Approve the application subject to conditions; or

- (c) Deny the application.

The affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote is required to grant a variance.

G. FORMALIZING THE OUTCOME

The applicant shall receive a written notification of the outcome or final decision by the Board of Adjustment at the conclusion of the review process. The date of this written notice will initiate the appeal time frame for the decision. The applicant will also be required to record a notice of the Variance, which will be provided by the Building Inspector, with the Pender County Register of Deeds.

H. APPEAL

An aggrieved person may appeal a decision by the Board of Adjustment on an application for a Variance to the Pender County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N.C. Gen. Stat. § 160D-1405(d).

I. MODIFICATIONS

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

J. EXPIRATION

Variance approval shall automatically expire if the applicant does not record the Variance with the Pender County Register of Deeds within thirty (30) days after the date the Variance is approved. Except where required as a prerequisite for a Site Plan associated with new development, an approved and recorded Variance shall run with the land. In cases where a Variance is a prerequisite to site plan approval, failure of an applicant to apply for a Zoning Compliance Permit and commence construction within one year of receiving Variance approval shall automatically render the decision of the Board of Adjustment null and void. Such time period shall not be extended with transfer of ownership.

3.8 APPEAL

A. INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers appeals from any order, requirement, decision or determination made by the Building Inspector concerning the enforcement of this Ordinance.

B. APPLICABILITY

The Board of Adjustment shall hear an appeal taken by any aggrieved person regarding a decision or determination made by the Building Inspector concerning the enforcement of this, within the times provided by this Ordinance.

C. GENERAL STANDARDS

In deciding appeals, the Board of Adjustment may hear those arguments based upon an allegedly improper or erroneous interpretation of the ordinance. The Board of Adjustment will:

1. Interpret the meaning of parts of this Ordinance, and
2. Apply the Ordinance provisions to particular fact situations in the application.

D. PROCEDURE

1. APPEAL REQUIREMENTS

Unless another time is specifically established by this Ordinance, appeals shall be filed within thirty (30) days of the date of the written determination being appealed. The appeal shall be filed with the Village Clerk.

2. STAFF REVIEW

Upon receipt of an appeal, the Village Clerk shall first determine whether the application is complete, including the payment of all required application fees. If the Village Clerk determines that the application is not complete, it shall notify the appellant in writing of the reasons for such determination. The Building Inspector shall prepare a staff report detailing the situation involved in the appeal. Once a complete application has been received, the Village Clerk shall schedule the complete application for the next available meeting of the Board of Adjustment.

3. PUBLIC HEARING

Following receipt of the appeal from the Village Clerk, the Board of Adjustment shall conduct a quasi-judicial public hearing on the appeal.

4. NOTICE OF PUBLIC HEARING

Written notice shall be mailed to the aggrieved person (applicant), property owner involved in original case being appealed (if different), and the Building Inspector.

5. PUBLIC HEARING

Following receipt of the application from the Village Clerk, the Board of Adjustment shall conduct a quasi-judicial public hearing on the application. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions:

- (a) Affirm, wholly or partly, the determination being appealed;
- (b) Reverse, wholly or partly, the determination being appealed; or
- (c) Modify the determination which is being appealed.

The Board of Adjustment may include direction to the appealed entity for how it should carry out the direction from the Board.

The majority of the members of the Board of Adjustment who are eligible to vote is required to grant an appeal (overturn a determination).

E. FORMALIZING THE OUTCOME

The Board of Adjustment's decision on the appeal shall be reduced to writing and transmitted to the appellant by first class mail.

F. APPEAL

An aggrieved person may appeal a decision by the Board of Adjustment on an application for appeal to the Pender County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N.C. Gen. Stat. § 160D-1405(d).

G. EXPIRATION

The decision on an appeal before the Board of Adjustment, if attached to a development approval, shall run with the approval period of that permit or approval.

3.9 SITE PLAN REVIEW

A. INTENT

It is the intent of this section to address the specific conditions and standards of evaluation for the review of site plans.

B. APPLICABILITY

Site Plan review is the general term used to describe review of projects other than (a) the construction of single family dwellings on lots zoned for single family uses and (b) uses requiring a Special Use Permit.

The Site Plan Review process is applicable only to proposed development involving the disturbance of 3 acres or less and/or involving the construction of new structures or additions consisting of 7,000 square feet or less of gross floor area in any general purpose zoning district. Projects that exceed this threshold are required to pursue a Special Use Permit in accordance with the standards and provisions established by Section 3.6, Special Use Permit, of this Ordinance.

C. GENERAL STANDARDS/FINDINGS OF FACT

The following specific standards shall apply to the review of a site plan:

1. The use is a permitted use according to the Use Table for the district in which the property is situated.
2. The lot area satisfies the minimum requirement for the district, or, if legal nonconforming, is of sufficient size that all required parking, access, yard areas, and buffers are provided without any variance to the stated standards of the Unified Development Ordinance.
3. A fire protection plan has been reviewed and approved in writing by the Fire Marshal.
4. A landscaping plan which meets the requirements of this Ordinance has been submitted.
5. The proposed exterior lighting plan and signs meet all the requirements of this Ordinance.
6. Driveways meet requirements for restricting access to the property and design standards for safety and storm water control.
7. The parking layout meets the minimum standards of this Ordinance and controls storm water runoff onto streets and adjacent properties.
8. Grading, storm drainage and soil erosion control plans have been approved in writing by North Carolina Department of Environmental Quality.
9. The location, buffers, and/or screening, and construction specifications for any required or proposed trash containers meet the minimum requirements of this Ordinance.
10. The site plan shows the location of and distance to any structures within one hundred (100) feet of the lot for which the site plan application is submitted. The site plan must show all other significant physical features within one hundred (100) of the lot boundary.

D. PROCEDURE

1. AUTHORITY TO APPLY

The owner of any property, or their authorized representative, may apply to the Building Inspector for site plan approval.

2. PRE-APPLICATION CONFERENCE

Before submitting an application for site plan approval, the applicant shall first meet with the Building Inspector to review the proposed plan and the requirements of this Ordinance.

E. APPLICATION REQUIREMENTS

The Building Inspector shall provide forms for applications for site plan approval, which shall be submitted by the applicant. Applicants for site plan approval shall submit all information required to

be submitted with Special Use Permit applications as set forth in *Section 3.6, Special Use Permit*, and any additional information needed to demonstrate and support compliance with the standards of evaluation. No application shall be accepted as complete unless accompanied by all required fees as set forth in the Schedule of Fees.

F. REVIEW PROCESS

1. The Building Inspector shall review and, if the site plan submitted otherwise meets all of the standards of this Ordinance, approve site plans for uses permitted as of right where
 - (a) less than 3 acres of land will be disturbed by the proposed development,
 - (b) no new structure consists of more than 7,000 square feet of gross floor area, and/or
 - (c) no addition to an existing structure consists of more than 7,000 square feet of gross floor area.
2. The Building Inspector shall each have the authority to refer a site plan to the Village Council, as appropriate, if an application involves unusual circumstances, or potential impacts on public health, safety or general welfare, or on sensitive cultural, historic or natural resources in the opinion of the reviewer. Such referral shall be made in writing to the applicant and review entity, detailing the specific reason for the referral.
4. If a Site Plan is denied for lack of compliance with provisions in Chapter 5 of this Ordinance, the applicant shall have the option to file an appeal with the Board of Adjustment consistent with *Section 3.9(H), Appeal*. The Board of Adjustment may apply its authority to grant waivers of provisions in *Chapter 5* during its review of an appeal of this type.

G. DECISIONS ON SITE PLAN APPLICATIONS

The Building Inspector shall have the authority to approve site plans, or to deny site plan approval on the grounds that:

1. The site plan submitted fails to comply with any specific requirements of this Ordinance;
2. The site plan submitted fails to adequately protect residentially zoned property, or property in a residential use; or
3. The site plan submitted fails to provide safe conditions for pedestrians or motorists. All such decisions shall be made in writing, and the written decision shall be filed with the Building Inspector and sent to the applicant by first class mail.

H. APPEAL

A decision of the Building Inspector on an application for a Site Plan Review may be appealed to the Board of Adjustment by an aggrieved party. Such appeal shall be made within thirty (30) days of filing of the decision in the office of the Village Clerk.

I. VESTING

No statutory vested right is established by approval of a site plan except in the case of a site plan approved by the Village Council following the Special Use Permit process.

J. MODIFICATIONS

Approval of modifications can be made to the approved Site Plan by applying the procedures and criteria found in *Sections 3.6(Q), ACTIONS REQUIRED OF PROPOSED MINOR CHANGES* and *3.6(R), ACTIONS REQUIRED ON PROPOSED MODIFICATIONS OF THIS ORDINANCE*.

K. REVOCATION

Site Plan Approval may be revoked by the issuing authority following the same procedure and applying the same criteria as established for revocation of Special Use Permits in *Section 3.6(S), REVOCATION*.

L. EXPIRATION

Site plan approval expires twelve (12) months from the date of approval if a Zoning Compliance Permit has not been issued for the project.

3.10 ZONING COMPLIANCE PERMIT

A. INTENT

The intent of the Zoning Compliance Permit is to provide written documentation of the completion of the development review processes under this Ordinance. This permit is a prerequisite to securing a Building Permit. A Zoning Compliance Permit documents a project's compliance with this Ordinance without regard to any contractual or other arrangements (including, but not limited to restrictive covenants) among private parties which may also affect the use of the property.

B. APPLICABILITY

It shall be unlawful to begin construction, place, or move any structure (including signs) or to begin to grade or excavate for immediate construction until the Building Inspector has issued for such work a Zoning Compliance Permit. A Zoning Compliance Permit signifies a determination that the site plan, building specifications and the intended use of such structure conform in all respects to the provisions of this Ordinance.

Also, it shall be unlawful to change the type of use or type of occupancy of any building, or to alter or extend any use of any lot on which there is a non-conforming use, until the Building Inspector has issued for such intended use a Zoning Compliance Permit, including a determination that the proposed use conforms in all respects to the provisions of this Ordinance.

C. GENERAL STANDARDS/FINDINGS OF FACT

The application materials, when taken together provide sufficient evidence for the Building Inspector to conclude that the project, with reasonable conditions, will comply with the provisions of this ordinance.

D. PROCEDURE

If the proposed excavation, construction, relocating, alteration, or use of land as set forth in the application is in conformity with the provisions of this Ordinance, the Building Inspector shall issue a Zoning Compliance Permit; however,

1. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provision of this Ordinance.
2. Under no circumstances is the Building Inspector permitted to vary the terms of this Ordinance, deviate from the apparent meaning of any clause, standard, or regulation contained in this Ordinance, or otherwise afford special treatment to any person making application to excavate, construct, move, alter, or use either buildings, structures, or land.
3. Under no circumstances is the Building Inspector permitted to make any changes to this Ordinance.
4. The Building Inspector shall issue a Stop Work Order if a project is found to be under construction without a Zoning Compliance Permit, if a Zoning Compliance Permit is revoked in accordance with Section 3.10(I), Revocation, or if work being undertaken is contrary to this Ordinance or any permit issued pursuant to this Ordinance.

E. FORMALIZING THE OUTCOME

The Building Inspector shall issue a permit when the applicable provisions of this Ordinance are satisfied.

If an application for such a permit is not approved, the Building Inspector shall state in writing the reason(s) for such denial.

F. APPEAL

Persons aggrieved by a decision or a determination made by the Building Inspector may appeal that action to the Board of Adjustment, following the procedures established in *Section 3.8, APPEAL*.

G. DEVIATIONS

If a site inspection reveals work undertaken does not comply with conditions and specifications of an approved Zoning Compliance Permit, the approved permit may be revoked or a stop work ordered issued. Such stop work order shall remain in effect until the Building Inspector determines that the work is in compliance with the provisions of this Ordinance.

H. MODIFICATIONS

A Zoning Compliance Permit may be modified at the request of the applicant at any time before it expires. Such modification must comply with all provisions of this ordinance. All modifications must be documented in writing.

I. REVOCATION

The Building Inspector shall revoke a Zoning Compliance Permit if it is found to be issued in violation of any provisions of this Ordinance, or if the conditions stated on the permit are not satisfied.

J. EXPIRATION

A Zoning Compliance Permit shall be valid for 12 months from the date of issuance. In the case that the Zoning Compliance Permit authorizes a construction project that takes more than 12 months to complete, the permit shall be valid so long as the Building Permit for the project remains active and unexpired.

3.11 CONDITIONAL REZONING

A. AUTHORITY

The Village may establish zoning districts by means of conditional zoning in accordance with G.S. 160D-703.

B. PURPOSE

In cases where the standards of a general (base) zoning district are inadequate to ensure that development allowed by the district will conform to the Village's adopted plans or to appropriately address the impacts expected to be generated by such development, a landowner may apply for a Conditional Rezoning. Such rezoning establishes a conditional zoning district that is equivalent to the general (base) zoning district, but subject to additional conditions or restrictions that the applicant and the Village mutually agree are necessary to ensure conformance to adopted plans and adequately address expected development impacts. The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish conditional zoning districts.

C. INITIATION

In accordance with the North Carolina General Statutes, an application for a Conditional Rezoning may be initiated only by the owner(s) or a duly authorized representative of the property owner of all the property included in the proposed conditional zoning district.

D. PROCEDURE

1. BASIC PROCEDURES

- (a) Except as modified by *Section 3.11(D)(2)-(10)* below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications are as established in *Section 3.2, COMMON REVIEW PROCEDURES*.
- (b) Specific steps to be completed before any Public Hearing on the application include:
 - i. Pre-Application Conference with Village Staff
 - ii. Community Meeting with area residents and property owners
 - iii. Submittal of complete application
 - iv. Staff Review and Report on the complete application

2. PRE-APPLICATION CONFERENCE ON SITE PREFERRED

For conditional rezoning requests, the pre-application conference required shall include a meeting with the Village Staff, preferably on-site, to discuss a Sketch Plan of the proposed development conditions and to identify possible unique situations that should be incorporated into the Sketch Plan prior to filing for rezoning.

3. INFORMATIONAL MEETING REQUIRED

After the Pre-Application Conference, but before the submittal of a formal application, a Community Meeting shall be held in accordance with the requirements set forth below.

Before the Planning Board will review a petition for a conditional zoning district, the applicant must file with the Building Inspector a written report of a minimum of two (2) community meetings held by the applicant. Notice of such a meeting shall be given to property owners and tenants adjacent to the proposed project and within five hundred (500) feet of the area to be considered. At least one community meeting shall be after 6pm in the evening. Notice of both meetings shall be given two weeks in advance. The report shall include, among other information, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date, time, and location of the meeting; a roster of the persons in attendance at each meeting; a summary of issues discussed at the meeting; and description of any changes to the rezoning petition made by the petitioner as a result of the meeting. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Village Council in the rezoning request but shall not be subject to judicial review.

4. APPLICATION TO INCLUDE CONDITIONS FOR DEVELOPMENT

The application shall include a Sketch Plan that depicts the conditions upon which the property will be developed, including the general configuration and relationship of the principal elements, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, stormwater management, and open space. The application shall include mapped and written conditions proposed by the applicant consistent with the provisions of *Section 3.11(D)(9), CONDITIONS OF APPROVAL*.

5. APPLICATION MAY INCLUDE VESTED RIGHTS REQUEST

The applicant may request approval of the application to establish a vested right in accordance with Section 160D-108 of the North Carolina General Statutes. Concurrent with the application

for a conditional rezoning, the application shall include a written request for such a vested right and a plan that shows at least the information specified to be the North Carolina General Statute definition of a site-specific development plan.

6. REVIEW AND STAFF REPORT BY BUILDING INSPECTOR

Before review by the Planning Board the application shall be reviewed by the Building Inspector, who may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.11(D)(9), CONDITIONS OF APPROVAL*. Only those revisions agreed to in writing by the applicant shall be incorporated into the application and may be reflected in the Staff Report.

7. REVIEW AND RECOMMENDATION BY PLANNING BOARD

- (a) Following staff review, the Planning Board shall review the application. The Planning Board shall make a recommendation to Village Council based upon the application, consistency with the Comprehensive Plan, relevant support materials, the staff report, and any comments given by the public. Upon making a decision, the Planning Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in *Section 3.11(E), CONDITIONAL REZONING STANDARDS*:
 - i. Approval of the application subject to the conditions included in the application;
 - ii. Approval of the application subject to any revised or additional conditions agreed to by the applicant, in writing;
 - iii. Denial of the application; or
 - iv. Continuance of the hearing.
- (b) As part of its review of the application, the Planning Board may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.11(D)(9), CONDITIONS OF APPROVAL*. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.
- (c) In making its recommendation, the Planning Board shall adopt a written Statement of Consistency and Reasonableness that:
 - i. describes whether the decision is consistent with all Village-adopted plans that are applicable; and
 - ii. explains why the decision is reasonable and in the public interest.

8. PUBLIC HEARING, REVIEW, AND DECISION BY VILLAGE COUNCIL

- (a) Following staff review and receipt of the Planning Board's recommendation, the Village Council shall conduct a standard, legislative public hearing on the application. After close of the hearing, the Village Council shall consider the application, consistency with the Comprehensive Plan, relevant support materials, the staff report, the Planning Board recommendation, and any comments given by the public.
- (b) As part of its review of the application, the Village Council shall review the proposed conditions and may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.11(D)(9), CONDITIONS OF APPROVAL*.
- (c) The Village Council, by a majority vote of a quorum present shall take one of the following actions based on the Map Amendment (Rezoning) Standards:
 - i. Approval of the application subject to the conditions included in the application;
 - ii. Approval of the application subject to any revised or additional conditions agreed to by the applicant, in writing;

- iii. Denial of the application; or
- iv. Remand of the application back to the Planning Board for further consideration during a standard public hearing notice;
- v. Continuance of the hearing

- (d) Regardless of its decision on the proposed amendment, the Village Council will render a decision based upon a Statement of Consistency and Reasonableness that:
 - i. describes whether the decision is consistent with all Village-adopted plans that are applicable; and
 - ii. explains why the decision is reasonable and in the public interest

9. CONDITIONS OF APPROVAL

- (a) Only conditions mutually agreed to by the owners of the property to be rezoned and the Village may be applied to a conditional rezoning district. Conditions must be agreed to in writing by both parties.
- (b) Conditions shall be limited to those that address conformance of development and use of the site with Village regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site
- (c) Conditions may be in the form of text or of plans and maps
- (d) No condition shall be less restrictive than the standards of the parallel general use (base) zoning district, any applicable overlay zoning district standard, or other applicable requirement of this Ordinance.

10. EXPIRATION

- (a) If no application for approval of a Subdivision Preliminary Plat or Site Plan (Major or Minor) for any part of the rezoned land is submitted within two years after approval of the Conditional Rezoning, the Building Inspector shall initiate a Map Amendment (Rezoning) application to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. A change in ownership of the land shall not affect this time period. However, this period may be approved for up to five (5) years under relevant circumstances as provided for in *Section 3.11(D)(10)(b)* below.
- (b) For some developments, Village Council may provide that the expiration period under *Section 3.11(D)(10)(a)* may exceed two (2) years but shall not exceed five (5) years, as 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. Such a determination shall be in the sound discretion of the Village Council. As a condition of approval when an extended expiration period is requested, the Village may require the applicant to submit a phased development plan.
- (c) Upon written request submitted at least thirty (30) days before expiration of the timeframe provided for in *Section 3.11(D)(10)(b)* above, and upon a showing of good cause, the Building Inspector may grant one (1) extension not to exceed six (6) months for the applicant to submit required development applications.

E. CONDITIONAL REZONING STANDARDS

Review of and the decision on a Conditional Rezoning application shall be subject to the Map Amendment (Rezoning) Standards

F. EFFECT OF APPROVAL

Lands rezoned to a conditional zoning district shall be subject to the standards applicable to the parallel general use (base) zoning district, as modified by the more restrictive conditions proposed by the applicant and approved by the Village Council. The applicant shall record the restrictive conditions of approval with the Register of Deeds. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Official Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals only in accordance with the approved conditions and appropriate procedures and standards set forth in this Ordinance.

G. MINOR DEVIATIONS FROM CONDITIONS

1. Subsequent plans and permits for development within the Conditional Zoning District may include minor deviations from the approved conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the Conditional Rezoning review process or any other change that has no material effect on the character of the approved conditional zoning district or any of its approved terms and conditions. The following shall constitute examples of minor deviations:
 - (a) Floor plan revisions internal to the structure
 - (b) Minor shifts in building size or location; and
 - (c) Facility design modifications for amenities and the like

2. Changes that materially affect the basic configuration or intent of approved conditions are not considered minor deviations, and shall be amendments that may only be considered in accordance with the procedure used to establish the conditional zoning district

H. DESIGNATION ON OFFICIAL ZONING MAP

Designation of a conditional zoning district on the Official Zoning Map shall bear the same designation as the parallel general use (base) zoning district but shall also include the suffix “CZ” along with the case number approving the Conditional Rezoning.

3.12 ANNEXATION

A. AUTHORITY

Authority is given to the Village under Article 4A of the North Carolina General Statutes more specifically G.S. 160A-31 (voluntary contiguous annexation) and G.S. 160A-58.1 (voluntary satellite annexation).

B. APPLICABILITY

Voluntary annexation is a mutual agreement that results when the owners of one or more parcels of property and the Village agree that the Village will annex those parcels.

1. All voluntary annexation petitions shall be submitted and reviewed and the Village Council has discretion as to whether it annexes any property. The voluntary annexation petition shall include all the property within the parcel or parcels and may not subdivide parcels.

2. For properties located within the Village’s extraterritorial jurisdiction, if a rezoning application is submitted with the annexation petition, the rezoning and annexation shall be processed and

approved simultaneously. For properties located outside the Village's extraterritorial jurisdiction, the annexation petition must be approved prior to the rezoning application.

3. If a site and/or subdivision plan or other development plan is submitted with the annexation petition, the decision-making body responsible for approving the site and/or subdivision plan may not approve the plan until the annexation has been approved.

C. VOLUNTARY CONTIGUOUS ANNEXATION

For purposes of this section, an area shall be deemed "contiguous" if, at the time the petition is submitted, such area either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina.

Procedures for Voluntary Contiguous Annexation are set forth in G.S. 160A-31.

D. VOLUNTARY SATELLITE ANNEXATION

For the purposes of this section, an area shall be deemed "satellite" if, at the time of the petition is submitted, such area does not qualify as contiguous area under *Section 3.12(C), VOLUNTARY CONTIGUOUS ANNEXATION* above.

1. FIVE STANDARDS

The five standards a satellite annexation must meet are set out in G.S. 160A-58.1(b) as follows:

- (a) Some part of the annexation area must be within three miles of the annexing city's primary corporate limits.
- (b) No point in the annexation area may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- (c) The annexing city must be able to provide the same services to the annexation area that it provides to areas within its primary corporate limits.
- (d) If the area is a subdivision, the entire subdivision must be annexed.
- (e) The total area of a city's satellites may not exceed ten (10) percent of the area within its primary corporate limits.

2. PROCEDURES

Procedures for Voluntary Contiguous Annexation are set forth beginning in G.S. 160A-58.

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Chapter 4. Zoning Districts

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Chapter 4 – Zoning Districts

4.1 GENERAL PROVISIONS

A. TYPES OF ZONING DISTRICTS

All land within the Village of St. Helena is classified by this Ordinance to be within one of the several Base Zoning Districts or Conditional Zoning Districts, listed in *Sections 4.2 and 4.5* respectively.

B. OVERLAY ZONING AREAS AND RELATIONSHIP TO ZONING DISTRICTS

Land within any base or conditional zoning district may also be classified into one or more Overlay Zoning areas, as listed in *Section 4.6, OVERLAY ZONING DISTRICTS*. Regulations governing development in an overlay area shall apply in addition to the regulations governing development in the underlying district. If the standards governing a zoning district expressly conflict with those governing an overlay zoning area, the standards governing the overlay area shall control.

C. COMPLIANCE WITH DISTRICT STANDARDS

No land within the Village shall be developed except in accordance with the zoning district use, development standards and requirements of this chapter and all other regulations of this Ordinance, as applicable.

4.2 BASE ZONING DISTRICTS ESTABLISHED

Table 4.2.1, BASE ZONING DISTRICTS, sets out the base zoning districts established by this Ordinance.

TABLE 4.2.1 BASE ZONING DISTRICTS	
Abbreviation	Zoning District
R-12	Residential District
R-20	Residential-Agricultural District
R-40	Residential-Agricultural District
RA	Residential-Agricultural District
O&I	Office and Institutional District
B-2	Highway Business District
I-1	Light Industrial District

4.3 RESIDENTIAL BASE ZONING DISTRICTS

- A. R-12 Residential District. The R-12 Residential District is established as a district in which the principal use of land is for residential purposes and to ensure that residential development served by both community/public water and sewer systems will occur at sufficiently low densities to maintain a healthful environment. No R-12 district shall be less than twenty-five (25) acres in area. This district may be served by public water and sewer facilities.
- B. R-20 Residential-Agricultural District. The purpose of the R-20 Residential-Agricultural District shall be to maintain a compatible mixture of single-family residential and agricultural uses with a density of two families per acre. The regulations of this district are intended to discourage any use which because of its character would substantially interfere with the development of residences and which would be

detrimental to the quiet residential nature of the areas included within this district. No R-20 district shall be less than twenty-five (25) acres in size. This district may be served by public water and sewer facilities.

- C. R-40 Residential-Agricultural District. The purpose of the R-40 Residential-Agricultural District shall be to maintain a compatible mixture of single-family residential and agricultural uses with a density of one (1) dwelling unit per acre. The regulations of this district are intended to discourage any use which because of its character would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included within this district. No R-40 district shall be less than twenty-five (25) acres in size. This district may be served by public water and sewer facilities.

- D. RA Residential-Agricultural District. The purpose of this district shall be to maintain a compatible mixture of single-family residential and agricultural uses with a maximum density of one (1) dwelling units per acre. The Rural-Agricultural District is intended primarily for traditional agricultural uses, preservation of natural areas, recreation space, low density residential uses, as well non-residential uses that are associated, accessory to, or supplement typical agricultural uses. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included in this district. Manufactured homes are permitted in this district. No RA district shall be less than fifty (50) acres in area. This district is not typically serviced by public water and sewer facilities.

4.4 BUSINESS BASE ZONING DISTRICTS

- A. O&I Office and Institutional District. The Office and Institutional District is established as a district primarily for institutional, office, and commercial activities having only limited contact with the general public, not involving the sale of merchandise at retail except incidentally. The regulations of this district are intended to encourage structures surrounding with ample open spaces including that for yards and for off-street parking and loading of vehicles. This district is usually transitional in nature and as such may be situated between business and residential districts, and the regulations are designed to permit development of the permitted functions and still protect and be compatible with nearby residential districts. All O&I Office and Institutional Districts, with a total area of less than four acres, shall serve as transitional zones between high intensity and low intensity land uses. This district may be served by public water and sewer facilities.

- B. B-2 Highway Business District. The B-2 Highway Business District is defined as certain areas that are designed to serve both nonresidents and transients using the major arterials that run through or around the village. This district is intended to provide for a wide range of commercial uses which will serve the needs of the community as a whole. The district shall be located along the US Highway 117 corridor and other major thoroughfares within the Village of St. Helena. All uses within this district should have ample parking, controlled traffic movement, and suitable landscaping. It is designed to accommodate retail or service establishments customarily patronized by transient traffic as well as non-transient traffic. No B-2 district shall be less ten (10) acres in area. This district may be served by public water and sewer facilities.

- C. I-1 Light Industrial District. The I-1 Light Industrial District is intended to provide for industrial, manufacturing, assembling, and other uses which would not be inherently obnoxious and yield only very minimal noise, odor, smoke, light, vibration, dusts, or the use of dangerous chemicals and/or materials. Adequate buffering between uses within the district and other bordering districts will be required. The array of permitted uses is limited to support the environmental protection of this district and the

surrounding areas. No I-1 district will be less than ten (10) acres in area. This district may be served by public water and sewer facilities.

4.5 CONDITIONAL ZONING DISTRICT

A. INTENT

The rezoning of land to a conditional zoning district is intended to provide a landowner and the village an alternative to rezoning the land to a base zoning district, where the base zoning district allows certain uses and development that may be appropriate but also allows uses and development that may not conform to village plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the Village Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the Village to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the zoning classification.

B. ESTABLISHMENT OF CONDITIONAL ZONING DISTRICTS

Table 4.5.1, CONDITIONAL ZONING DISTRICTS, sets out the conditional zoning districts established by this ordinance. There is a conditional zoning district paralleling each base zoning district set forth in *Table 4.2.1, BASE ZONING DISTRICTS*.

TABLE 4.5.1 CONDITIONAL ZONING DISTRICTS	
Abbreviation	Zoning District
R-12-CZ	Residential District
R-20-CZ	Residential-Agricultural District
R-40-CZ	Residential-Agricultural District
RA-CZ	Residential-Agricultural District
O&I-CZ	Office and Institutional District
B-2-CZ	Highway Business District
I-1-CZ	Light Industrial District

C. CLASSIFICATION OF CONDITIONAL ZONING DISTRICTS

Land shall be classified into a conditional zoning district only in accordance with the procedures and requirements set forth in *Section 3.11, CONDITIONAL REZONING*.

D. APPLICABLE REGULATIONS

Development in a conditional zoning district shall be subject to all the use and development standards and requirements that apply to development in the parallel base zoning district, plus the conditions imposed as part of the Conditional Rezoning approval, which may not be less restrictive than the regulations for the parallel base zoning district.

E. RELATIONSHIP TO OVERLAY ZONING DISTRICTS

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conditional zoning district. If the standards governing a conditional zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay district shall control.

F. APPLIED TO ENTIRE LOT

After the effective date of this Ordinance, no application for Conditional Rezoning (See *Section 3.12*) may split an existing site or lot of record into a conditional zoning district and a base zoning district. Nothing in this subsection shall limit a conditional rezoning that splits a lot or site into two or more conditional zoning district designations.

4.6 OVERLAY ZONING DISTRICTS

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4.7 FLOOD DAMAGE PREVENTION

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Village Council of Village of Saint. Helena, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

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

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

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

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

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

- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

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

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology (*OPTIONAL*).

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means 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.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part

of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before February 17, 2011.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed. **(OPTIONAL)**

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and

(e) Is fully licensed and ready for highway use.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus zero (0) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

- (1) “Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

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

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the Village of Saint Helena.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated February 16, 2007 for Pender County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Village of Saint Helena are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION F. INTERPRETATION.

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood

Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Village of Saint Helena or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Village of Saint Helena from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Mayor or designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

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

(ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;

(v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;

- (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
 - (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - (a)
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

(3) **Certification Requirements.**

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph

of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

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

(e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
- (iii) Accessory Structures that are 150 square feet or less and meeting requirements of Article 5, Section B(8).

(4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).

- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved

application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain

Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

(1) The Board of Adjustment as established by the Village of Saint Helena, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

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

(b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(c) Any other type of development provided it meets the requirements of this Section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

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

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

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

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

(e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;

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

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

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

- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the Special Flood Hazard Area.
- (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (d) The use complies with all other applicable federal, state and local laws.
- (e) The Village of Saint Helena has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in

Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

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

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).

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

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

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

(b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(c) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

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

- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) Additions/Improvements.
- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
 - (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
 - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs

are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

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

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

(i) Be on site for fewer than 180 consecutive days; or

(ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

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

(a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

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

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

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

(e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

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

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

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

- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square foot and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

- (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of zero (0) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION H. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

(b)

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted August 25, 2011 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Village of Saint Helena enacted on August 25, 2011, as amended, which are not reenacted herein are repealed.

Municipal: The date of the initial Flood Damage Prevention Ordinance for Pender County is August 25, 2011.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective upon adoption date.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Village Council of the Village of Saint Helena, North Carolina, on the 21st day of June, 2018.

WITNESS my hand and the official seal of the Village of Saint Helena, this the 21st day of June, 2018.

(signature)

Chapter 5. Use Standards

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Chapter 5 – Use Standards

5.1 USE TABLE

A. EXPLANATION OF USE TABLE STRUCTURE

For each base zoning district established in this Ordinance, *Table 5.1.1, Table of Permitted Uses*, lists land uses and indicates whether individual uses are:

1. Permitted by right;
2. Permitted with a Special Use Permit;
3. Permitted as a combination use.

If an application is submitted for a proposed use that is not specifically listed, but is similar to a listed use, the Building Inspector may consider the proposed use part of that use category. When determining whether a proposed use is similar to a listed use, the Building Inspector will consider the following criteria: actual or proposed characteristics of the proposed use; general land use category (residential, office, commercial, educational, agricultural, industrial, etc.); anticipated traffic generation; and likely impact on surrounding properties. Should the Building Inspector determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Building Inspector's decision shall be recorded in writing. Should the Building Inspector determine that a materially similar use does not exist, the proposed use shall be considered a special use requiring planning board review. This chapter may also be amended to establish a specific listing for the use in question.

B. USES PERMITTED IN ALL DISTRICTS

1. Within all districts there are certain uses permitted as a matter of right that are not specifically included within *Table 5.1.1, Table of Permitted Uses*. The following uses are allowed in all districts without a Zoning Compliance Permit provided they meet other applicable requirements of this Ordinance:
 - A. Above ground and buried public utility lines for local distribution of electricity, telephone, and cable television service; accessory and appurtenant apparatus such as poles, guy wires, transformers and switching boxes. High voltage transmission lines are not included in this exception.
 - B. Temporary buildings and structures used in connection with the construction of a permanent building.
 - C. Off street parking as a required accessory use to a permitted use.
 - D. Public and private streets and roads and railroad rights-of-way.
 - E. Sanitary sewer collection lines, water, gas, and liquid fuel distribution lines, and any necessary on-line pumping stations.
2. The following uses are also permitted in all zoning districts upon the issuance of a Zoning Compliance permit documenting compliance with relevant provisions of this Ordinance:
 - A. Fences
 - B. Accessory buildings in residential districts that are fifty square feet or larger. No residential occupancy shall be allowed in any accessory building. No more than three (3) accessory buildings on residential property. More than three (3) accessory buildings shall require a Special Use Permit. This includes but is not limited to storage buildings, garages, carports, and any structure designed to provide weather protection to people, animals, supplies, household items, vehicles or equipment.

C. COMBINATION USES

1. A combination use is a use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. Combination uses shall be permissible on a lot only if each component principal use is permissible in the district where the lot is located.
2. When a combination use consists of two or more principal uses each of which requires a different type of permit (Zoning Compliance Permits only or Special Use Permit) then the permit authorizing the combination use shall be:
 - A. A Special Use Permit if any of the principal uses combined requires a Special Use Permit.
 - B. Only a Zoning Compliance Permit in all other cases.
3. When two principal uses are combined, the total amount of parking required for the combination use shall be determined by adding together the amount of parking required for each individual principal use according to the relative amount of space occupied by that use, taking into consideration any shared parking allowed under this Ordinance.

D. ACCESSORY USES

1. The following list provides examples of expected accessory uses in residential zoning districts. This list is not exhaustive. When determining whether an activity is an allowed accessory use, the definition of accessory use and the impact of the activity shall be considered. Zoning Compliance Permits are not needed for allowed accessory uses. Items not included on this list may be allowed as combination uses in compliance with *Section 5.1(C)(2)*.
 - A. Yard and/or garage sales for residents of residential districts to conduct no more than six (6) yard sales per year neither of which exceed two days in length.
 - B. Parking/storage of unused boat/RV in the side or rear of the property.
 - C. Display of a single vehicle for sale at any one time, not to exceed 2 per year
 - D. Placement of movable storage unit used for storage only, not to exceed 60 days in any 180 day period
 - E. Tree houses, play structures, trampoline, or other residential recreation structures that are not permanently affixed to the ground
 - F. Hobbies & recreational activities of a non-commercial nature, which do not fall within the definition of a "home occupation"
 - G. Garden statuary, garden structures (excluding storage buildings), and art may be located in the back area, provided the footprint of such features does not exceed the permit threshold of fifty square feet in area.
 - H. Private or public events that do not meet permit thresholds pursuant to a separate permit process established in the Village Code
 - I. Agricultural activities for the personal use of the resident or in support of a licensed home occupation including but not limited to growing herbs, fruits and vegetables, raising fowl or livestock.

E. DUMPSTER SCREENING

1. All dumpsters and/or refuse receptacles must be screened with a wooden fence made with pressure treated lumber or other material approved by the Building Inspector around the entire dumpster area. The fence must be of a height that will prevent the dumpster from being seen from any existing street. In the event that a fence over six (6) feet is necessary to satisfy these requirements, the height limitations for fences may be waived by the Building Inspector. The owners/lessees of the dumpster shall take all reasonable actions to prevent unauthorized use and/or rummaging of the dumpster. All commercial dumpsters and/or refuse receptacles must be secured at all times unless being used or serviced in an authorized

manner. These requirements may be extended to include all other commercial trash or waste disposal receptacles. Additional requirements may be added at the discretion of the Building Inspector in order to prevent or reduce the aesthetic and/or environmental impacts of the commercial dumpsters and refuse receptacles.

5.1.1

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
ACCESSORY APARTMENT		X	X	X	SUP	SUP		
ACCESSORY USES (Inclusive of Home Occupations in Residential Areas)		X	X	X	X	X	X	X
ACCOUNTANTS' OFFICES, CERTIFIED PUBLIC	541211					X	X	
ADULT BUSINESSES								SUP
AIRPORT OPERATIONS, AIRCRAFT PORT, ETC.	48811	SUP						
ALCOHOLIC BEVERAGE CONTROL BOARD OFFICE	926150					X	X	
ALCOHOLIC BEVERAGES, PACKAGED, RETAIL							X	
ALCOHOLIC BEVERAGES, WINE AND DISTILLED SPIRITS MERCHANT WHOLESALERS	424820							X
ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (Six or Fewer Residents)	623220	X	X	X	X	X		
ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (More than Six Residents)	623220					SUP		SUP
AMBULANCE SERVICE, AIR	621910					SUP	SUP	SUP
AMBULANCE SERVICE/RESCUE SQUAD	621910					X	X	X
ANIMAL MEDICAL CARE	541940	SUP					SUP	SUP
AGRICULTURE		X	X	X				
ANIMAL SHELTERS OR BOARDING OPERATIONS	812910	SUP					SUP	SUP
ANTIQUÉ DEALERS	453310						X	
APICULTURE	112910	X	X	X	X			
APPAREL & ACCESSORY SALES	448						X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
APPAREL STORE, USED CLOTHING	453310						X	
APPLIANCE STORES	443111						X	
ARCHITECTS' OFFICES	541310					X	X	
ART GALLERY/STUDIO	453920, 541430					X	X	
ASSISTED-LIVING FACILITIES WITH ON-SITE NURSING FACILITIES	623311					SUP		
ASSISTED-LIVING FACILITIES WITHOUT ON-SITE NURSING CARE FACILITIES	623312					SUP		
ATTORNEYS' OFFICES	541110					X	X	
AUCTION HOUSES (excluding Livestock)	453998						X	
AUDIO EQUIPMENT STORES	443112						X	
AUTOMATIC TELLER MACHINE						X US	X US	
AUTOMOBILE CAR WASH	811192						SUP	
AUTOMOBILE OFF-STREET PARKING (as the principal use)	812930					X	X	X
AUTOMOBILE OIL CHANGE AND LUBRICATION SHOPS	811191						SUP	SUP
AUTOMOBILE PARTS & ACCESSORY SALES (No outside storage)	441310						X	X
AUTOMOBILE AND/OR TRAILER RENTAL	532111						SUP	X
AUTOMOBILE REPAIR AND/OR BODY WORK (excluding commercial wrecking, dismantling and/or storage of junked vehicles or parts)	811111						SUP	SUP
AUTOMOBILE SALES, NEW AND USED	441110, 441120						SUP	SUP
AUTOMOBILE FUEL STATION							SUP	
AUTOMOTIVE DETAILING SERVICE	811192						X	
AUTOMOTIVE TIRE DEALER	441320						SUP	SUP
BAILBONDING SERVICING	812990						X	
BAKERY, RETAIL	445291						X	
BAKERY PRODUCTION, WHOLESALE								X

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
BANK	522110, 522120					X	X	
BARBERING & HAIRDRESSING SERVICES	812111						X	
BARBER OR BEAUTY COLLEGE INSTRUCTION	611511					X	X	X
BARS, COCKTAIL LOUNGE, AND/OR NIGHTCLUBS	722410						SUP	
BEAUTY SUPPLY STORES	446120						X	
BED AND BREAKFAST INN (including Boarding Houses and Tourist Homes)	721191	SUP	SUP	SUP	SUP	SUP	SUP	
BICYCLE SALES & REPAIR (No outside storage)	451110						X	
BILLIARD ROOM	713990						SUP	
BINGO PARLORS	713290						X	X
BOATS AND ACCESSORIES, RETAIL SALES AND SERVICE	441222						SUP	SUP
BOATS MANUFACTURING	336612							SUP
BOOKBINDING	323121							X
BOOK STORES	451211						X	
BOTTLING	312111							SUP
BOWLING ALLEY	713950						X	
BRICKS AND/OR CLAY MANUFACTURING	327121							
BUILDING MATERIALS SUPPLY DEALERS (including all building trades and no outside storage)	444190						X	X
BUILDING MATERIALS SUPPLY (including all building trades and outside storage)	444190						SUP	SUP
BUS STOP	485113						SUP	
CABINETMAKING AND COUNTERTOP MANUFACTURING, (Exterior Storage Permitted)	337110							
CABINETMAKING AND COUNTERTOP MANUFACTURING, (Interior Work and Storage Only)	337110						SUP	X
CANDY OR CONFECTIONARY							X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
STORE	445292							
CARPET STORES	442210						X	
CELLULAR TELEPHONE STORES	443112						X	
CEMETERIES	812220	SUP	SUP	SUP	SUP	SUP		
CHURCHES	813110	SUP	SUP	SUP	SUP	SUP	SUP	SUP
CINEMAS (excluding drive-ins)	512131						X	
CLUB OR LODGE, FRATERNAL OR CIVIC	813410	SUP	SUP	SUP	SUP	X	X	
COFFEE SHOPS	722213						X	
COLLEGES, UNIVERSITIES, AND PROFESSIONAL SCHOOLS	611310					X	X	X
COMMUNITY COLLEGES	611210					X	X	X
COMPUTER EQUIPMENT STORES	443120						X	
CONSIGNMENT SHOPS, USED MERCHANDISE	453310						X	
CONTRACTOR OFFICE, GENERAL (excluding outside storage of equipment or supplies)						X	X	
CONTRACTOR OFFICE, GENERAL (including outside storage of equipment or supplies)							SUP	SUP
CONSTRUCTION MACHINERY AND EQUIPMENT REPAIR	811310							X
CONSTRUCTION STORAGE							SUP	SUP
COPY CENTERS	561439						X	
COUNTY SUPERVISORS' AND EXECUTIVES' OFFICES	921110	SUP	SUP	SUP		X	X	X
CROP PRODUCTION	111	X	X	X	X	X	X	X
CURIO, NOVELTY, AND SOUVENIR SALES	453220						X	
DAIRY PRODUCTS, SALES & PROCESSING		SUP						
DAY CARE CENTER	624410					X US	X US	X US
DAY CARE (Home Occupation)		X Home Occupation	X Home Occupation	X Home Occupation	X Home Occupation			
DAY SPAS	812199					X	X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
DELICATESSEN/MEAT MARKET OPERATION	445210						X	
DEPARTMENT STORES	452111						X	
DETECTIVE AGENCIES	561611					X	X	
DIAGNOSTIC IMAGING CENTER	621512					X	X	X
DIALYSIS CENTERS	621492					X	X	X
DIET CENTERS	812191					X	X	
DOLLAR STORES	452990						X	
DRUG & ALCOHOL TREATMENT CENTER (Outpatient only)	621420					SUP	SUP	SUP
DRUG STORES/PHARMACY	446110						X	
DRY-CLEANER	812320						X	X
DWELLING, SINGLE-FAMILY	236115	X	X	X	X	X	SUP	
DWELLING, TWO-FAMILY		SUP	SUP	SUP	SUP			
ELASTIC MANUFACTURE	313221							X
ELECTRONIC SHOPPING AND MAIL ORDER HOUSE	45411					X	X	
EMERGENCY MEDICAL CENTERS	621493					X	X	
EMPLOYMENT REFERRAL SERVICES	561311					X	X	
ENGINEERING SERVICES	541330					X	X	
ENGINE REPAIR, SMALL	811411						SUP	SUP
ENGINES AND PARTS, AUTOMOTIVE AND TRUCK, MANUFACTURING	336312							X
EXTERMINATING SERVICES	561710						X	X
FABRIC SHOPS	451130						X	
FAMILY CARE HOME (Six or Fewer Residents)	6232	X US	X US	X US	X US			
FARM MACHINERY SALES AND SERVICING							SUP	X
FARM SUPPLIES MERCHANDISING (excluding farm machinery)							SUP	X
FENCE		X US	X US	X US	X US	X US	X US	X US
FIREARMS MANUFACTURING	332994							X
FIRE DEPARTMENT	922160	X		X	X	X	X	X

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
FISHING TACKLE AND EQUIPMENT MANUFACTURING	339920							X
FLEA MARKET	453310						SUP	SUP
FLORISTS	453110						X	
FOOD BANKS	624210						X	X
FORESTRY AND OUTDOOR PLANT NURSERIES, WHOLESALE	113210	X	SUP	SUP				
FORESTRY SERVICES	115310	X	SUP	SUP		X		X
FORMAL WEAR OR COSTUME RENTAL	532220						X	
FROZEN FRUIT AND VEGETABLE PROCESSING, MANUFACTURING	311411							X
FRUIT AND VEGETABLE MARKETS	445230	SUP	SUP	SUP	SUP		X	
FUNERAL HOMES (including Crematory as an accessory use)	812210					X	X	
FURNITURE REFINISHING, REPAIR, AND/OR REUPHOLSTERING SHOPS	811420						X	
FURNITURE RENTAL CENTERS	532299						X	
FURNITURE STORES	442110						X	
FURNITURE STORES, USED	453310						X	
GAME HUNTING PRESERVES, COMMERCIAL	114210	SUP						
GASES, COMPRESSED AND LIQUEFIED, MERCHANT WHOLESALERS	424690							X
GASOLINE STATIONS WITH CONVENIENCE STORES	447110						SUP	
GASOLINE STATIONS WITHOUT CONVENIENCE STORES	447190						SUP	
GENERAL MEDICAL AND SURGICAL HOSPITALS	622110					X	X	
GOLF COURSE (including golf pro shops as accessory use)	713910	X		X	X			
GOLF COURSE, MINIATURE	713990						X	
GOLF DRIVING RANGES	713990	X						
GOLF PRO SHOPS	451110	X						

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
GRAIN AND FEED GRINDING AND MILLING	311119	X						X
GRAIN SALES OR STORAGE, WHOLESALE		X					SUP	X
GROCERY STORES	445110						X	
GROOMING SERVICES, ANIMAL	812910	X					X	
GUIDE SERVICES, HUNTING	713990	X						
GROUP CARE FACILITY	6232					SUP		SUP
GUN SHOP	451110						X	
GUN STOCK BLANKS MANUFACTURING	321912							X
HARDWARE STORES	444130						X	
HATCHERY OPERATIONS	112340	SUP						
HOME FURNISHING & APPLIANCE SALES	442299						X	
HOME IMPROVEMENT CENTERS	444110						X	
HOME OCCUPATION		X US	X US	X US	X US	X US		
HORSES, BOARDING AND TRAINING	115210	X		SUP				
HOUSEHOLD APPLIANCE REPAIR	811412						SUP	SUP
ICE CREAM PARLORS	722213						X	
ICE VENDING MACHINES, AUTOMATIC	312113						X US	
INDUSTRIAL MOLDS MANUFACTURING	333511							X
INDUSTRIAL SALES OF EQUIPMENT AND/OR REPAIR SERVICE	811310							X
INSURANCE AGENCIES	5241					X	X	
INTERIOR DESIGN SERVICES	541410					X	X	
INTERNET AUCTIONS, RETAIL	454112					X	X	
JANITORIAL SERVICE	561720					X	X	
JEWELRY STORES	448310						X	
KILNS MANUFACTURING	333298							X
LABORATORY OPERATIONS, MEDICAL OR DENTAL	621511					X		X

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
LAGER BREWING	312120							X
LANDSCAPE CARE AND MAINTENANCE SERVICES	561730	X					SUP	X
LAND SURVEYING SERVICES	541370					X	X	
LAUNDROMATS	812310						X	
LAWN AND GARDEN EQUIPMENT REPAIR	811411						SUP	SUP
LIBRARY	519120					X	X	
LIQUEFIED PETROLEUM (LP) GAS DEALERS, RETAIL	454312						X	X
LIVESTOCK FEEDS MERCHANT WHOLESALERS	424910	SUP						X
LIVESTOCK SALES & AUCTIONING		SUP						SUP
LOCKSMITH SERVICES	561622						X	
LOGGING	113310	X	X	X	X	X	X	X
MACHINE SHOPS	332710							X
MACHINE TOOL MANUFACTURING OR WELDING	333515							X
MANICURE AND PEDICURE SALONS	812113						X	
MANUFACTURED HOME, RESIDENTIAL OCCUPANCY		X US						
MANUFACTURED HOME MANUFACTURING	321991							X
MANUFACTURED HOME PARKS	531190	SUP						
MANUFACTURED HOME SALES, RETAIL	453930						SUP	SUP
MANUFACTURED HOME SALES, WHOLESALE	423390							SUP
MARTIAL ARTS SCHOOL	611620						X	
MEATS AND MEAT PRODUCTS MERCHANT, WHOLESALE	424470							X
MEDICAL EQUIPMENT AND SUPPLIES STORES	446199					X	X	
MEDICAL EQUIPMENT RENTAL OR LEASING	532490					X	X	
MENTAL HEALTH FACILITY, INPATIENT (Six or Fewer Residents)	623220	X US	X US	X US	X US	X US		
MENTAL HEALTH FACILITY, INPATIENT (More than Six Residents)	623220					SUP		SUP
MOBILE FOOD SERVICES							X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
	722330						US	
MONUMENT SALES	453998						X	X
MONUMENT WORKS	327991							X
MOTELS	721110						SUP	
MOTORCYCLE DEALERS (With No Outside Storage of Merchandise)	441221						X	
MOTORCYCLE REPAIR SHOPS	811490						SUP	SUP
MOTOR VEHICLE TOWING SERVICES (With On-Site Storage of Up to 10 Vehicles)	488410						SUP	SUP
MOTOR VEHICLE TOWING SERVICES (With On-Site Storage of More than 10 Vehicles)								SUP
MULCH MERCHANT, WHOLESALE	424910	X						X
MUSEUM	712110	X					X	
MUSICAL INSTRUMENT STORES	451140						X	
MUSIC STORES	451220						X	
NATURE PRESERVES	712190	X						
NEWSPAPER PUBLISHING	511110						X	X
NEWSSTAND SALES	451212						X	
NURSERY, GARDEN CENTER, AND FARM SUPPLY STORE	444220	X					X	X
NURSERY STOCK MERCHANT, WHOLESALE	424930	X						
NURSERY WITH TREE PRODUCTION	111421	X						
NURSING CARE FACILITIES, NURSING HOMES	623110					SUP	SUP	
OFFICE SUPPLIES & EQUIPMENT SALES AND SERVICE	453210						X	
PAINT STORES	444120						X	
PAROLE AND/OR PROBATION OFFICE	922150					X	X	
PAWN SHOPS	522298						X	
PET SALES, (excluding kennel activities, breeding operations, and/or outside storage of animals)	453910						X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
PHOTOGRAPHY, COMMERCIAL	541922					X	X	
PHYSICAL FITNESS CENTERS	713940					X	X	
PHYSICIANS' ASSISTANTS' OFFICES	621399					X	X	
PHYSICIANS' OFFICES	621111					X	X	
PICTURE FRAME SHOPS	442299						X	
PLANNED BUILDING GROUP-COMMERCIAL AND/OR OFFICE/INSTITUTIONAL						SUP	SUP	
PLANNED BUILDING GROUP-RESIDENTIAL ATTACHED UNITS						SUP		
PLANNED BUILDING GROUP-INDUSTRIAL(Includes all buildings in excess of 30,000 sq ft of gross floor area)								SUP
PLANNED BUILDING GROUP-RESIDENTIAL- MOBILE HOMES AND/OR MOBILE HOME PARKS								
POLICE DEPARTMENTS	922120					X	X	X
PORK RINDS MANUFACTURING	311919							X
POST OFFICE	491110					X	X	
PRINT SHOPS	323113						X	
PRINTING & REPRODUCTION	323122						X	X
PUBLIC UTILITIES	221121	X US	X US	X US	X US	X US	X US	X US
PUBLIC UTILITY WORKS, SHOPS, OR STORAGE YARDS	493190							X
RADIO OR TELEVISION STUDIO ACTIVITIES	515112, 515120					SUP	SUP	SUP
RAILROAD STATION OPERATIONS	488210							X
REAL ESTATE AGENCIES	531210					X	X	
REAL ESTATE APPRAISERS' OFFICES	531320					X	X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
RECREATIONAL VEHICLES, (For Temporary Use)		X US	X US	X US	X US			
RESTAURANT EQUIPMENT MERCHANT, WHOLESALE	423440							X
RESTAURANT	722110						SUP	
RIDING ACADEMY ACTIVITY	611620	SUP	SUP	SUP				
RIDING STABLES	713990	SUP	SUP	SUP				
SAWMILL OR PLANING ACTIVITIES	321113	SUP	SUP					
SCHOOL, BUSINESS & COMMERCIAL	611410					X	X	
SCHOOL BUS SERVICES	485410							SUP
SCHOOL, ELEMENTARY, JUNIOR HIGH, AND HIGH SCHOOL	611110	SUP		SUP	SUP	SUP	SUP	
SCHOOL, TRADE OR VOCATIONAL	611210					SUP	SUP	SUP
SEAFOOD MARKETS	445220						SUP	
SECOND-HAND & SWAP SHOP SALES	453310						X	
SENIOR CITIZENS ACTIVITY CENTERS	624120					X	X	
SEWAGE TREATMENT PLANTS AND/OR FACILITIES	221320	SUP		SUP	SUP	SUP	SUP	SUP
SHEET METAL FABRICATION	332322							X
SHOE STORES	448210						X	
SOLAR ENERGY FACILITY								
SPORTING GOODS STORES	451110						X	
STORAGE, SELF-SERVICE	531130						SUP	SUP
STORAGE, WAREHOUSE	493110							X
STORMWATER RETENTION PONDS		X	X	X	X	X	X	X
SUBSTANCE ABUSE TREATMENT HOSPITAL, INPATIENT	6222					SUP	SUP	
SUBSTANCE ABUSE TREATMENT, OUTPATIENT	621420					X	X	
SWIMMING POOLS		X US	X US	X US	X US	X US		
TAILOR SHOPS	811490						X	
TANNING SALONS	812199						X	

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
TATTOO PARLORS	812199						X	
TAXICAB OPERATIONS	485310						SUP	
TAXIDERMISTS	711510	X						X
TEACHING STUDIO (including Art, Music, Dance, Dramatics, etc.)	611610					X	X	
TELEVISION REPAIR SERVICES	811211						X	X
TEMPORARY CONSTRUCTION BUILDING/TRAILER		X US	X US	X US	X US	X US	X US	X US
TEMPORARY HEALTH CARE STRUCTURES		X US	X US	X US	X US			
THERAPISTS' OFFICES (including all types of medical-based therapy)	621340					X	X	
TIRE RECAPPING	326212							SUP
TIRE REPAIR SHOPS (excluding recapping)	811198						SUP	
TOBACCO PROCESSING	312210	X						
TOBACCO SALES WAREHOUSING	422940	X						X
TOY STORES	451120						X	
TRAVEL AGENCIES	561510					X	X	
TROPHY SHOPS	453998						X	
UTILITY TRAILER DEALERS	441229						SUP	X
VARIETY, GIFT, & HOBBY SUPPLY SALES	451120						X	
WAREHOUSE CLUBS AND SUPERCENTERS	452910						SUP	
WILDLIFE REFUGE		X	X	X				
WINERIES AND/OR VINEYARD OPERATION	312130	X						
WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURE		SUP ARTICLE 8						SUP ARTICLE 8
SMALL/MICRO WIRELESS FACILITY (IN THE PUBLIC RIGHT OF WAY OR IN A UTILITY EASEMENT)						X ARTICLE 8	X ARTICLE 8	X ARTICLE 8
CONCEALED WIRELESS TELECOMMUNICATION FACILITY		X ARTICLE 8				X ARTICLE 8	X ARTICLE 8	X ARTICLE 8

USES	NAICS	RA	R-40	R-20	R-12	O&I	B-2	I-1
YARD SALES		X US	X US	X US	X US	X US	X US	X US

5.2 USE-SPECIFIC STANDARDS

A. ADULT USE

Adult uses as defined in N.C. Gen. Stat. § 14-202.10 are recognized as having certain serious objectionable operational characteristics and a deleterious effect on adjacent areas. Special regulation of these uses is necessary to ensure that their adverse effects do not contribute to degradation or decline of surrounding areas. The primary intent of the following standards is to prevent negative impacts on residential areas and particular uses.

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of adult uses:

- a. No building to be occupied as an adult use shall be established within five hundred (500) feet of a residentially zoned lot line. No adult use shall be located less than one thousand (1,000) feet from any church, school, park, playground, synagogue, convent, library, or other areas where large numbers of minors regularly travel or congregate.
- b. All windows, doors, openings, entries, etc. for all adult uses shall be located, covered, buffered, or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way.
- c. No adult use shall be located within a one thousand (1,000) foot radius of another adult use.
- d. The proposed methods of soundproofing the buildings must be sufficient to reduce noise from the interior of the building. The noise level at the property line shall not exceed forty-five (45) decibels.
- e. There must be sufficient number of employees to maintain the safe and orderly operation of the establishment.
- f. Live entertainment and amplified music shall cease no later than 12:00 a.m. (midnight)

B. ACCESSORY APARTMENT

1. New or existing accessory buildings may be used as dwelling units in addition to the principal dwelling unit, subject to the following conditions:
 - (a) One (1) accessory dwelling unit is permitted per lot, provided that the unit per acre density is not greater than that allowed by right for the zoning district. Units existing as of at time of original adoption of this ordinance that do not meet the density limit may continue as non-conforming uses
 - (b) Both structures meet all the applicable building setback requirements.
 - (c) The accessory unit does not exceed fifty (50) percent of the heated living area of the principal structure.
 - (d) Approval of the Pender County Health Department for water and sewage disposal facilities or the approval of the Village of St. Helena for water or sewer service, as applicable.

2. EFFICIENCY APARTMENT

An efficiency apartment must be located within a principal single family dwelling, and must meet the following criteria:

- (a) The efficiency apartment must be architecturally integrated with the principal structure. Connection by breezeway, walkway or other artificial means does not satisfy this requirement.
- (b) The lot fronts on a public street;
- (c) One of the units is occupied by the property owner;
- (d) The efficiency apartment shall contain no more than one fourth (1/4) of the gross floor area of the total dwelling; and
- (e) The efficiency apartment must be inaccessible, or able to be made inaccessible from the principal dwelling.
- (f) Other situations with more than one dwelling unit within a single structure are considered attached dwellings under this ordinance.

C. ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (Six or Fewer Residents)

- 1. See Family Care Home

D. ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (More than Six Residents)

- 1. See Mental Health Facility, Inpatient (More than Six Residents)

E. ANIMAL SHELTERS OR BOARDING OPERATIONS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

- (a) No part of any building, structure, or runway in which animals are housed or exercised shall be closer than one hundred and fifty (150) feet to a property line., The minimum distance from a property line shall be fifty (50) feet if all portions of the facility in which animals are housed are wholly enclosed within a building.
- (b) Any kennel or runway which is not wholly enclosed within a building shall be encircled by a security fence at least six (6) feet in height.
- (c) The applicant shall provide written evidence of compliance with all applicable state standards, including copies of all state permits and approvals necessary to operate the kennel.
- (d) The proposed landscaping shall provide visual obstruction equal to a Type B buffer from adjacent property through new planting or existing vegetation.
- (e) The facility shall be designed in a manner to minimize visual contact between animals and outside influences. The number of windows and doors shall be kept to a minimum.
- (f) The facility shall be air conditioned.

**F. ASSISTED-LIVING FACILITIES WITH ON-SITE NURSING FACILITIES
ASSISTED-LIVING FACILITIES WITHOUT ON-SITE NURSING CARE FACILITIES**

1. STANDARDS FOR EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

- (a) All proposed structures shall appear residential in character.
- (b) At least (10) percent of the gross parcel area shall be maintained as outdoor open space or park space. Areas dedicated to required buffers, storm drainage or detention shall not be considered open or park space.

G. AUTOMATIC TELLER MACHINE

1. STANDARDS OF EVALUATION

Automatic teller machines shall be allowed as an accessory or principal use in the O&I and B-2 districts.

H. AUTOMOBILE FUEL STATION

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate application for the approval of this use:

- (a) The proposed hours of operation shall be consistent with the predominant uses in the area.
- (b) Subject to the limitation established in *Section 5.2(X)(1)(d)*, below, lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.
- (c) Site plan shall show anticipated traffic pattern for vehicles entering, exiting and on the site, including pump islands, stacking space, additional parking spaces, and sidewalks and other pedestrian areas, with emphasis on vehicular and pedestrian safety;
- (d) Sites shall not have direct driveway connections to streets classified as arterial or collector.
- (e) Changeable message signs (1) will be permitted to display the price of fuel only and (2) may not exceed fifty (50) percent of the sign area for the use.
- (f) Gas station canopies shall be designed to be an integral part of the station architecture, and canopy lighting shall comply with the lighting requirements of *Section 6.11, LIGHTING*.
- (g) Gas station pumps may be placed at the rear of the lot when the use is combined with a convenience store, and the convenience store is located near the main street to shield the utilitarian pump canopy and highlight the building
- (h) Vehicle Accommodation/Pump Island
 - i. Within the Highway Business (B-2), motor vehicle stations may accommodate a maximum of twelve (12) vehicles at one time.
 - ii. In all other districts where the use is permitted, a maximum of eight (8) vehicles may be served at one time.

I. AUTOMOBILE OIL CHANGE AND LUBRICATION SHOPS

1. STANDARDS OF EVALUATION

The following specific standards shall be used in evaluating an application for the approval of this use:

- (a) The proposed hours of operation shall be consistent with the predominant uses in the area.
- (b) Lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.
- (c) Service bay doors on newly constructed buildings shall not be located on the building façade facing the public right-of-way or on pedestrian- oriented façades.
- (d) Applicants shall provide noise level documentation for equipment use outdoors on site.
- (e) The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

J. AUTOMOBILE REPAIR AND/OR BODY WORK

1. STANDARDS OF EVALUATION

- a. A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots, and a type I or II buffer shall be required along rear lot lines and may be required alongside lot lines.
- b. Designated customer parking must be provided. All vehicles waiting to be required may be required to be parked in the rear or side of building.
- c. All flood lights shall be turned off at the close of business or 10pm, whichever is earlier.
- d. No structure, outside storage area, or outside activity area shall be within a distance of thirty (30) feet from any adjoining residentially zoned or used lot.
- e. Any repair, servicing, maintenance, or other work on vehicles shall be conducted within an enclosed structure or behind an opaque fence six(6) feet in height.
- f. All materials or equipment shall be stored within an enclosed building.
- g. Storage of customers vehicles, vehicles with expired tags, unlicensed vehicles, junked vehicles, or any vehicle not used in the conduct of business operations for fifteen (15) days or more shall be prohibited, and not more than ten (10) such vehicles in the B-2 district and thirty (30) such vehicles in the I-1 districts shall be allowed to be stored at any one time.

K. AUTOMOBILE SALES, NEW AND USED

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for the approval of this use:

- (a) Outside displays shall not be permitted in designated parking spaces. Vehicles designated as available for sale, lease or rent shall not be parked or displayed in designated parking spaces required to meet the minimum parking requirements of this Ordinance.
- (b) Outside display of vehicles available for sale, lease or rent are considered “parked cars” and the display area must meet requirements for parking lots in terms of landscaping, vehicle maneuvering, and similar requirements.
- (c) No service, maintenance or repairs of vehicles is permitted unless approved as a combination use.
- (d) Applicants shall provide noise level documentation for any sound system used outdoors on site. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.
- (e) Applicants with lots having frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.
- (f) The proposed hours of operation shall consistent with the predominant uses in the area.

L. BED AND BREAKFAST HOME

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

- (a) Each unit within a bed and breakfast establishment shall have direct access to a hall or exterior door.
- (b) The applicant shall provide evidence that the Fire Marshal has reviewed and approved the fire protection plan.

- (c) If a state, county or city license or permit is required to operate such a facility, the standards necessary to qualify for such a permit have been met; no Zoning Permit or Certificate of Occupancy will be issued until the Village receives proof that all State, county, and/or other local permits have been approved.

M. CEMETERY

1. STANDARDS OF EVALUATION

The following specific standards shall be used in deciding upon an application for approval of this use:

- (a) Proof that the requirements of the North Carolina General Statutes Chapter 65 the standards of the North Carolina Cemetery Commission shall be met, to the extent that they apply to the applicant entity.
- (b) There shall be adequate space within the site for the parking and maneuvering of the funeral cortege at each proposed burial site.
- (c) The proposed landscaping shall provide visual obstruction from adjacent property through new planting or existing vegetation. At a minimum, this visual obstruction shall be equal to a Type A buffer.
- (d) The proposed landscaping shall show the balance between providing an aesthetically pleasing arrangement of plots, amenities, driveways and landscaping and providing a facility that is safe for visitation and long term protection of grave markers.
- (e) The minimum lot size for any cemetery not co-locating on a parcel occupied by the place of worship of the applicant faith-based organization shall meet the minimum lot size for the zoning district in which it is located.
- (f) The site for a proposed cemetery for a faith-based organization shall be located within one-half mile of the site the applicant organization uses as its place of worship.
- (g) The site shall have frontage on Village or State maintained road.
- (h) All interior vehicular access and maneuvering space shall be improved with pervious, semi-pervious or impervious surfaces which can be maintained to provide safe and consistent passage.
- (i) No interments shall take place within thirty (30) feet of any lot line.
- (j) The applicant has provided information sufficient to the permit issuing authority regarding guarantee of perpetual maintenance and the length of time the proposed cemetery will have lots available for sale.

N. CHURCH OR PLACE OF WORSHIP

1. STANDARDS OF EVALUATION

The following specific standards shall be used in deciding upon an application for approval of uses in this category:

- (a) The written description of the operation indicates compliance with the stated, applied for use and that use is permitted by right or special use permit within the zoning district.
- (b) The lot area is of sufficient size that all required parking, access, yard areas, and screens are provided without any variance to the stated standards of this Ordinance. A

combination of on-street, on-site, and shared parking may be allowed with the approval of the permit issuing authority.

- (c) Structures, driveways, and other significant physical features within 100 feet of the development area of this project are protected from adverse impacts as required by this ordinance.

O. CLUB OR LODGE, FRATERNAL OR CIVIC

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

- (a) Evidence from the owners or operators that the facility will be operated by a non-profit organization. The identification numbers for such non-profit organization from the North Carolina Department of Revenue and the Internal Revenue Service shall be provided to the Village.
- (b) No structure associated with outdoor recreation activities shall be situated within the setback required for the district in which the use occurs. Such structures include but are not limited to: back stops, basketball or football or soccer goals, pavement for tennis or basketball courts and batting cages.
- (c) Floor plans must show adequate meeting areas and that the bathroom facilities are adequate for the type of facility and the number of participants expected, as determined by the permit issuing authority.
- (d) The minimum lot area shall be one acre, and shall be adequate for the improvements proposed or required, as determined by the permit-issuing authority.
- (e) The hours of operation of outdoor activities shall not adversely affect the residential character of the surrounding residential neighborhoods.

P. CONCEALED WIRELESS TELECOMMUNICATION FACILITY

See Chapter 8 - Telecommunications

Q. DAY CARE CENTER

1. STANDARDS OF EVALUATION

Child day care centers, including pre-schools, shall be licensed as a child care center by the State, shall comply with all state regulations for child care centers, and must satisfy the following standards:

- (a) Proof that a license from the State of North Carolina has been applied for. A copy of the approved license shall be provided to the Planning Department within 30 days of the Certificate of Occupancy for any approved Child Day Care requiring a license. No unconditional Certificate of Occupancy may be issued until a copy of all required state licenses have been issued.
- (b) If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and must be segregated and secured (including the restrooms) from the remaining portion of the building in which it is located
- (c) Child day care centers shall not be established within one thousand (1,000) feet of any adult uses nor within five hundred (500) feet of any bar or nightclub.

- (d) Outdoor recreation areas associated with the facility must meet the State’s requirement for the licensing level being sought for the facility, and must satisfy the fencing and buffering requirements with particular attention paid to protecting the privacy of adjacent property owners and to maintaining the character of a residential neighborhood.
- (e) All required parking spaces shall be located off the street right-of-way. In addition, safe and adequate access shall be provided from the parking spaces to the building and to the street.

R. DRIVE-UP WINDOW

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use.

- (a) The site plan shows that there is adequate vehicular and pedestrian circulation space around the building in addition to the required stacking spaces (for purposes of this section a “stacking space” equals one car length, or approximately twenty feet). The required number of stacking spaces shown must be usable and must be located outside any public road right-of-way. In the case of uses not specified in this Ordinance, the permit issuing authority shall determine whether the number of proposed stacking spaces is adequate for the intended use.
- (b) The site plan shows that the circulation pattern is a one-way system that provides a separation between the drive-up window customers and other customers, and that there is adequate room for individuals to park and maneuver safely in the parking lot.
- (c) Drive-up windows and their menu boards shall not be located on the primary or pedestrian-oriented facades of buildings.
- (d) Financial institutions with drive-up windows shall be limited to five (5) drive-up bays per building.
- (e) Stacking spaces for drive-up areas shall not inhibit traffic flow on the site.
- (f) Restaurants are required to have six (6) stacking spaces per window;
- (g) Drive-up banks are required to have six (6) stacking spaces per window;
- (h) Dry cleaning and laundry services are required to have three (3) stacking spaces per window.

S. FAMILY CARE HOME (Six or Fewer Residents)

MENTAL HEALTH FACILITY, INPATIENT (Six or Fewer Residents)

ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (Six or Fewer Residents)

1. STANDARDS OF EVALUATION

All family care homes, as defined by NC GS 160D-907, shall be licensed as required by the state and shall meet all applicable state requirements.

- (a) Family Care Home means 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.
- (b) 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 by NC GS 122C-3(11)b.

- (c) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts.
- (d) No family care home may be located within a one-half mile radius of an existing family care home.

T. FENCE

1. STANDARDS OF EVALUATION

- (a) Fences which have a "friendly" (i.e., aesthetically pleasing) and "unfriendly" (i.e., aesthetically less pleasing) sides shall be constructed so the "friendly" side faces outward toward neighboring properties. The "unfriendly" side of a fence is that with the rails connecting pickets or posts.
- (b) Fences do not have to meet any setback standard, but must be located outside of a public right of way, or utility, access or drainage easement unless an encroachment agreement or other similar written authorization is provided. At the discretion of the Building Inspector, fences maybe required to observe a minimal setback to allow maintenance without trespassing on neighboring properties.
- (c) Applicants seeking to erect fences are required to secure a Zoning Compliance Permit before construction.

U. GROUP CARE FACILITY

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

- (a) Operators shall have licensing permit or letter stating that such licensing permit will be issued from the Duplin County Department of Social Services, Adult Home Specialist or such other County, state and/or federal agency as may have licensing jurisdiction over the operator.
- (b) The lot area shall conform to the minimum required for the zoning district and be sufficient to contain all required components.
- (c) The structure proposed shall have the appearance of a residential building, and any proposed structural alterations shall be of such a nature as to preserve the residential character of the building. The proposed changes or improvements of the property shall be in keeping with the residential nature of the area.
- (d) Parking areas are to be located to the side or rear of the building, shall meet the parking lot landscaping requirements in *Section 6.10, Landscaping*, and shall provide any screening required by *Section 6.17, Screening*, for neighboring uses as determined by the permit issuing authority.
- (e) Improved recreation areas shall provide screening to neighboring uses as required by *Section 6.17, Screening*, and as determined by the permit issuing authority.
- (f) The proposed use shall not be located within five hundred (500) feet of another existing group care facility.

V. HOME OCCUPATION

1. ALL HOME OCCUPATIONS SHALL COMPLY WITH THE FOLLOWING CONDITIONS:

- (a) A home occupation is the base of operations for the business and the primary function of the business takes place on the residential property for which the permit is issued. For example: an employee who telecommutes to their place of business in Wilmington is not engaged in a home occupation and does not require a home occupation permit, but the

person who owns a computer consulting business and conducts business from their home does. A self-employed business owner who keeps his business records at his home and is contacted at his home to arrange work but does not do any of the job function at the home does not need a home occupation permit.

- (b) A home occupation is located within a dwelling unit or in an accessory building on the same lot or parcel as the dwelling unit. A home occupation involving the growing or raising of an agricultural product may also be allowed so long as the area outside of a structure involved in raising the product sold meets the area requirement below.
 - (c) The area occupied by the home occupation shall not exceed 35 percent of the heated floor area or seven hundred fifty (750) square feet, whichever is less, of the dwelling unit to which it is accessory.
 - (d) The principal person or persons providing the business or service must reside in the dwelling on the premises.
 - (e) The operator of the home occupation may not employ more than one (1) non-resident person on the premises.
 - (f) The home occupation shall not cause or result in any change in the external appearance of the existing dwelling and structures on the property.
 - (g) All vehicles used in connection with the home occupation shall be of a size, type customary for residential use, and shall be located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the surrounding area. No more than two (2) business-related vehicles may be parked at the site of the home occupation. In no instance shall any vehicle with a gross vehicle weight exceeding 5,000 pounds be parked, stored, or otherwise maintained at the site of a home occupation.
 - (h) Home occupations shall not result in regular and on-going business-related vehicular traffic to the home where located.
 - (i) There shall be sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.
 - (j) There shall be no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building.
 - (k) The site of the home occupation shall not contain any outdoor display or storage of goods, equipment, or services associated with the home occupation.
 - (l) The home occupation shall not create adverse impacts on health, safety, or comfort of customers or neighboring residents which can be detected by the normal senses off the premises. Such impacts shall include but not be limited to fire or explosive hazards; interference with electronic communication; loud, raucous or disturbing noise; dust; odors; fumes; glare; or vibration.
 - (m) The home occupation shall not create or exhibit an increase in noise, traffic or parking demands markedly beyond that normally associated with a residential use.
 - (n) Exterior display and or storage shall not be permitted.
2. Home occupations shall obtain a Zoning Compliance Permit in accordance with *Section 3.13, Zoning Compliance Permit*.
3. The following uses are not permitted as home occupations in residential zoning districts except as a legal non-conforming use:
- (a) Boarding of domesticated animals
 - (b) Dealerships for firearms or motor vehicles
 - (c) Motor vehicle maintenance, service, or repair
 - (d) Any use that will routinely generate five or more customers within one hour.
 - (e) Any use that is only permitted with a Special Use Permit if otherwise located.

W. ICE VENDING MACHINES

1. STANDARDS OF EVALUATION

Ice vending machines shall be allowed as an accessory or principal use in the B-2 district.

X. MANUFACTURED HOME PARK

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for the approval of this use:

- (a) The minimum lot area of a new mobile home park shall be five (5) acres exclusive of any public rights-of-way.
- (b) The maximum number of units per forty thousand (40,000) square feet of lot area shall be seven (7). The minimum distances between mobile homes, the access road and property lines are as shown.
- (c) The owner and developers have submitted a plan to maintain the mobile home park.
- (d) The rules and regulations for the park tenants shall address, at a minimum, the following:
 - i. Accessory storage of goods;
 - ii. Outside storage of goods;
 - iii. Maintenance of units, skirting, lawns, parking areas, common facilities and recreation areas; and
 - iv. Non-functioning motor vehicles
- (e) Off-street parking spaces shall be provided as required in *Section 6.12, Mobile Home Parks*.
- (f) The proposed street names shall be approved by the Pender County E-911 Addressing Department and shall not duplicate any other street name in the Village of St. Helena's zoning jurisdiction. All street intersections shall have a road name sign for each intersecting street. The signs shall be made to conform to the existing street name signs erected by the Village.
- (g) Each unit in the park shall display the correct 911 address as per *Section 6.15, POSTING REQUIREMENTS FOR STRUCTURES*. The unit numbers shall be reflective and placed on the side of the unit facing the road. The park owner shall ensure that new units are numbered and that existing units maintain their numbers.
- (l) A school bus stop shall be provided at the entrance of the park. The space shall be a minimum of twelve (12) feet wide by twenty-four (24) feet long. There shall be a weather shelter of not less than fifty (50) square feet. This shelter may be in conjunction with central mail distribution boxes.
- (m) Mobile home parks shall comply with the active recreational facilities as per *Section 6.12(B)(18)* and usable open space requirements applicable to other multi-family developments as described in *Section 6.13, OPEN SPACE*.
- (n) All electrical, telephone and cable TV service lines shall be installed underground. Only those facilities such as transformers normally not buried may be above ground.
- (o) The lighting plan for the mobile home park shall meet the minimum requirements of the Ordinance.
- (p) Trash and recycling receptacles shall be provided in adequate numbers and locations to meet the requirements of this Ordinance.
- (q) The pedestrian circulation system shall connect each unit with all common areas in the park, with the off-street parking spaces and with the public road. The pathways shall be a minimum of three (3) feet wide and surfaced with an all-weather material such as asphalt or gravel. The number of intersections of the interior pedestrian pathways and the road system shall be kept to a minimum.

- (r) Each unit within the park shall have individual connections to the public water and sewer systems.
- (s) The water and sewer line extension plans have been approved by the State and the Village.
- (t) Each mobile home unit shall be skirted as per *Section 6.12, MOBILE HOME PARKS*, before a Certificate of Occupancy will be issued.
- (u) The landscape plan meets the requirements for a Type B buffer around the perimeter of the park.
- (v) The entrances and exits for the development are directly off a paved public road(s) which is either a collector or arterial street, and meet the driveway standards in *Section 6.9, DRIVEWAY CONNECTIONS*.
- (w) All other standards set forth in *Section 6.12, MOBILE HOME PARKS*.

Y. MANUFACTURED HOMES

1. STANDARDS OF EVALUATION

All manufactured homes to be placed within the Village of St. Helena’s planning and zoning jurisdiction shall have skirting placed around the base within fourteen (14) calendar days from the date the home is placed on the lot. All manufactured homes to be placed within the Village of St. Helena’s planning and zoning jurisdiction shall have electrical service within 60 days from the date the home is placed on a lot. Manufactured home left on a lot longer than 60 days will be considered in storage, in violation of this Ordinance, and subject to penalties outlined in this Ordinance.

Z. MENTAL HEALTH FACILITY, INPATIENT (Six or Fewer Residents)

- 1. See FAMILY CARE HOME (Six or Fewer Residents)

AA. MENTAL HEALTH FACILITY, INPATIENT (More than Six Residents)

ALCOHOL AND/OR SUBSTANCE ABUSE REHABILITATION FACILITIES, RESIDENTIAL (More than Six Residents)

1. STANDARDS OF EVALUATION

- a) The minimum lot size requirements shall be increased by seven hundred fifty (750) square feet for each person in excess of six (6) people for whom care is provided.
- b) A minimum of two hundred fifty (250) square feet of heated building shall be provided per resident.
- c) A type III buffer shall be required along any lot line adjoining residentially zoned or used lots.
- d) One (1) parking space for every five (5) temporary residents or fraction thereof, plus one (1) parking space for each employee on the premises shall be provided.
- e) Such facility may not be located within a distance of twenty-five hundred (2,500) feet from any group care facility.
- f) One (1) monument-style sign a maximum of six (6) feet in height shall be permitted, not to exceed thirty-two (32) square feet per face with a two (2) face maximum.
- g) Only licensed facilities shall be permitted.
- h) Any more than three (3) final determinations of violation of the Town Code of Ordinances and/or convictions related to the premises within one (1) month, or six (6) within one (1) year, shall constitute inadequate supervision and a violation of the conditional use permit. Offenders shall include property owners as well as lessees, tenants, and occupants.

2. Additional Required Information for Application

- a. Plans and specifications for buffer and security fencing
- b. Number of proposed residents and staffed

- c. Written operating procedures of manual outlining the management plan for the facility, including all security measures and plans for supervision of residents.
- 3. Supplemental Standards for Evaluation
 - a. The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining property owners because of traffic, noise, refuse, parking, or other activities.
 - b. The facility shall be operated in a manner that will provide adequate supervision of all residents.

BB. MOBILE FOOD SERVICES

1. STANDARDS OF EVALUATION

- a) All uses subject to this classification shall be allowed in the B-2 zoning district upon the Village of St. Helena receiving, in writing, a list of all items proposed to be sold as part of the service.
- b) Proprietors of mobile food services must provide the Village of St. Helena with an exhaustive list of the proposed location(s) where they plan to conduct business.
- c) Proprietors wishing to operate a business under the mobile food service classification must provide the Village of St. Helena with a written authorization from the property owner outlining expressed permission to conduct a mobile food service on their property.
- d) All food shall either be pre-packaged or prepared at a facility subject to regular inspections by the Pender County Health Department.

CC. PUBLIC UTILITIES

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of these uses:

- (a) The proposed landscaping shall provide a visual buffer equal to a Type B buffer from adjacent property through new plantings or existing vegetation.
- (b) The proposed site meets the needs of the applicant and minimizes potential adverse impacts on the adjacent property.
- (c) All required state agency approvals have been obtained, and the proposed operators have been or will be certified by the appropriate state agency; no certificate of occupancy shall be issued until proof of such certification has been submitted to the Village.
- (d) Public convenience and necessity shall be served by this facility if installed as proposed.
- (e) All outside storage areas and treatment facilities are fenced with a minimum eight (8) foot high cyclone fence topped with barbed wire, or similar perimeter security satisfactory to the permit issuing authority
- (f) The architectural elevations of the buildings show that the buildings preserve the character of the surrounding area to the maximum extent practicable.
- (g) All structures except public water storage facilities are set back at least one hundred (100) feet from the property line. Elevated public water storage facilities shall observe a setback equal to the greater of the height of the storage facility or the setback required in the district where the facility is located.
- (h) All electric power, telephone, gas distribution, and cable television lines serving new development and/or new structures shall run underground from the point of connection with the existing main lines to all structures on the lot served by those lines. Such lines shall be placed underground in accordance with the specifications and policies of the respective utility companies.
- (i) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby properties, such utility

facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden, expense or unnecessary duplication of service.

- (j) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

DD. RECREATIONAL VEHICLES

1. STANDARDS OF EVALUATION

Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, and when construction or repair of a single family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each.

- 2. The general restrictions and limitations are as follows:
 - a. R-12, R-20, R-40, RA, or O&I zoning is required;
 - b. Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the building inspector or his/her designee that size constraints or other factors prevent rear yard location.
- 3. The specific restrictions and limitations are as follows:
 - a. When secondary to a primary residential use, the period of human habitation shall not exceed 365 days for the property owner or 14 days for visitors of the property owner-

EE. RESTAURANT

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- (a) Outdoor eating areas shall be buffered, screened, landscaped, or otherwise located to protect patrons and adjacent properties from adverse impacts, and to provide a pleasant experience to the patrons.
- (b) Outdoor play or recreation areas are not allowed.
- (c) Changeable message signs are prohibited.
- (d) Drive-up windows and ground-mounted menu boards shall not be located on the primary or pedestrian oriented façades.
- (e) Stacking space for drive-up areas shall not inhibit traffic flow on the site.
- (f) Restaurants shall provide information about their seating capacity, hours of operation, provision of drive-up or delivery service, on-site food preparation, special events offered, and service of alcoholic beverages to determine the use's compliance with the intent of the district.
- (g) Applicants shall provide noise level documentation for any sound system used outdoors on site. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities

FF. SCHOOL: ELEMENTARY, JUNIOR HIGH, HIGH SCHOOL & TRADE OR VOCATIONAL SCHOOLS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- (a) Structures, driveways, and other significant physical features within one hundred (100) feet of property line of this project are protected from adverse impacts as required by this Ordinance.
- (b) Schools shall be located a minimum of one thousand (1,000) feet from established adult uses.

GG. SMALL/MICRO WIRELESS FACILITY (in the public right of way or in a utility easement)

See Chapter 8 – Telecommunications

HH. SWIMMING POOLS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval:

- (a) Above ground and in-ground shall be enclosed by protective fencing not less than four (4) feet in height or other approved barrier as allowed by the North Carolina State Building Code.
- (b) Above ground and in-ground swimming pools must be in the rear of the principle structure and must be setback a minimum of ten (10) feet from the side of the rear property lines.

II. TAXICAB OPERATIONS

1. STANDARDS OF EVALUATION

Zoning Compliance Permits issued for Taxicab Operations are not inclusive of any form of repair, overhauling, salvage, dismantling, wrecking, and storage of automobiles. These requirements shall include both operable and/or inoperable or dismantles automobiles.

JJ. TEMPORARY CONSTRUCTION BUILDING/TRAILER

1. STANDARDS OF EVALUATION

All structures permitted under this category shall be moved within 20 days of completion of work or in the event that no work is conducted for a period of 180 days.

KK. TEMPORARY HEALTH CARE STRUCTURE

1. The following definitions apply in this section

- a. Activities of daily living – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- b. Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- c. First or second degree relative. – A spouse, lineal ascendant, lineal descendant, sibling, Uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- d. Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- e. Temporary family health care structure. – A transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupancy who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building code and G. S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

2. The Village of St. Helena shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
3. The Village of St. Helena shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
4. Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (1) and (2) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ration limitations that may apply to the primary structure.
5. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Village of St. Helena. The Village of St. Helena may charge a fee of up to one hundred dollars (\$100.00) for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The Village of St. Helena may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The Village of St. Helena may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the Village of St. Helena of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.
6. Any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements as if the temporary family health care structure were permanent real property.
7. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
8. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is not longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of tis removal, as applicable.
9. The Village of St. Helena may revoke the permit granted if the permit holder violates any provision of this section or G.S. 160A-202. The Village of St. Helena may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section of G. S. 160A-202.
10. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

LL. WIRELESS TELECOMMUNICATION SUPPORT STRUCTURE

See Chapter 8 – Telecommunications

MM. YARD SALES

1. INTENT

It is the intent of this section to protect and promote the public health, safety, aesthetics, and general welfare of the Village of St. Helena by regulating the number of yard sales permitted within the Village's jurisdiction.

2. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- (a) It shall be unlawful for residents of residential districts to conduct more than six (6) yard sales per year, neither of which shall exceed two (2) days in length. No permitting is required for this use.
- (b) It shall be unlawful for any person, property owner, or business owner to conduct any yard sale in any non-residential district, including the Highway Business (B-2) or Industrial (I) districts.
- (c) Any signs are subject to the regulations contained in Section 6.19 of this Ordinance.

3. PENALTY

Penalties as set forth in *Chapter 9, ENFORCEMENT*, shall apply to violations of yard sale requirements.

NN. USE REQUIRING SPECIAL USE PERMITS BASED ON THE SIZE, INTENSITY, OR LOCATION OF THE USE

1. INTENT

This section establishes submittal requirements and standards of evaluation for the Village Council to use in reviewing Special Use Permits for uses requiring such permit, but for which specific standards are not stated in this section.

2. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- (a) The written description of the operation indicates that the use is permitted either as of right or as a Special Use within the zoning district.
- (b) Any use requiring a state air permit and/or local Significant Industrial User Pretreatment certificate shall provide a copy of the current permit for the operation with the application.
- (c) Average daily traffic and anticipated characteristics of vehicular traffic, particularly heavy truck traffic (three or more axles), anticipated to be generated by the use shall be submitted with the application.
- (d) Applicants shall provide noise level documentation for equipment or vehicles used outdoors on site, if any. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.
- (e) The distance to the nearest occupied dwelling unit and residentially zoned parcel shall be submitted.

CHAPTER 6. DEVELOPMENT STANDARDS

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6.1 PURPOSE AND INTENT

The general intent of this section is to provide standards for development to help ensure the safe and convenient development of land on sites and in locations adequate for the uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures and/or buildings, or for a change in the use, unless the requirements of this Chapter are met. The standards set forth in this section are to be used in conjunction with the other sections of this Ordinance in the development of projects and submittal of site plans.

6.2 GENERAL DIMENSIONAL STANDARDS

The following section includes dimensional standards for both residential and non-residential zoning districts. These general dimensional standards apply to all properties unless otherwise specified in this Ordinance or by the permit-issuing authority.

There Are Two Tables In This Section:

1. *Table 6.2.1: DIMENSIONAL REQUIREMENTS FOR ALL ZONING DISTRICTS* includes a summary table that specifies the area, maximum height, and yard setbacks for each of the respective types of residential and non-residential zoning districts

6.2.1 TABLE: DIMENSIONAL REQUIREMENTS FOR ALL ZONING DISTRICTS								
	R-12	RA	R-20	R-40	O&I - Residential	O&I - Business	B-2	I-1
Minimum Lot Area (sf)	12,000	43,560	20,000	40,000	12,000	12,000		43,560
Minimum Lot Width /Road Frontage	90 ft	90 ft	90 ft	90 ft	70 ft	70 ft	100	75 ft
Minimum Side Yard Setback	10 ft	10 ft	10 ft	10 ft	10 ft	20 ft	20 ft	10 ft
Side yard adjacent to a street	15 ft	15 ft	15 ft	15 ft	15 ft	25 ft	25 ft	15 ft
Minimum Rear Yard Setback	10 ft	10 ft	10 ft	10 ft	10 ft	20 ft	20 ft	20 ft
Minimum Front Setback	25 ft	25 ft	25 ft	25 ft	25 ft	50 ft	50 ft	25 ft
Maximum Building Height	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft

6.3 NOTES TO THE DIMENSIONAL STANDARDS

- A. **Bona Fide Farm.** Bona fide farm operations in the RA district are exempt from the side yard and rear yard setback requirements provided (a) the bona fide farm is a lot or parcel located outside the corporate limits of St. Helena (i.e., is in the extraterritorial zoning jurisdiction, and (b) the lot line with respect to which the

setback exemption is sought lies adjacent to other property zoned RA or to property outside St. Helena's zoning jurisdiction.

- B. **Lot Coverage.** The total ground area covered by the principal building and all accessory buildings including any roofed area shall not exceed forty percent (40%) of the total lot area. In the B-2 Highway Business District, total ground area shall not exceed fifty percent (50%).
- C. **Fences.** Fences not exceeding a height of four (4) feet shall be exempt from the yard and building setback line requirements of this Ordinance. Fences not exceeding a height of six (6) feet to be erected only in side or rear yards shall be exempt from the yard and building setback line requirements of this Ordinance, provided that no fence exceeding a height of four (4) feet will be constructed within fifteen (15) feet to any street.
- D. **Exceptions to Height Regulations.** The height limitations contained in this Section do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required of be placed above the roof level and not intended for human occupancy.

6.4 AIR POLLUTION

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating air pollution and contaminants in order to provide clean air. Any permitted principal use, Special Use, or accessory use that emits any "air contaminant" as defined in N.C. Gen. Stat. § 143-213, shall comply with applicable State of North Carolina standards concerning air pollution, as set forth in Article 21B of Chapter 143 of the North Carolina General Statutes.

B. STANDARDS AND REQUIREMENTS

No Zoning Compliance Permit shall be issued with respect to any development emitting an "air contaminant" until the NC Department of Environment and Natural Resources, Division of Air Quality, has certified to the Building Inspector that the appropriate State permits have been received by the applicant (as provided in G.S. 143-215.108) or that the applicant will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution control regulations. If a State permit is required, but has not yet been approved at the time the Village is about to issue a Zoning Compliance, the Village's Zoning Compliance shall be issued subject to a condition that no CO may be issued until the State permit has been issued.

6.5 BUFFERS

A. PURPOSE AND INTENT

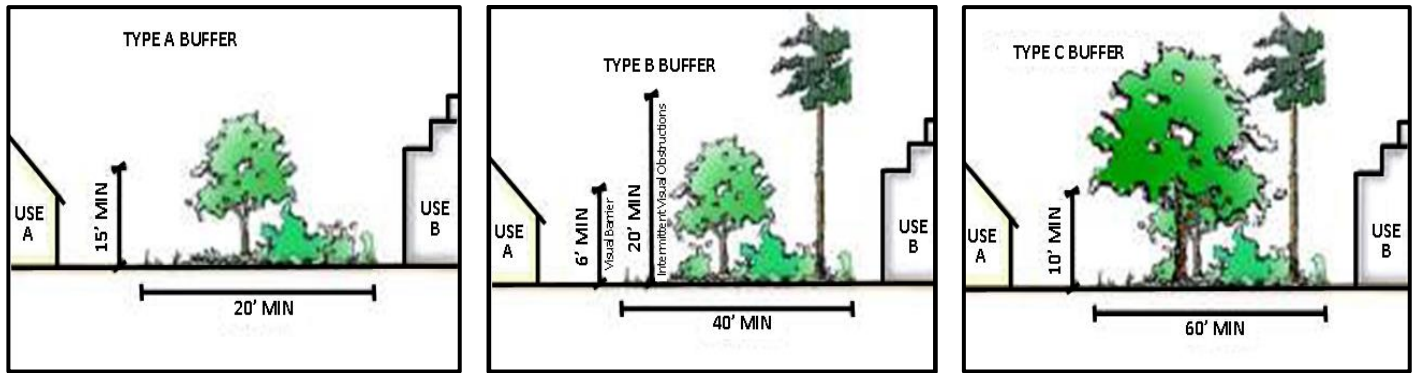
It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the spacing of adjacent land uses. Buffers are required where differences in adjacent zoning designations suggest that spatial separation is necessary to offset potential adverse impacts of adjacent uses. Screening requirements to mitigate the impacts of specific activities like parking or solid waste storage are addressed in *Section 6.17, SCREENING*.

B. APPLICABILITY

Buffers will be required consistent with *Figure 6-1, TYPES OF BUFFERS* and *Figure 6-2, REQUIRED BUFFER PLACEMENT* and *Section 6.5(D), REQUIREMENTS*. Buffers will generally be established at the

earliest review phase, but may be amended at the time of an individual parcel development if the

Figure 6-1: TYPES OF BUFFERS



circumstances have changed.

C. BUFFER TYPES

1. Type A buffers shall be a minimum of 20 feet wide and shall provide intermittent visual obstructions from the ground to a height of at least 15 feet. Plants/trees used must be native to the area.
2. Type B buffers shall be a minimum of 40 feet wide and shall provide a visual barrier from the ground to a height of 6 feet and intermittent visual obstructions to a height of at least 20 feet. The 6 foot portion of the barrier is not required to be 100% opaque year round, but shall provide significant visual separation between the adjoining uses and shall deter pedestrian access. Plants/trees used must be native to the area.
3. Type C buffers shall be a minimum of 60 feet wide and shall provide complete visual separation from the ground to a height of 10 feet upon plant maturity, shall be opaque year round, and shall deter pedestrian access. Plants/trees used must be native to the area.

D. REQUIREMENTS

1. Buffers shall be provided as set forth in *Table 6.5.1, REQUIRED BUFFERS*. The permit-issuing authority may require a greater or lesser buffer type or include supplemental standards if during the review of the application a different standard is clearly indicated.
2. When the parcel adjacent to the parcel being developed is vacant, the permit-issuing authority may reduce the buffer by 50% if the current zoning or future land use designation on the adjacent vacant parcel indicates that a similar buffer would be required on the adjacent vacant parcel when it develops.
3. When a parcel zoned for residential use is to be developed adjacent to a railroad right of way, a 100 foot undisturbed buffer shall be provided along the adjacent property line, regardless of the requirement in *Table 6.5.1, REQUIRED BUFFERS*. This buffer shall be planted to meet the standard of a Type C buffer if the existing vegetation does not meet that standard.

4. When a non-residential parcel is adjacent to a street classified as arterial or collector, no buffer shall be required along the street frontage, regardless of the requirement in *Table 6.5.1, REQUIRED BUFFERS*, unless modified by the permit-issuing authority.

E. OPTIONS

1. The permit-issuing authority may consider buffers that include a combination of existing plant material, newly planted material, constructed walls or fences, berms, and grade changes in cases where the applicant can demonstrate that the proposed alternative buffer will be at least as effective as the type buffer required.

F. OWNERSHIP OF BUFFERS

1. No required buffer in a residential development shall be included within any single family lot, or be wholly owned (in fee simple absolute) by the owner of an individual residential building lot zoned for residential uses. Buffers in residential developments shall be owned by a homeowner's association or other entity charged with its preservation and the preservation of existing landscaping.
2. The required buffer for a non-residential, multi-family or mixed use site may be owned by a property owner's association or by the property owner.

G. DEVELOPMENT WITHIN REQUIRED BUFFER

1. The required buffer shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted by this Ordinance.
2. No grading, development, or land-disturbing activities shall occur within the buffer or within the tree protection area unless approved by the permit issuing authority.
3. Sidewalks, walkways, trails and fences may be placed in buffers provided that damage to existing vegetation is minimized.
4. Utilities are not permitted in buffers unless no reasonable alternative exists.
5. If utilities are placed in a buffer, they shall be located and installed in a way that minimizes disturbance of the buffer area. Utility lines may not run parallel to and within required buffers, but may cross required buffers as near to perpendicular an angle as possible, and in any event at no less than a 60° angle. If utilities, stormwater drainage channels or piping, and other similar features are placed in a buffer any way other than perpendicular or not less than at a 60 degree angle, the area making up the utility easement or area shall be replaced with an equal amount of buffer area. No canopy trees may be removed for utility installation unless no reasonable alternative exists.
6. Stormwater BMPs and impoundments may be placed within a required buffer only when the applicant demonstrates that no reasonably practicable alternative exists, and provided that the performance standard of the buffer can be maintained. Bioretention areas may be placed within buffers without additional justification provided the performance standard of the buffer is maintained.

H. MAINTENANCE OF BUFFERS

1. Where a buffer is owned by a property owners association, the covenants for the development shall

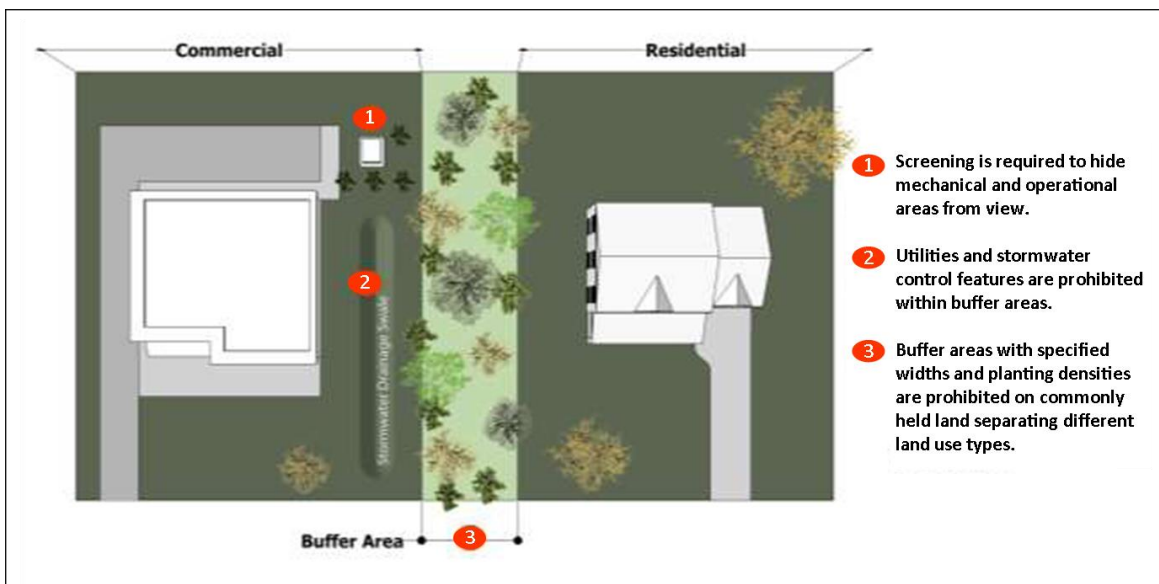
6.5.1 Table: REQUIRED BUFFERS

Applicant Zoning ↓	Adjacent Zoning							
	RA-20	RA	R-12	R-40	O&I	B-2	I-1	I-2
RA-20					A			
RA					A			
R-12					A			
R-40					A			
O&I	A	A	A	A				
B-2	B	B	B	B	B		A	A
I-1	C	C	C	C	C	C		C
I-2	C	C	C	C	C	C	C	

require that association to maintain the buffers and shall include a buffer maintenance plan.

2. For parcels that contain a buffer as part of a permit requirement, the property owner shall maintain the buffer. The site will be inspected at the end of the second growing season following permit issuance for compliance and during any subsequent development review to ensure continued compliance.

Figure 6-2: REQUIRED BUFFER PLACEMENT



6.6 CREATION OF NEW BUILDING LOTS

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the creation of new building lots in order to protect and preserve the appearance, character, and value of adjacent properties.

B. APPLICABILITY

All new residential and non-residential lots must meet the following requirements.

C. NEW LOT REQUIREMENTS

1. New lots shall generally have four sides and generally not have more than 8 sides to facilitate the enforcement of setback requirements and ensure that each lot is generally usable for its intended building proposed, unless existing topographic or natural features such as a stream or ridgeline acts as a boundary.
3. Lots in residential zoning districts must have at least ninety (90) feet of frontage on a public or private street the lot uses for access except O&I district must have at least seventy (70) feet.
4. Unless otherwise approved by the permit issuing authority, all lots shall meet the lot width requirement specified in *Section 6.2, GENERAL DIMENSIONAL STANDARDS* at the front setback line. The permit issuing authority may waive this requirement during review of a Special Use Permit for a development after consideration of lot depth, lot width, general usability of the building envelop on the parcel, and compatibility of the proposed lots with existing and proposed neighboring lots.

D. USABILITY OF LOTS

1. New lots created for building purposes must contain a buildable area at least 10 feet wide and at least 10 feet deep after application of setbacks requirements.
2. No new lot shall be created for building purposes that contains an area wholly within the required setbacks of opposing lot sides.

6.7 DESIGN REQUIREMENTS FOR ALL NEW NON-RESIDENTIAL BUILDINGS

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the appearance of non-residential construction in order to protect and preserve the appearance, character, and value of adjacent properties. Where existing conditions such as limited visibility of the building or features make satisfying these requirements unnecessary or non-compliance with the design requirements achieves another Village goal, the permit-issuing authority may modify the requirements based on competent evidence provided by the applicant to establish that alternatives provided by the applicant will satisfy the purpose and intent of the design requirements, and will protect the use, enjoyment and value of adjoining properties.

B. APPLICABILITY

All new non-residential buildings must meet the following general principles.

C. ARTICULATION

1. The facade shall be articulated with design features or employ a level of architectural detailing sufficient to ensure visual interest and promote pedestrian scale
2. Design elements such as windows, columns, or bay spacing shall be kept as consistent as possible along the front façade
3. Building mass shall be articulated as individual vertical bays
4. Architectural features such as recesses and projections, door and window rhythm, columns, piers, varied rooflines, and brick patterns shall be used to divide and create vertical orientation
5. Horizontal design elements such as large fascias or banding designs are discouraged and shall be balanced with vertical elements
6. The proportion of structural elements such as posts and columns shall be appropriately scaled to the weight they appear to be carrying.

D. DRIVE-THROUGH WINDOWS, CANOPIES, AND PORTE COCHERES

1. Drive-through windows, canopies, and porte cocheres shall be located on the side or rear of the building.
2. Drive-through windows, canopies, and porte cocheres shall be designed to be an integral part of the building architecture.

E. FAÇADE/ STREET EDGE

1. The front facade shall be oriented toward the street.
2. The exposure of the front façade shall be maximized by placing as much of the building width as possible at the front of the lot.
3. The front façade shall be integrated with the overall building architecture.
4. The tallest façade of the building shall be oriented toward the same street that the primary entrance faces.
5. False facades and similar applied designs are prohibited.
6. The first floor shall be architecturally differentiated from upper floors.
7. The use of porches, colonnades, canopies, or awnings on the front façade is encouraged.
8. The “street-edge” shall be reinforced by aligning the building façade with neighboring buildings which are close to the front setback line. Landscaping can also be used to reinforce this line.

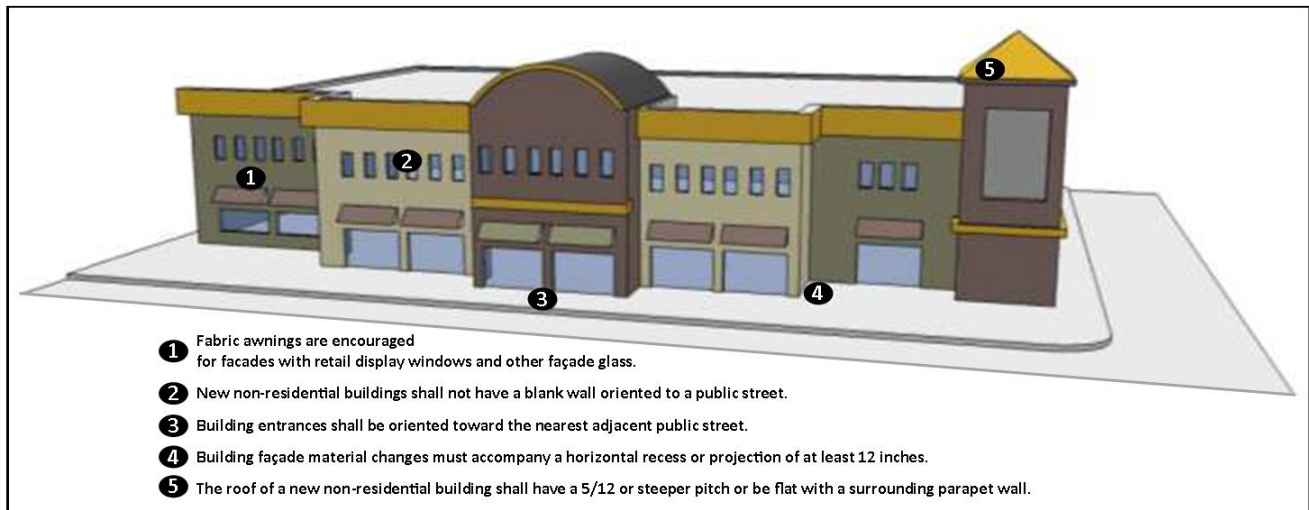
H. FENESTRATION

1. New non-residential buildings shall not have a blank wall oriented to a public street.
2. Openings such as windows and doors shall account for a minimum 50% on the pedestrian side of the ground floor and 30% of the pedestrian side on the upper floors.
3. Street level glazing shall be visually transparent, although UV coatings are permitted.
4. Reflective glass is prohibited on street level windows.
5. Windows shall have vertical orientation and have a minimum ratio of 1:2 except where storefront sheet glass or picture windows are employed.
6. Faux windows are prohibited.
7. Larger scale design features such as garage doors shall be placed at the side or rear of the facility
8. The use of operable windows on upper floors of attached residential and office uses is encouraged.

I. MATERIALS

1. Changes of building materials shall occur at a change of plane, such as a recess, projection or an inside corner.
2. Structures shall not have material changes at their outside corners.
3. Primary building materials shall consist of wood, masonry, concrete, glass, or stone.
4. Materials shall be kept consistent across the façade, unless material changes are employed to enhance individual bays and occur at a change of plane.
5. When multiple materials are used on a façade, one material should be used as the dominant theme with the others acting only to compliment or accentuate the design.

Figure 6-3: NON-RESIDENTIAL DESIGN STANDARDS



J. ORIENTATION/ENTRANCE LOCATION

1. All new primary buildings shall have entrances oriented toward, and be accessible from the nearest public street.
2. Primary building entrances shall be clearly defined and articulated.
3. Primary building entrances shall be (a) placed at the front of the building facing the front lot line and (b) clearly identifiable from the street.
4. If it is not feasible to place the building entry directly on the front façade, the entry shall be placed where it is readily visible and faces the main road or internal street.
5. Pedestrian access to buildings shall be provided from the street and from parking areas.
6. Entries from parking areas shall be secondary in articulation and nature, relative to street entrances.

K. ROOF PITCH

1. Flat roofs shall be capped by an articulated parapet wall.
2. Sloped roof structures must maintain a pitch between 5:12 minimum and 12:12 maximum on all primary roof areas (Not including dormers, entry canopies, or similar elements)
3. Buildings with sloped roofs shall have roof overhangs between 6" and 18" deep.
4. The use of dormers and gables is encouraged on the front of buildings with sloped roofs.

L. STORAGE AND OUTBUILDINGS

1. Storage buildings and outbuildings shall be located behind the primary building.
2. Storage buildings and outbuildings shall be architecturally compatible with the primary building.

M. TRANSPARENCY

1. Glass that is installed on the first floor of the front façade of new buildings, within which the first floor occupants are intended to be retail, restaurant or service business, will be transparent with low reflectivity.

N. MOBILE OFFICES

1. No mobile home, travel trailer or other mobile style structure shall be used as an office or in any manner for business or commercial purposes, except when used for temporary purposes, such as construction offices and must be removed within 72 hours after job completion.

6.8 INTENTIONAL LEFT BLANK

6.9 DRIVEWAY CONNECTIONS

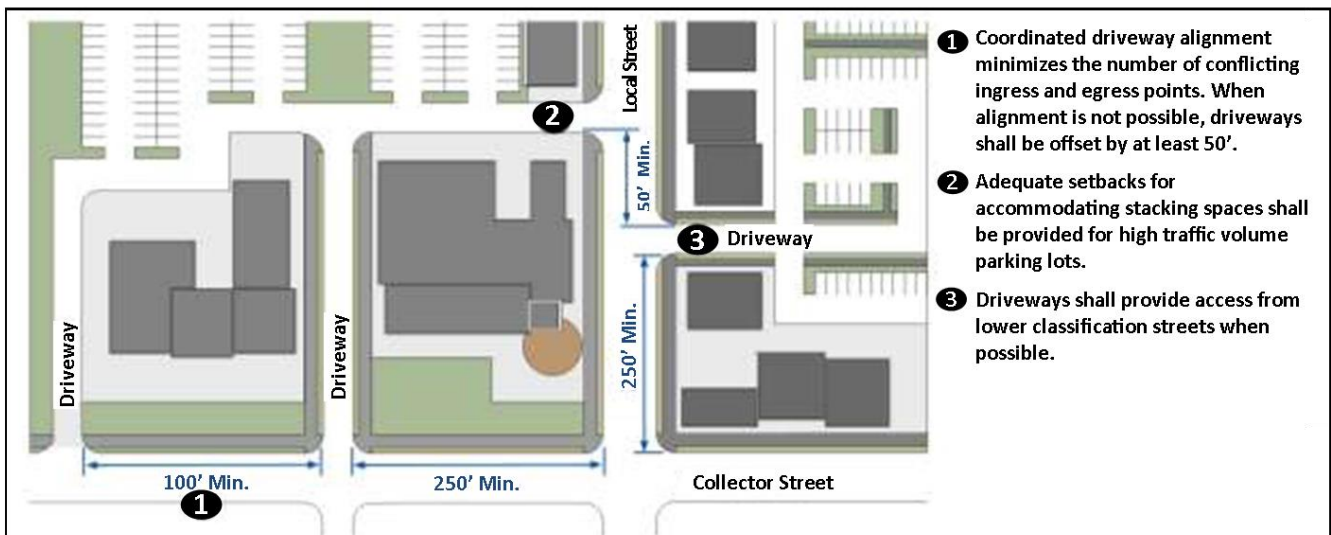
A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring that driveways shall be designed and located so as to minimize the number of conflict points among vehicular movements, to coordinate the location and the alignment of major driveway connections (ingress to or egress from heavy traffic generators such as shopping centers and supermarkets) and roadway intersections on opposite sides of the intersected street, to discourage dangerous vehicular movements, to minimize conflicts with pedestrian traffic, to avoid driveway connections at locations where adequate, safe sight distances cannot be provided, and to ensure driveway connections are designed to accommodate storm water runoff. The use of cross access easements connecting independent, adjacent developments is encouraged, so as to reduce the number of driveway curb cuts to the public right-of-way.

B. APPLICABILITY

These requirements shall apply to all development types, except one and two-family dwellings.

Figure 6-4: DRIVEWAY CONNECTIONS



C. DRIVEWAY REQUIREMENTS

1. No driveway shall be located within two hundred fifty (250) feet of the intersection of a public street with an arterial or collector street unless no other site access is legally practicable.
2. No drive shall be located closer than twenty-five (25) feet to the right-of-way of any local street intersection. At intersections with traffic signals, the Building Inspector shall specify distances from the right-of-way to allow for sufficient stacking of vehicles in the street prior to the driveway location.
3. When access is available to a lot from streets of different classifications (e.g., arterial, collector, sub-collector), the driveway will be located so as to provide access to the lot from the street with the lower classification.
4. In parking lots where large hourly volumes of entering traffic may be expected, the developer shall provide a setback between pavement edge of the public roadway and the edge of proposed internal drives to accommodate stacking within the parking lot. This setback shall be determined by the Building Inspector based on standards required by NCDOT, the Institute of Traffic Engineers, or other recognized standard.
5. On curb and gutter streets, the North Carolina Department of Transportation standard concrete driveway ramp shall be used. The Building Inspector may allow street type driveway entrances for high volume traffic uses.
6. Driveway connections shall be designed to accommodate stormwater to ensure that gravel does not wash into the public street. Connections which are above the grade of the existing street shall be graded so that drainage is directed into ditches designed to accommodate the drainage, or into the street gutters. The driveway shall be at the same elevation as the existing street across the width of the street right-of-way. If gravel or other materials wash onto the public street, the property owner shall be responsible to remove the material and establish safe conditions.
7. Driveways shall be a minimum of one hundred feet (100') apart when access is to a collector or arterial street.
8. Driveways shall be clearly defined with the use of curbs and/or landscaping.
9. Driveways on opposite sides of the street shall either be offset by at least fifty feet (50') or aligned, unless such standards cannot be met for safety reasons.

6.10 LANDSCAPING (PARKING LOT)

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas in order to reduce radiant heat from surfaces, reduce glare of automobile lights, minimize stormwater and drainage problems, and protect and preserve the appearance, character, and value of adjacent properties. Where existing conditions such as topography, structures, or other existing features make satisfying these requirements impractical, the permit-issuing authority may modify the requirements based on competent evidence provided by the applicant to establish that alternatives provided by the applicant will satisfy the purpose and intent of the buffer and landscape requirements, and will protect the use, enjoyment and value of adjoining properties.

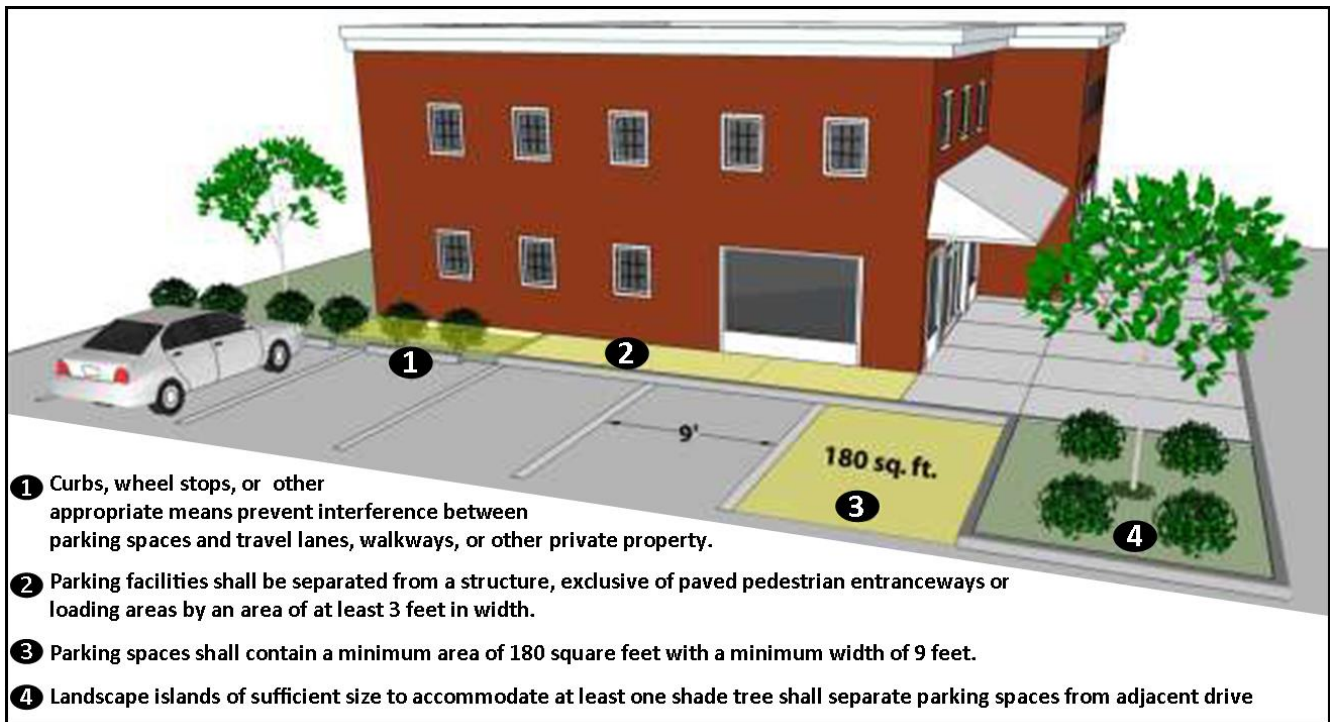
B. APPLICABILITY

These requirements shall apply to all development types with the exception of one and two family dwellings.

C. LANDSCAPING REQUIREMENTS

1. Parking lots shall contain at least 1 shade tree for every seven parking spaces required for the site. These trees shall be located a sufficient distance from existing overhead utility lines to ensure the health and growth of the tree.
2. Trees shall be evenly distributed throughout the parking areas and parking perimeter at the required ratio.
3. No more than 14 continuous parking spaces shall be allowed without a minimum of 1 landscape island containing a shade tree.
4. All planting medians or islands in parking lots shall be at least 100 square feet measured from back of curb to back of curb (or pavement edge if the island is not curbed for stormwater purposes). When an island contains one or more shade trees, the island must have at least 300 square feet of unpaved space per shade tree.
5. Linear planting strips between the lengths of parking isles are encouraged rather than numerous small tree islands. If a linear strip is used, 15 shrubs (no taller than 3 feet at maturity) per 100 feet of planting strip must be planted in addition to the required trees.
6. A minimum 10 foot wide continuous planted median shall be installed in off-street parking areas for every 2 double loaded parking bays exceeding 122 feet in length. Alternative landscaping layouts and arrangements which similarly visually break up large parking areas will be considered by the permit issuing authority.
7. Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure by a landscaped area at least five (5) feet in width;
8. Ground level parking facilities and the ground level of multi-level parking structures shall be screened from adjacent residential areas and streets by means of opaque landscaping, fencing, or grade change of at least three (3) feet in height above the grade of the edge of the parking area;
9. In meeting these standards, the retention of existing significant vegetation shall be encouraged. The site plan submitted shall locate and identify all existing and proposed trees and shrubs used for parking standards.
10. Landscaping and walkways shall be installed to indicate the preferred travel pattern for pedestrians.
11. Landscaping shall be protected from damage by motor vehicles.
12. The permit issuing authority may modify requirements of this section based on the specific needs of the location as long as they are consistent with the regulations set forth in this section.

Figure 6-5: LANDSCAPING (PARKING LOT)



6.11 LIGHTING

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by establishing criteria and standards for providing uniform lighting in outdoor public places where safety and security are concerns, protecting drivers and pedestrians from disabling glare from non-vehicular light sources that shine directly into their eyes and thereby impair safe traverse, protecting neighbors from nuisance glare from poorly aimed or inadequately shielded light sources, and providing lighting which is efficient and compatible with surrounding uses and structures.

B. APPLICABILITY

Lighting plans shall demonstrate that sufficient light will be available to provide security for property and people using public facilities and common areas after dark. This includes, but is not limited to, roads, driveways, walkways, bikeways, parking lots, and recreational areas. Lighting plans will be reviewed as part of the review process for all permit applications. Modifications to approved or existing lighting shall be submitted to the Building Inspector for review and compliance with applicable requirements.

C. LIGHTING REQUIREMENTS

Lighting plans shall include a layout of proposed fixture locations (including wall mounted lights, ground mounted lights, and illuminated signs), foot candle data that demonstrate conforming intensities and uniformities; and a description of the equipment (catalog cuts), glare control devices, lamps, mounting heights and means, hours of operation, and maintenance methods proposed. Illumination intensities (lighting contours) may be shown on an independent plan or integrated with other required plans

D. MINIMUM LIGHT LEVELS

1. Parking areas, whether surface or in a structure, shall have a minimum light intensity of 1.0 footcandles.
2. Interior sidewalks, those sidewalks that connect buildings to parking areas, common areas, of facilities within a development that are likely to be used at night, shall have a minimum light intensity of 0.5 footcandles.
3. Minimum lighting levels in this subsection are not required to be met by nonresidential uses during non-business hours.

E. MAXIMUM LIGHT LEVELS

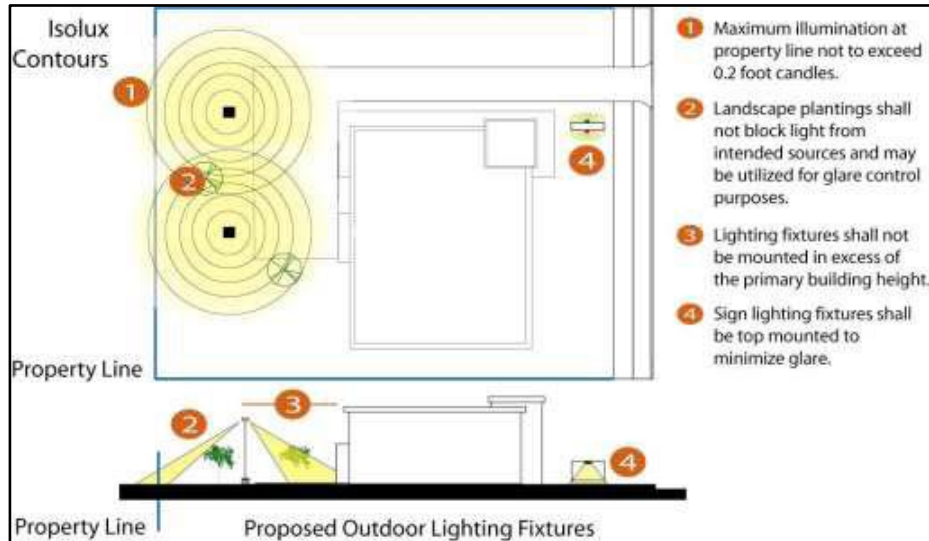
1. All outdoor lighting shall be designed and located such that the maximum illumination measured in foot candles at the light source's property line shall not exceed two tenths (0.2) foot candle measured at ground level.
2. Light intensities shall not exceed fifteen (15) foot-candles at any location on the site to limit glare and blinding caused by significant light variations across a site. The permit issuing authority may consider an applicant's unique situations and use requirements during the development review and may allow greater intensities within the site.

F. INSTALLATION

1. Lighting fixtures height shall not exceed the lesser of the maximum permitted building height for the district, or the maximum height of the main portion of the primary building on the site (excluding spires, towers, parapet walls and the like) on the site. For sites where no building is proposed, mounting height for fixtures shall not exceed fifteen (15) feet for non-cutoff type fixtures or twenty-five (25) feet for cut-off type fixtures. This provision shall not apply to outdoor athletic field and outdoor performance area lighting provided the other applicable requirements of this section are met.
2. Electrical feeds to lighting standards shall be run underground, not overhead.
3. Lighting standards in parking areas shall be protected from vehicle impact with protective barriers or by location. Standards should not be placed so as to obstruct pedestrian movement along sidewalks or medians.
4. Directional lighting fixtures used for sign lighting shall be top mounted so lighting is aimed down. Ground mounted signs with a height of five (5) feet or less may be ground lit, provided that the lights are shielded so as to illuminate the sign only, and the light shall not exceed 10 foot-candles at the sign surface.
5. Fixtures shall be of the sharp cut-off type. No portion of the fixture bulb may extend below the fixture housing. Non-cutoff type fixtures may be used if approved by the permit issuing authority with good cause shown during the permit review and such fixtures meet the other standards of this section.
6. Unshielded wall fixtures shall not be used as security or general lighting adjacent to residential uses or to a public right of way.

7. Landscape plantings shall be located and maintained so that they do not block light from reaching the intended surfaces.
8. The placement of light fixtures should indicate the desired traffic flow and aid pedestrian safety, especially in areas with potential conflict between pedestrians and vehicles.

Figure 6-6: EXTERIOR LIGHTING REQUIREMENTS



G. CONTROL OF NUISANCE AND DISABLING GLARE

1. All outdoor lighting, shall be designed, installed and maintained in a manner which does not present a disabling glare hazard to drivers or pedestrians; and all reasonable means shall be taken to prevent projection of nuisance glare onto neighboring properties or into the night sky.
2. Lighting for sports and athletic fields must include glare control features and must be designed so that primary illumination is directed onto the play area and ancillary areas such as bleachers, stands, and similar areas. All lighting fixtures for sports fields must be equipped with a glare control package including louvers, shields, or similar devices. The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
3. Non-security lighting shall be extinguished when the operation is closed or not in use. In reviewing lighting plans, the permit issuing authority may consider the impact of lighting on neighboring properties based on stated hours of operation, topographical differences across sites, and other considerations.
4. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment and shielding. Only after those means have been exhausted shall vegetation, fences, or similar buffer methods be considered for reducing glare.

H. MAINTENANCE

1. Lighting fixtures used for safety and security lighting shall be maintained in proper working order so as to always meet the requirements of this Ordinance.

6.12 MANUFACTURED HOME PARKS

A. PURPOSE AND INTENT.

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the creation or alteration of new and existing mobile home parks within the Village's jurisdiction to protect and preserve the appearance, character, and value of adjacent properties.

B. DESIGN STANDARDS

All new or existing manufactured home parks must meet the following requirements on the park plan before a special use permit can be issued. Manufactured homes within each park must conform to the standards set forth in *Section 5.2(X) MANUFACTURED HOME PARKS*.

1. Every manufactured home park shall be located on a tract of land not less than five (5) acres in size and shall contain at least fifteen (15) manufactured home spaces, as defined in this section.
2. Every manufactured home space shall consist of a minimum of 5,000 square feet. Each manufactured home space shall be clearly established on the ground by permanent corner monuments or markers.
3. No more than one manufactured home may be set up on any manufactured home space.
4. The supports of all manufactured homes parked within an authorized park shall rest upon footings which meet the state regulations for manufactured homes.
 - (a) Each manufactured home space shall have at least one (1) raised porch of at least fifteen (15) square feet. All and any additional porches must comply with the North Carolina State Building Code.
 - (b) A paved walkway two feet wide (minimum) leading from the road or off-street parking space to the patio shall be provided.
 - (c) Each walkway shall be graded and properly drained to prevent ponding.
5. No manufactured home shall be located less than forty (40) feet from a public street right-of-way. No manufactured home shall be located less than fifteen (15) feet from a private drive or from an exterior park boundary, or less than thirty (30) feet from another manufactured home, a manufactured home addition or any structure.
6. A driveway and parking space sufficient to accommodate at least two automobiles shall be constructed within each manufactured home space and shall be paved or covered with crushed stone or other suitable material.
7. The manufactured home park shall be located so as not to be susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises. Where storm drainway pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the mobile home park when needed so long as the capacity of the existing system can handle the additional load.
8. Each manufactured home space shall be graded to provide adequate storm drainage away from the manufactured home.

9. The manufactured home park shall have hard-surfaced roads and streets. Streets abutting all manufactured home spaces must be lighted at night.
10. No manufactured home space shall have direct vehicular access to a public street.
11. A drainage area to provide proper drainage ditches and a three to one back slope shall be provided where determined necessary by the Village Council or Building Inspector. Park owners shall maintain all drainage ditches as to allow stormwater to move without obstruction.
12. Closed ends of dead-end streets shall be provided with an adequately paved vehicular turning circle or other approved turn around meeting the North Carolina Fire Code.
13. Each manufactured home space shall have adequate access, for both the manufactured home and autos, with a minimum access width of 20 feet unless more is deemed necessary because of topographical conditions or street curvature.
14. When the manufactured home park has more than one direct access to a public street, each street access shall not be less than 300 feet apart or less than 300 feet from a public street intersection unless topographical or site conditions demand otherwise.
15. SIGNS FOR IDENTIFICATION
 - (a) Manufactured home parks shall be limited to one or not more than two signs with a total area of not more than one-half square foot for each manufactured home space, and in no case larger than 50 square feet total located on the park property, but no closer than five feet to any other than front property line.
 - (b) Only indirect, non-flashing lighting may be used for illumination.
 - (c) The sign must be constructed in such a manner as to prevent a direct view of the light source from any public street right-of-way.
16. The manufactured home park shall have a Type B Buffer as defined under *Section 6.5, BUFFERS*.
17. The following utility standards shall apply. In every manufactured home park, all installations (other than those within the manufactured home itself) of plumbing and electrical wiring and all gas appliances shall comply with the provisions of the building, plumbing, electrical, heating and gas regulations of the state, Village and county.
 - (a) Utilities. All utilities shall be installed underground.
 - (b) Manufactured home space utilities. Each manufactured home space shall be equipped with plumbing and electrical connections.
 - (c) Water supply.
 - i. Each manufactured home park shall obtain water from a source approved by the County Health Department.
 - ii. The supply shall be adequate for the park requirements.
 - iii. The drinking, cooking, laundry and general bathroom water supply for each individual manufactured home shall be obtained only from faucets or other plumbing connections located within each mobile home.
 - (d) Sewage disposal.

- i. Each manufactured home park shall be provided with an adequate sewage disposal system approved by the County Health Department.
 - ii. All sewage wastes from each manufactured home park, whether from individual manufactured homes or manufactured home spaces, shall be piped into the manufactured home park sewage disposal system.
18. Adequate and suitable recreation areas and facilities to serve the needs of the anticipated population shall be provided and shall consist of at least the following.
- (a) One or more play lots for preschool children, containing a minimum size and total area in the ratio shown in the table below; provided, there shall be at least one lot within 400 feet of every mobile home.
 - (b) One or more playgrounds for school-age children and adults, containing a minimum size and total area in the ratio prescribed as follows.

Table 6.12.1: MANUFACTURED HOME PARK RECREATION AREA			
Facility	Per manufactured Home	Per 100 Manufactured Homes	Minimum Size of Single Facility
Play lot	12 sq. ft.	1,200 sq. ft.	400 sq. ft.
Playground	440 sq. ft.	One acre	10,000 sq. ft.

19. The manufactured home park may have a central structure containing a retail sales counter or coin-operated machines for the park residents' use only; provided, they are completely enclosed within a building and there is no exterior advertising; and, provided that, the structures shall not front on a public street.
20. All bathing and laundry facilities and toilets shall be in conformity with regulations of the County Health Department.
21. Each manufactured home shall be anchored per the requirements of the NC State Building Code.

C. SPECIAL USE PERMIT; TEMPORARY OPERATING PERMIT REQUIRED.

- 1. It shall be unlawful for any person to maintain or operate a manufactured home park within the jurisdiction of this chapter unless the person shall first obtain from the Village Council a special use permit as described in *Section 3.6, SPECIAL USE PERMIT*. The maintenance or operation of a manufactured home park may be continued under a temporary operating permit, as defined in *Section 15.2, DEFINITIONS*, for a period of time and under the conditions as are prescribed in *Section 6.12(C)(4)* below.
- 2. The special use permit shall be issued and subsequently renewed if the Planning Board and Council find that the applicable provisions of this chapter and all Village ordinances are satisfactorily complied with and, at the time of the initial special use request.
- 3. No special use permit shall be issued for any manufactured home park not in operation upon the effective date of this chapter until the park plan has been approved by the Village Council as provided for in *Section 6.12(D), CONSTRUCTION OR ALTERATION OF PARK*.
- 4. A temporary operating permit shall be issued by the Council permitting a nonconforming park to be maintained and operated for a period of six months subject only to the provisions of this chapter made expressly applicable to the owner, or owners, lessee or agent.

D. CONSTRUCTION OR ALTERATION OF PARK.

1. General Provisions

- (a) No person shall construct or engage in the construction of any manufactured home park or make any addition or alteration to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he or she first secures a special use permit authorizing the construction, addition or alteration.
- (b) The construction, addition or alteration shall be done in accordance with plans and specifications submitted with the application and approved by the proper authorities.
- (c) Procedures for the applicant securing this permit are described in *Section 3.6, SPECIAL USE*

PERMIT.

2. Before the Council shall review the special use request, a park plan, described in *Section 6.12(D)(8), Information Required for a Park Plan* below, must be submitted for review and approval by the Village Board.

- (a) No plan is required to be prepared and approved for issuance of a permit to make minor facility improvements in an existing manufactured home park where the number of manufactured home sites within the park is not affected.
- (b) When no plan is required, application for a building permit may be made directly to the Building Inspector.

3. Five (5) copies of the park plan shall be submitted and, upon approval by the Council, each copy shall be signed by the Mayor and Village Clerk, denoting Village approval.
4. The approved park plan becomes part of the conditions for the special use and must be constructed and maintained accordingly in order to retain the permit. The Building Inspector shall make an examination of the construction at any reasonable time to determine whether the work is being done according to approved plans and specifications. The owner shall make available any records, test data or other information essential to the determination.
5. When all specified improvements have been made, the Building Inspector shall issue a certificate of occupancy and the developer may begin moving in homes and begin operations.
6. Adherence to the operating standards prescribed in *Section 6.12(E), OPERATING STANDARDS* is another condition required for the special use permit to be renewed.
7. The special use permit granted to a manufactured home park shall not expire. Special Use Permits may be revoked if the Village Council determines that all the conditions as required by the Special Use Permit when issued, have not been met or observed. If the permit is revoked by the Village Council, operation of the park must cease within six (6) months of the date of revocation of the Special Use Permit.

8. INFORMATION REQUIRED FOR PARK PLAN

- (a) The park plan shall be drawn on reproducible sheets to a scale of not less than one inch equals 40 feet and shall show the following on one or more sheets.
- (b) The name of the manufactured home park and the names and addresses of the owner or owners and the designer of the park;
- (c) Date, approximate north arrow and scale;

- (d) The boundary line of the tract with accurate linear and angular dimensions drawn to scale and the area of the park in square feet or acres;
- (e) Contours with a vertical interval of one foot referred to sea level datum and elevations of existing streets, roads, drives, walks, curbs, catch basins and the like;
- (f) A location map with a scale no less than one inch equals 1,000 feet showing the location of the mobile home park;
- (g) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes and any utility easements. The Village Council or Building Inspector may require similar information to be shown on proposed park boundaries. The names of adjoining subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land shall also be indicated;
- (h) The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, parks and open spaces, reservations, manufactured home spaces, manufactured homes , parking areas and building lines within the park. In all cases the proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land;
- (i) When deemed necessary by the Building Inspector, profiles of all proposed public or private streets or drives, showing natural and finished grades drawn to a scale of not less than one inch equals 40 feet horizontal and one inch equals four feet vertical;
- (j) Plans of proposed utility layouts (sewer lines, septic tank locations, septic tank drainfields and water and storm drainage) showing feasible connections to existing and proposed utility systems to be prepared by a civil engineer or registered land surveyor;
- (k) Proposed storm drainage for each manufactured home space and for the entire manufactured home park including all proposed grading and sewer installations which may be deemed necessary to ensure proper drainage and the elimination of ponding. Proper drainage requires a storm drainage capacity to the 100-year storm level;
- (l) Location and number of garbage receptacles;
- (m) A detailed plan for all electrical installations prepared to meet the North Carolina Electrical Code and state and local codes or ordinances;
- (n) Where public water or a public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable soils and topography to accommodate the proposed methods of water supply and sewage disposal; and
- (o) A detailed drawing to a scale of not less than one inch equals five feet shall be prepared of a typical manufactured home space showing the location of the manufactured home stand, all utilities and the manufactured home utility connections, the patio, concrete footing, walks, parking spaces, driveways and all other improvements.

E. OPERATING STANDARDS.

The following operating standards shall be conditions to any special use permit to operate a manufactured home park and, as such, must be maintained in order to qualify for continued operation of park under the Special Use Permit.

1. MANUFACTURED HOME SALES IN MANUFACTURED HOME PARKS

It shall be unlawful to conduct on a commercial basis the sale of manufactured homes or travel trailers within a manufactured home park.

2. RESIDENTIAL UNITS NOT TO BE TRAVEL TRAILERS

No manufactured home park shall permit a travel trailer, as herein defined, to locate within its boundaries for periods greater than one week if used for any dwelling purposes whatsoever.

3. REGISTRATION

- (a) It shall be the duty of the operator of the manufactured home park to keep an accurate register containing a record of all manufactured homes, owners and occupants of the manufactured home park. The register shall contain the following information:
 - i. Names and addresses of the owners and/or tenants;
 - ii. The manufactured home space in which the manufactured home is parked;
 - iii. Date of entering the park; and
 - iv. Date of leaving the park;
- (b) The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

4. MANUFACTURED HOME EQUIPMENT

Each manufactured home shall have and be fully operational, a flush toilet, lavatory, bathtub or shower, cooking facilities and electric wiring and shall be required to connect with the utilities provided at each manufactured home space.

5. REFUSE DISPOSAL

- (a) All garbage and refuse in every manufactured home park shall be stored in suitable watertight and fly-tight receptacles which shall be kept covered with closely fitting covers. The size and type of all garbage receptacles shall be in conformance with Village standards.
- (b) No person shall throw or leave garbage or refuse upon the grounds of any manufactured home park.
- (c) It shall be the duty of the manufactured home park operator to personally make certain that all garbage and refuse are regularly disposed of in a sanitary manner.
 - i. If the manufactured home park is located within the corporate limits, the Village will pick up and dispose of the garbage and refuse.
 - ii. If the manufactured home park is located outside of the corporate limits, the manufactured home park operator shall be responsible for the pickup and disposal of the garbage in a manner satisfactory to the Village and the County Health Department.

6. HEALTH REGULATIONS

All county health regulations shall apply to manufactured home parks within the jurisdiction of the Village, except where the regulations are in conflict with the provisions of this section, in which case the more restrictive provisions shall apply.

7. TIEDOWNS

The owner of the manufactured home park shall be responsible to see that each manufactured home parked within the manufactured home park is properly tied down.

8. FIRE PREVENTION AND DETECTION

In addition to the fire prevention regulations, the following shall apply.

- (a) The park owner shall install a fire extinguisher labeled as suitable for class A, B and C fires and of a type approved by the Fire Department in each building open to the public and in the park office. The park staff shall be instructed in the proper use of any fire protection equipment available in the park and their specific duties in the event of fire shall be defined.
- (b) The park owner or operator shall maintain the park area free of rubbish, dry brush, leaves, weeds and any other materials which might communicate fires between manufactured homes and other buildings.
- (c) Empty liquefied petroleum gas containers and other objects and materials not approved by the Fire Department shall not be stored under manufactured homes.

F. NONCONFORMING PARKS.

1. All manufactured home parks existing at the time of the adoption of this chapter and not conforming to the requirements herein will be considered grandfathered.
2. In no case shall a mobile home, which has been removed for any reason, be replaced unless in compliance with *Chapter 9 – Nonconformities*.
3. If, at any future time, a nonconforming mobile home park wishes to expand in total size or in number of mobile homes, the owner must obtain a new special use permit with the requirement that the new section be brought into complete compliance with all standards.
 - (a) The old nonconforming section may continue with a nonconforming status, as herein provided.

6.13 OPEN SPACE

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the dedication of a portion of land for the purpose of preserving open space and the protection of significant natural features and/or cultural resources.

B. APPLICABILITY

Every applicant for a Special Use Permit or Master Plan for residential and/or non-residential purposes involving the creation of multiple lots from a parent parcel shall be required to dedicate a portion of the parcel for the purpose of preserving open space, and to preserve significant natural features and/or cultural resources.

C. DEDICATION REQUIREMENTS

1. The applicant shall provide land for open space within the proposed development equal to 10% of the gross parcel (development tract) area.
2. Open space shall be accessible to all lots in the development through a combination of direct access to the street and sidewalks, walkways or connecting paths.

Figure 6-7: OPEN SPACE ILLUSTRATIONS



D. PERMITTED USES WITHIN OPEN SPACE:

1. Buffers required in *Section 6.5, BUFFERS*
2. Undeveloped land without a designated purpose held by a property owners association or non-profit conservation entity

E. PROHIBITED USES WITHIN OPEN SPACE:

1. Stormwater management ponds, swales, conveyances, and treatment areas
2. Recreation space
3. Reserved rights of way
4. Utility, drainage, or access easements
6. Any land held in private ownership rather than commonly held by a property owners association or non-profit conservation entity

F. ADDITIONAL PERMITTED USES WITHIN OPEN SPACE AREAS

1. Open space has no purpose that requires the construction of structures or modification of the existing landscape or grade. An applicant may propose fences, community gardens, and passive uses including walking trails, available to the public or restricted to occupants of the development, at the time of development review.
2. Utility easements may cross common open space if necessary to connect to the area network. To the maximum extent practicable, utility easement intersections with open space shall be perpendicular to minimize land disturbance. In no case shall a utility easement run coincident with an area of common open space for a length of more than 50 feet without specific authorization by the permit issuing authority and a plan for mitigating the impact of the disturbance on the intent of the open space.
3. Design Requirements
All residential developments shall provide walkways connecting residences and open or common areas. This may be accomplished with sidewalks along street frontages or walkways through recorded access or utility easements.

G. LAND CHARACTERISTICS

1. To prevent open space from becoming a nuisance, all open space within a development shall be accessible from a public right of way.
2. Open space shall be arranged to have both contiguity and connectivity within the development dedicating the open space and to any surrounding dedicated open space. For the purposes of this paragraph, contiguity shall mean that the parcel being offered as open space is of sufficient area to be meaningful in achieving the intent of open space and connectivity shall mean that the parcel being offered as open space shall be located so that a person or wildlife can move between open space parcels without traveling across private property or along a public road or sidewalk.

6.14 PARKING, LOADING, AND CIRCULATION

A. PURPOSE AND INTENT

It is the general purpose and intent of this section to provide for off-street parking and loading areas that are safe, convenient and of adequate size for the particular use or uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures, and buildings, either initially, or for a change in use, or expansion of an existing use, unless the off-street parking and loading requirements of this section are met.

B. APPLICABILITY

The requirements of this section apply to all developments, regardless of zoning designation, with the exception of one and two family detached houses.

C. OFF-STREET PARKING PROVISIONS

1. GENERAL

Each of the following uses shall provide off-street parking spaces in accordance with the table below. The term "per employee" shall mean per employee at the time the maximum number of employees are present.

4. MINIMUM NUMBER OF PARKING SPACES REQUIRED

The following Table establishes the formulas to be used to calculate the number of parking spaces required for a particular use. If no specific parking standard is established in this Table for a particular use, the permit issuing authority shall apply the most analogous standard. Some uses identified in this Table are not identified the Table of Permitted Uses as specific uses. Nevertheless, parking standards for the most similar use shall apply.

4. PARKING PROVISIONS FOR USES NOT SPECIFICALLY LISTED

Any use not listed specifically in *Table 6.14.1, MINIMUM NUMBER OF PARKING SPACES REQUIRED* shall meet the off-street parking and loading requirements determined by the permit-issuing authority. In making the determination, the permit-issuing authority shall use the standards as set forth in *Table 6.14.1, MINIMUM NUMBER OF PARKING SPACES REQUIRED* for those uses which they find most similar to the proposed use.

D. JOINT PARKING FACILITIES

1. The required parking for multiple, separate and complementary uses located in any zoning districts may be combined in one lot, subject to the following requirements:
 - (a) The off-street parking spaces allotted to each use shall be shown on the application for a Zoning Compliance Permit;
 - (b) The distance between the primary entrance of the structure housing the use to be served and the farthest allotted parking space for that use shall not exceed one thousand three hundred twenty (1,320) feet.
 - (c) Spaces assigned to one use may not be assigned to another use at the same time or any other time, except that upon the presentation of competent evidence demonstrating the adequacy of shared parking facilities, up to one-half of the parking spaces required for uses such as, but not limited to, churches, theatres, and assembly halls, the peak attendance at which is expected to be outside typical business hours (Monday through Friday 8 a.m. to 5 p.m.) may be assigned to another use which will experience peak usage during the day. The Building Inspector shall make the determination relative to peak usages.
 - (d) Cross easements shall be executed and recorded at the Pender County Register of Deeds to insure the continued availability of the parking facility to the use it serves.

Table 6.14.1: MINIMUM NUMBER OF PARKING SPACES REQUIRED	
USE TYPE	REQUIREMENTS
Adult Uses	1 per 200 square feet gross floor area
Amusement Arcades	1 per game table, video game, amusement device
Athletic Field	10 spaces
Banks & Financial Institutions	1 space per 300 square feet gross floor area
Bed & Breakfast	1 per guest room plus 2 spaces for owner's portion
Billiard or Pool Hall	2 per lane or table
Botanical Garden/Arboretum	2 spaces per acre
Bus Passenger Shelter	none
Cemetery	none
Child Day Care	1 per 375 square feet gross floor area
Church, Place of Worship	1 per 4 seats
Club/Lodge	1 per four members
Community Center	1 per 6 seats or 1 per 30 square feet gross floor area if no permanent seats
Dwelling: Attached	2 spaces per dwelling unit, plus 1 visitor space per 5 dwelling units
Extended Care Facility	0.3 per room
Family Care Home	0.3 per room
Family Child Care Home	1 per 375 square feet gross floor area

Flex Space	1 space per 300 square feet gross floor area
Funeral Home	1 per 4 seats
Galleries/Museums	1 per 1,000 square feet gross floor area
Government Facilities & Offices	1 per 300 square feet gross floor area
Greenhouses/Nursery	1 per 375 square feet gross floor area
Group Care Facility	0.3 per room
Health/Fitness Center/Club/Dance Studio	1 per 250 square feet gross floor area
Hospital/Medical Facilities	1 per 400 square feet gross floor area
Hotel & Motel	0.8 per room plus 1 per 800 square feet of public meeting area and restaurant space
Junkyard, Vehicles	1 per employee
Kennels, Boarding	1 per 300 square feet gross floor area
Libraries	1 per 300 square feet gross floor area
Mail Order Houses	1 space per employee plus 3 visitor spaces
Manufacturing/Assembly Complex	1 space per employee plus 3 visitor spaces
Meeting Facility	1 per 6 seats or 1 per 30 square feet gross floor area if no permanent seats
Mobile Home Park	2 spaces per dwelling unit, plus 1 visitor space per 5 dwelling units
Motor Vehicle Repair/Maintenance Service Stations	1 per 375 square feet gross floor area
Motor Vehicle Sales/Rental	1 per 375 square feet gross floor area
Nightclubs, Bars	1 per 2 seats

USE TYPE	REQUIREMENTS
Offices & Personal Services	1 per 250 square feet gross floor area
Outlet Sales	1 per 300 square feet gross floor area
Parks	4 spaces per developed acre plus recreation facility requirements
Performance Facility	1 per 6 seats or 1 per 30 square feet gross floor area if no permanent seats
Personal Vehicle Sales	1 per 375 square feet gross floor area
Petroleum Products Storage	1 per employee
Public Safety Services	1 per 250 square feet gross floor area
Restaurants	1 per 75 square feet gross floor area
Retail Sales & Rentals	1 per 300 square feet gross floor area
Rooming/Boarding House	1 per guest room plus 2 spaces for owner's portion
Schools: Elementary, Middle, Kindergarten	2.5 per classroom
Schools: Secondary, Art, Music, Higher Education	1 per 4 students
Schools: Vocational	1 per 200 square feet
Skating Rink	5 per 1,000 square feet gross floor area
Storage & Warehousing: Inside	1 per 600 square feet gross floor area
Storage & Warehousing: Outside	1 per 600 square feet gross floor area

Storage & Warehousing: Self	1 space per employee plus 2 customer spaces plus 1 space per 20 units for units with interior access only
Swimming Pool	1 space per 100 square feet of pool area
Telecommunication Towers	1 per service employee
Tennis/Squash/Racquetball	2 spaces per court
Transit Passenger Terminal	1 per employee plus spaces required to satisfy peak parking needs
Transmission Lines	none
Utilities	1 per employee
Veterinarian Offices/Animal Hospital	1 per 300 square feet gross floor area
Water & Sanitary Sewer Pumping Stations	none
Wholesale Sales	1 per 375 square feet gross floor area

G. OFF-STREET PARKING SETBACK AND LOCATION

1. Parking spaces are considered structures for the purpose of determining setback requirements as described in *Section 6.2, GENERAL DIMENSIONAL STANDARDS*
2. All parking required by this ordinance shall be located on the parcel where the use that required the parking is located.
3. Access to Off-Street Parking
 - (a) Adequate vehicle accommodation area shall be provided for each parking space in accordance with the standards of the American Society of Highway and Traffic Officials;
 - (b) Common driveways with necessary cross-access easements to parking facilities on adjacent properties shall be required where practicable, giving consideration to the nature of the site and the traffic patterns on adjacent streets;
 - (c) Access drives or driveways to off-street parking spaces or lots shall conform to the design standards of the North Carolina Department of Transportation or this Ordinance, whichever is stricter;

H. OFF-STREET PARKING GEOMETRIC REQUIREMENTS

As shown in *Figure 6-8, PARKING STALL MEASUREMENTS*, the following are the minimum geometric requirements for different types of off-street parking spaces:

1. Each 90° parking space shall at a minimum be 9 feet wide and 18 feet in depth
2. Each 60° angled parking space shall at a minimum be 9 feet wide and 18 feet in depth
3. Each parallel parking space shall at a minimum be 9 feet wide and 23 feet in depth

Figure 6-8: PARKING STALL MEASUREMENTS

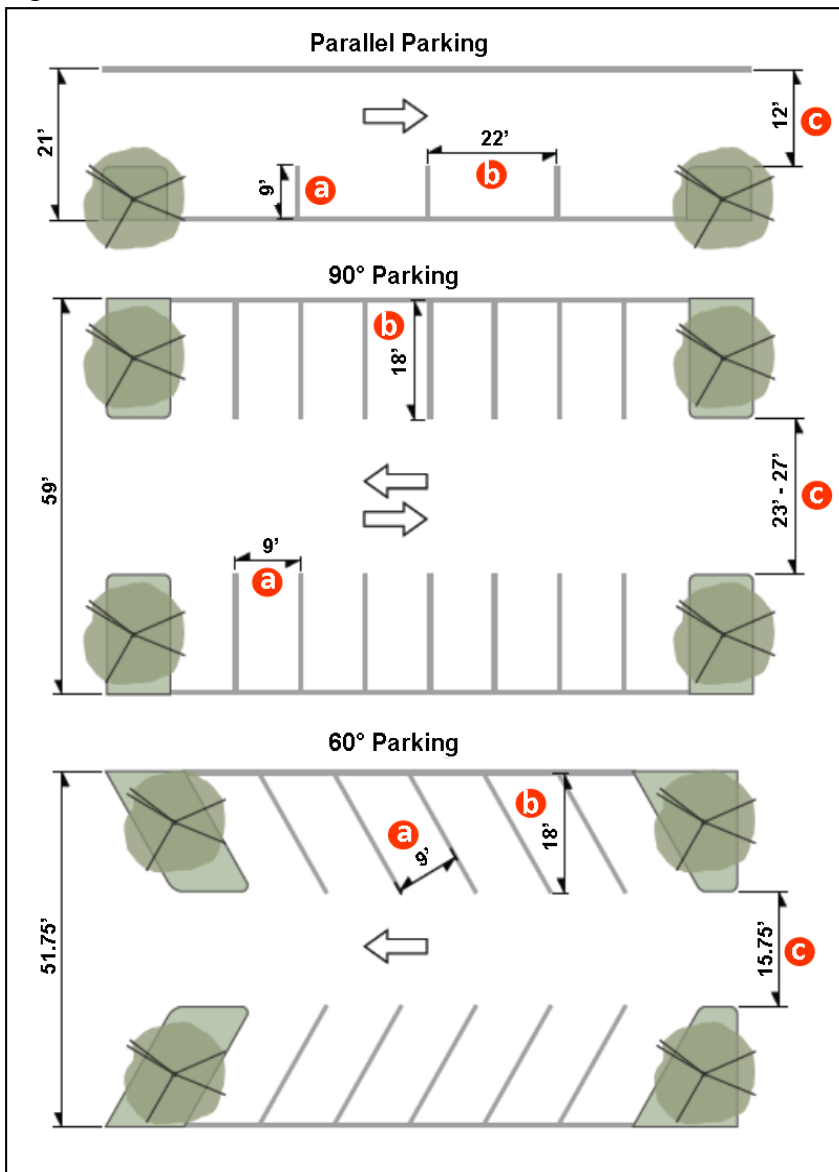


Table 6.14.2 OFF-STREET PARKING GEOMETRIC REQUIREMENTS

Parking Angle	Stall Width	Stall Depth	Aisle Width
x	a	b	c
90	9'	18'	23'-27'
60	9'	18'	21'
0 (parallel)	9'	22'	12'

Dimensions given are for standard parking spaces.

A minimum of 180 sq. ft. is required for each parking space. The dimensions listed above are the minimum allowed under each category.

Aisle widths are for two-way traffic with the same type of parking on both sides of the aisle. One-way aisles are allowed a decrease of 25% of the required width.

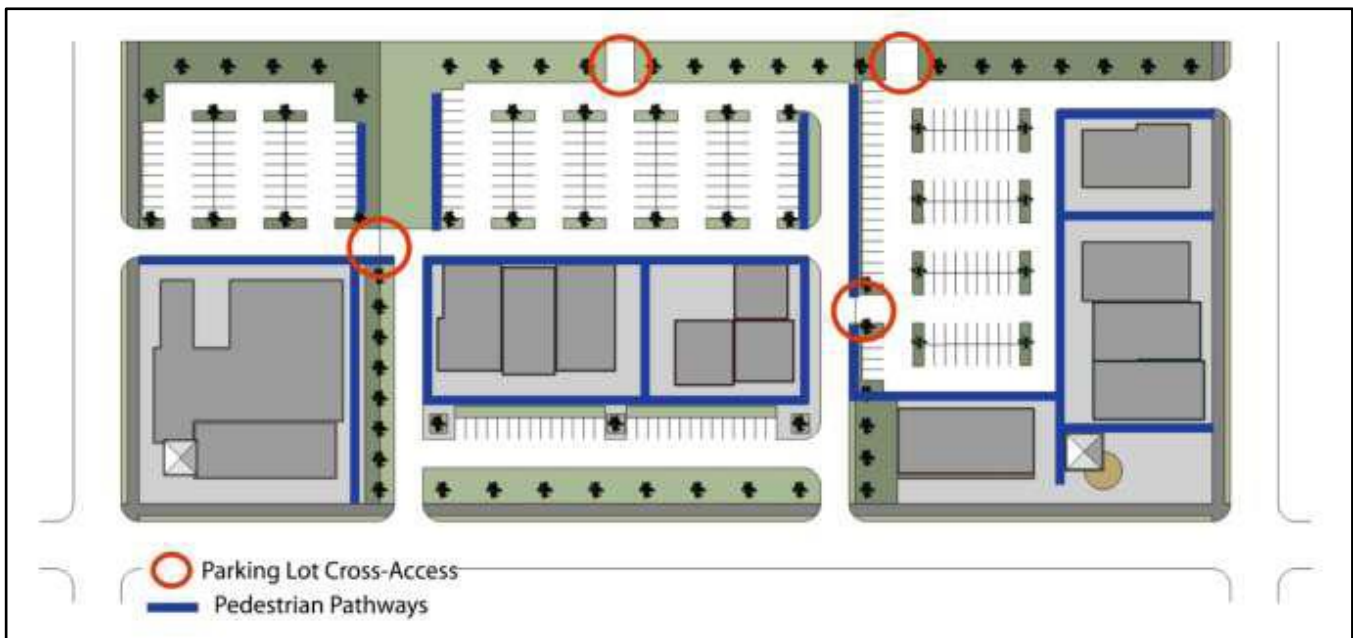
The permit-issuing authority may adjust these requirements to accommodate compact parking, parking of different angles, or expected traffic volumes.

I. OFF-STREET PARKING DESIGN REQUIREMENTS

1. Parking shall be screened from view consistent with landscaping requirements and screening requirements in this section.
2. Visual impact of parking areas shall be reduced by locating the parking areas away from right-of-ways
3. Parking areas shall be broken up into groups of no more than 14 contiguous spaces separated by landscaped areas

4. Adjacent parking lots shall be connected by cross access easements to provide shared parking areas whenever possible.
5. All off-street parking spaces, vehicle accommodation areas, and access areas shall be surfaced with an all-weather paving material, such as asphalt, and maintained in a safe, sanitary, and neat condition. The use of innovative and pervious surfaces for the use of parking is encouraged. Parking is not permitted on landscaped areas.
6. Off-street parking spaces shall be designed to prevent interference of parked vehicles with travel lanes, walkways, public property, or other private property by means of walls, curbs, wheel stops, or other appropriate means;
7. All parking areas shall be properly maintained by the owner of the property;
8. If an applicant proposes to construct parking spaces in excess of the number required by this ordinance, a pervious paving material must be used to create the excess parking spaces.
9. Landscaping requirements as per *Section 6.10, LANDSCAPING (PARKING LOT)*.

Figure 6-9: OFF-STREET PARKING DESIGN REQUIREMENTS



J. OFF-STREET LOADING REQUIREMENTS

1. Industrial and commercial structures shall provide space for off-street loading of vehicles, unless the applicant for such use can demonstrate that such space is not required for the use.
2. The requirements for off-street loading are in addition to the requirements for off-street parking. Space designated for compliance with off-street parking requirements shall not be used to comply with the requirements for off-street loading space and vice versa.

3. An off-street loading space, for the purposes of this section, shall have a minimum width of twelve (12) feet, a minimum length of sixty (60) feet and a vertical clearance of sixteen (16) feet above the finished grade of the space.
4. Each off-street loading space shall be located and arranged so that a semi-trailer truck can use it safely.

Table 6.14.3 USE TYPE AND OFF-STREET LOADING SPACES	
Use Type	Minimum Loading Requirements
Retail Business	One (1) space for each five thousand (5,000) square feet of floor space or major fraction thereof; no more than three (3) spaces are required
Wholesale and Industrial Uses	One (1)

K. DESIGN REQUIREMENTS

1. Delivery areas, loading docks, and service areas shall be located behind the primary building.
2. Delivery areas, loading docks, and service areas shall be screened from view so as not to be visible from the street.

Figure 6-10: OFF-STREET LOADING REQUIREMENTS



6.15 POSTING REQUIREMENTS FOR STRUCTURES

A. PURPOSE AND INTENT

It is the general purpose and intent of this section to protect and promote the public health, safety, and general welfare by requiring the posting of the correct and current 911-address on each structure or residence.

B. APPLICABILITY

All new and existing residential and non-residential structures must meet the requirements of this section.

C. TIME REQUIREMENTS

Within 30 days of assignment or notification of change of a structure number, the owner of said structure shall post the assigned structures current and correct 911-address in compliance with the requirements herein.

D. POSTING LOCATIONS

The official 911-address number must be displayed on the front of a building or at the entrance to a building, which is most clearly visible from the street or road during both day and night.

If a building is more that seventy-five (75) feet from any road, the address number shall be displayed at the end of the driveway or easement nearest the road, which provides access to the building.

E. NUMBER SPECIFICATIONS

1. RESIDENTIAL NUMBERS

Numeral indicating the address number of a single-family dwelling shall be at least four (4) inches in height and shall be posted and maintained so as to be legible from the road from both directions of travel. Numerals for buildings with multiple dwelling units shall be at least six (6) inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road. All apartment buildings will have each apartment door numbered with a minimum of two (2) inch numbers. A number larger than the minimum size may be required where the minimum size does not provide adequate identification.

2. NON-RESIDENTIAL NUMBERS

Numerals indicating the address number of non-residential buildings shall be at least six (6) inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road. A number larger than the minimum size may be required where the minimum size does not provide adequate identification

3. The Building Inspector shall have the right to authorize and approve alternate methods of displaying address number, which meet the intent of this article when strict adherence of these standards cannot reasonably be met.

4. All structure number shall be constructed of a durable material. The color shall contrast with the color scheme of the structure and, if mounted on glass, shall contrast with the background and be clearly visible.

F. MAINTENANCE OF STRUCTURE NUMBERS

Following the posting of the assigned number as required herein, the owner shall maintain the structure number at all times in compliance with the requirements of this Section. The owner shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

6.16 INTENTIONAL LEFT BLANK

6.17 SCREENING

A. PURPOSE AND INTENT

It is the general intent of this section to provide for screening of utilities and mechanical units that may have adverse impacts on residential and pedestrian areas. Non-residential developments require service areas to accommodate utilities, waste handling, air handling, and supplementary power. This section of the Ordinance provides guidance on reducing any adverse impacts while still maintaining convenience and walkability. Buffers between different zoning districts are addressed in *Section 6.5, BUFFERS*.

B. APPLICABILITY

Where non-residential development is adjacent to residentially zoned or used property or adjacent to areas that encourage pedestrian activity or access, the applicant shall address the potential adverse impacts of service areas to the residential and pedestrian uses.

The permit issuing authority shall consider the potential impacts including, but not limited to, the following on adjacent residents and pedestrian areas:

1. Dumpsters and recycling collection areas
2. Air handling equipment
3. Supplementary power
4. Electric Utilities and Transformers
5. Phone, Cable and other utility services
6. Hot boxes & sprinkler connections
7. Grease traps
8. Service courts
9. Lighting
10. Satellite Dishes/ Solar Panels

C. REQUIREMENTS

The screening requirement will be based on the type of impact to be mitigated.

1. NOISE

Solid waste areas, air handling equipment, supplementary power, parking and service courts can have noise impacts at the time of use or the sound generated by the machinery itself. Applicants shall provide noise level documentation for equipment located adjacent to the residential or pedestrian use. The permit issuing authority may require any one, or a combination of fencing, distance, and baffling as needed to minimize noise generated by such facilities. Areas that are serviced between 9 p.m. and 7 a.m. shall be located at least 50 feet from a structure in residential use.

2. VISUAL

- (a) Solid waste areas, utility meters, hot boxes and sprinkler connections, and service courts shall be screened from residences, pedestrian areas, and adjacent streets through landscaping, fences, walls, or grade changes of sufficient height to mitigate the visual impact of the utility being screened when viewed from the adjacent parcel, pedestrian area or street.
- (b) Solid waste areas shall be screened by a fence or wall tall enough to screen the solid waste from view. The solid waste storage area shall be enclosed and secured by a gate.

- (c) Air handling units, condensers, satellite dishes and other equipment that is placed on the roof shall be screened from view by building elements in order to shield from sight at grade as well as from nearby public rights-of-way

3. LIGHT

Parking areas, service courts, delivery areas or others that include overhead and security lighting shall satisfy the lighting of this Ordinance. Further, local streets and residential properties shall be protected from headlight trespass through the installation of sufficiently tall landscaping or screening.

6.18 INTENTIONAL LEFT BLANK

6.19 INTENTIONAL LEFT BLANK

6.20 INTENTIONAL LEFT BLANK

6.21 STREETS

A. PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the uniform construction of streets. Street rights-of-way are designed and developed to serve several functions: (i) to carry motor vehicle traffic, and in some cases, allow on-street parking; (ii) to provide a safe and convenient passageway for pedestrian traffic; and (iii) to serve as an important link in the Village's drainage system.

B. APPLICABILITY

New streets will generally be dedicated to the Village or NC Department of Transportation. Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section.

C. DESIGN STANDARDS – PUBLIC STREETS

1. New public streets in the city limits must meet the Village of St. Helena's Standard Specifications for Street Construction and Acceptance Procedures in the Checklist and Approval Requirements for Utility Projects.
2. Public streets in developments in the Village's extraterritorial zoning jurisdiction must be approved and accepted by the NC Department of Transportation.
3. Minimum right of way widths by public street type:
 - (a) Arterial Streets shall provide 100 feet of public right of way
 - (b) Collector Streets shall provide 70 feet of public right of way
 - (c) Local Streets shall provide 60 feet of public right of way

(d) Cul de sacs shall provide 50 feet of public right of way

4. Additional street right-of-way may be required in cases where underground public utilities, sidewalks, and drainage facilities cannot all be located within the minimum stated above.
5. Streets shall be laid out so as to intersect as nearly as possible at right angles.
6. The proposed street layout shall be coordinated with the existing street system of the surrounding area. Where possible, proposed streets shall be the extension of existing streets. Modification of the existing grid pattern may be allowed to accommodate site topography.
7. To maximize connectivity for public safety and avoid the requirement for additional right of way width improvement and dedication, block lengths will generally not exceed 400 feet and there will be two points of access for any street containing 30 or more dwellings not equipped with individual sprinkler systems.
8. All permanent dead-end streets (as opposed to temporary dead-end streets or stubouts) shall be developed as cul-de-sacs in accordance with the standards set forth in the Fire Code. To avoid the requirement of additional right of way width improvement and dedication, dead-end streets may not exceed 400 feet in length.
9. Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street.
10. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersection on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.
11. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1000 feet.
12. The permit issuing authority may require the applicant to extend a right of way, build the street, and/or provide a temporary cul-de-sac in order to stub out streets that should be connected to existing or proposed streets outside the subdivision.

D. DESIGN STANDARDS - PRIVATE ROADS

1. Any private road within an attached dwelling or multi-family development must meet the design standards for Village public streets.
2. Any private road within a minor residential subdivision must have a minimum right of way width of twenty feet which includes the travel way and associated drainage facilities. Any underground utilities may be located within the road right of way or a separate utility right of way.

3. A private road within a minor residential subdivision may be required to provide a right of way of fifty (50) feet if the land and lots are arranged to allow the potential conversion of the road to a public road. If the lot arrangement, surrounding development pattern, zoning, and existing Village plans indicate conversion is unlikely, the permit issuing authority may allow a private road to reduce the right of way width to no less than 18 feet.
4. Lots for single family detached dwellings may be created with access to a private road provided that:
 - (a) No more than four (4) lots may have their sole access to the private road;
 - (b) A new private road shall not be an extension of any existing public or private road; and
 - (c) A new private road shall not be aligned with an existing public road in such a way as may interfere with any planned extension of the public road.
5. The intent of this subsection is primarily to allow the creation of not more than four (4) lots with frontage on a private road for single-family development. Therefore, the Village may not approve any project served by a private road authorized by this subsection in which one (1) or more of the lots thereby created is intended for:
 - (a) Two-family or multi-family residential use, or
 - (b) Any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences.
6. To ensure that the intent of this subsection is not subverted, the Village may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential development served by a private road be smaller than the permissible size of lots on which two-family or multifamily developments could be located, or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.
7. No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notation: "Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Village of St. Helena Unified Development Ordinance."
8. The recorded plat of any development that includes a private road shall clearly state that such road is a private road and must be accompanied by a private road maintenance agreement that is also recorded.

E. STREET NAMES AND SIGNS – PUBLIC AND PRIVATE STREETS

1. Names of streets which duplicate or can be confused with the names of existing streets within Pender County, shall not be approved. New street names shall be reviewed and approved by Pender County E-911 Addressing so as to avoid duplication and/or unnecessary confusion caused by similar street names.
2. Extensions of existing and named streets shall bear the name of such existing streets.
3. House numbering will be assigned by the Pender County E-911 Addressing department in accordance with its policies. All structures must display current and correct 911-address as per Section 6.15.

4. Approved street name signs shall be erected by the applicant at the intersection of streets as specified in the Manual of Uniform Traffic Devices.

6.22 INTENTIONAL LEFT BLANK

6.23 WASTEWATER DISPOSAL

On-site septic tanks shall be approved by the Pender County Health Department and/or comply with other agencies and jurisdictions.

Chapter 7. SIGNAGE

Contents

7.1 SIGNAGE.....2

7.1 SIGNAGE

A. INTENT

It is the general intent of this section to help protect and preserve the historic and aesthetic character of the Village of St. Helena while balancing with those interests the need of businesses, government and the traveling public to safely and accurately identify and read information on permitted signs. Toward that end, the Village adopts these regulations regarding the number, area, location and other characteristics of signs.

B. SIGNS SUBJECT TO CONTROL

All signs visible from vehicular rights-of-way, both new and existing, shall be erected, maintained, and operated in accordance with this Ordinance and other relevant controls unless specifically exempted. The definition of “sign” also includes those messages inside a building specifically oriented to persons outside the building. The provisions of this section do not apply to window displays of merchandise but do apply to signs mounted in windows.

C. ZONING COMPLIANCE PERMIT REQUIRED

Before any sign shall be erected, replaced, converted, changed, structurally altered, or otherwise modified, a Zoning Compliance Permit must be obtained except those specifically exempted from such a requirement.

In the case of a multi-tenant development, the Zoning Compliance Permit shall be issued in the name of the owner of the multi-tenant development or his agent rather than in the name of any individual tenant thereof, and it shall be the sole responsibility of such owner or agent to allocate among the tenants the permissible maximum sign surface area established by this Ordinance. Upon application by the owner of a multi-tenant development, the Building Inspector may issue a master sign permit that allocates permissible maximum sign surface area among the various buildings, businesses or tenancies in the development according to a formula established and furnished by the owner, and thereafter sign permits shall be issued to individual tenants only in accordance with the allocation formula on record with the Building Inspector. No sign permit shall be issued for any sign which conflicts with the allocation formula on record, and no new freestanding sign may be erected except in accordance with the then existing sign regulations established by this Ordinance, and with the allocation formula on record.

D. SIGNS ALLOWED BY DISTRICT

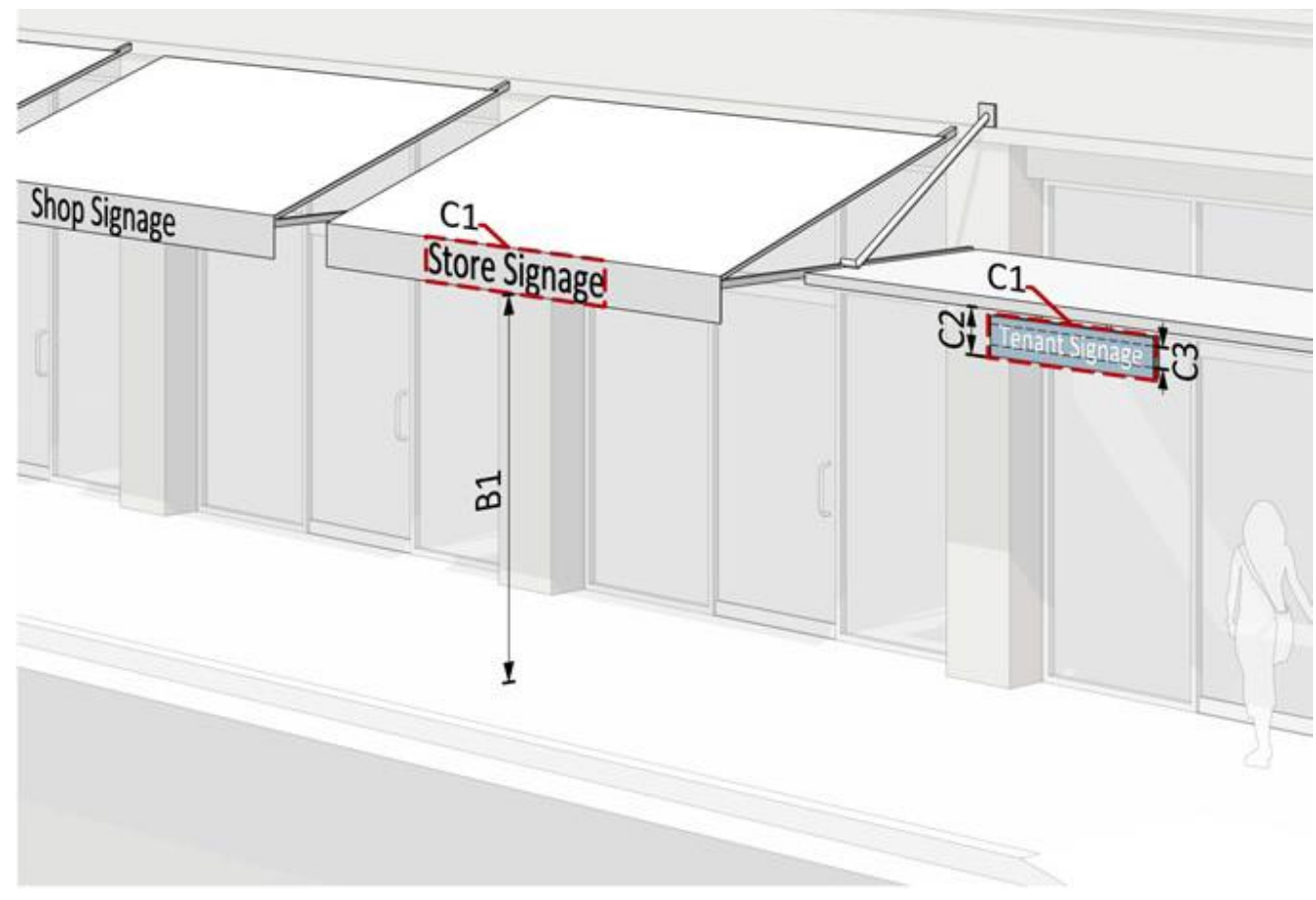
Signs are allowed by district as set forth in Table 7.1(1), SIGNS ALLOWED BY DISTRICT below.

Table 7.1.1: SIGNS ALLOWED BY DISTRICT	RESIDENTIAL				NON-RESIDENTIAL		
	RA	R-12	R-20	R-40	O&I	B-2	I-1
BUILDING SIGNS							
WALL SIGN	-	-	-	-	P	P	P
PROJECTING SIGN	-	-	-	-	P	P	P
AWNING, GALLERY, MARQUEE SIGN	-	-	-	-	P	P	P
WINDOW SIGN	-	-	-	-	P	P	P
GROUND SIGN							
LOW PROFILE	-	-	-	-	P	P	P
MEDIUM PROFILE	-	-	-	-	P	P	P
HIGH PROFILE	-	-	-	-	-	P	P

TRACT IDENTIFICATION	P	P	P	P	P	P	P
A-FRAME (SANDWICH BOARD)	-	-	-	-	P	P	P
ADVERTISING SIGNS							
OFF-PREMISE SIGNS/BILLBOARDS	-	-	-	-	-	-	-



A. Description					
An on-premises sign attached flat to or mounted away from but parallel to the building wall, typically extended no more than 12 inches from the building wall. A sign permit is required for a wall sign.					
B. Sign Area Allocation					
Permanent wall signs shall be permitted for each separate business establishment provided the total allowable sign area for all signs shall not exceed two (2) square foot for each lineal foot of building wall facing a public street.					
C. Height					
1. No portion of a wall sign may extend above the roof line of a building without a parapet wall.					
2. No portion of a wall sign may extend two feet above the roof line of a building with a parapet wall, provided no portion of the sign extends above the parapet.					
3. No wall sign may extend above the lower eave line of a building with a pitched roof.					
4. Wall signs shall in no case project higher than the eave of the building or thirty (30) feet, whichever is lower.					
D. Frontage Standards					
D1	Size per sign (max)	200 sf	D3	Projection (max)	10"
D2	Height (max)	6'	D4	Signs per business	4
E. Miscellaneous					
1.	An increase in the size of a wall sign may be permitted based upon the front setback of the building - a ten percent (10%) increase in the size of the sign for 100 - 199 foot setback; twenty percent (20%) increase in the size of the sign for 200 - 299 foot setback; thirty percent (30%) increase in the size of the sign for 300 or more foot setback. The location and number of wall signs is at the option of the owner or tenant; however, no more than four (4) signs are to be located on any zoning lot. The "front" façade shall be the one oriented toward the public right of way and the "rear" façade shall be the opposite façade. The sign area allowed on the "front" façade shall be calculated as detailed as detailed above. The sign area allowed on the "rear" and "side" façades shall be 75% of the area of the sign on the front façade. Street number numerals shall not count in this requirement.				
2.	When a building contains a sign band, such a building may only use a flush mounted wall sign and it must be located and centered within the sign band area. Hanging signs shall not be used on a façade with a sign band.				



A. Description

An on-premise sign attached flat to (or extending vertically upward or downward) from an awning, gallery or marquee. A sign permit is not required.

B. Location

B1	Clear height (min)	8'			
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C. Size

C1	Area (max)	20 sf	C3	Height of letters (max)	18"
C2	Height above or below awning, gallery or marquee (max)	12"			

D. Miscellaneous

Signs shall not extend outside the overall length or width of an awning, gallery or marquee, or extend above the height of the building wall that the awning, gallery or marquee is attached.



A. Description

An on-premises sign attached directly to a supporting building wall, and intersecting the building wall at a right angle. A projecting sign typically extends more than 12 inches from the building wall, and may be two or three-dimensional. A sign permit is required for a projecting sign.

B. Size

A projecting sign may not exceed 40 square feet in area. A projecting sign which is not internally illuminated and is suspended to allow the sign to swing due to wind action is not allowed to exceed 16 square feet in area. The calculation for allowable sign area shall be for a single side of a hanging sign.

C. Height

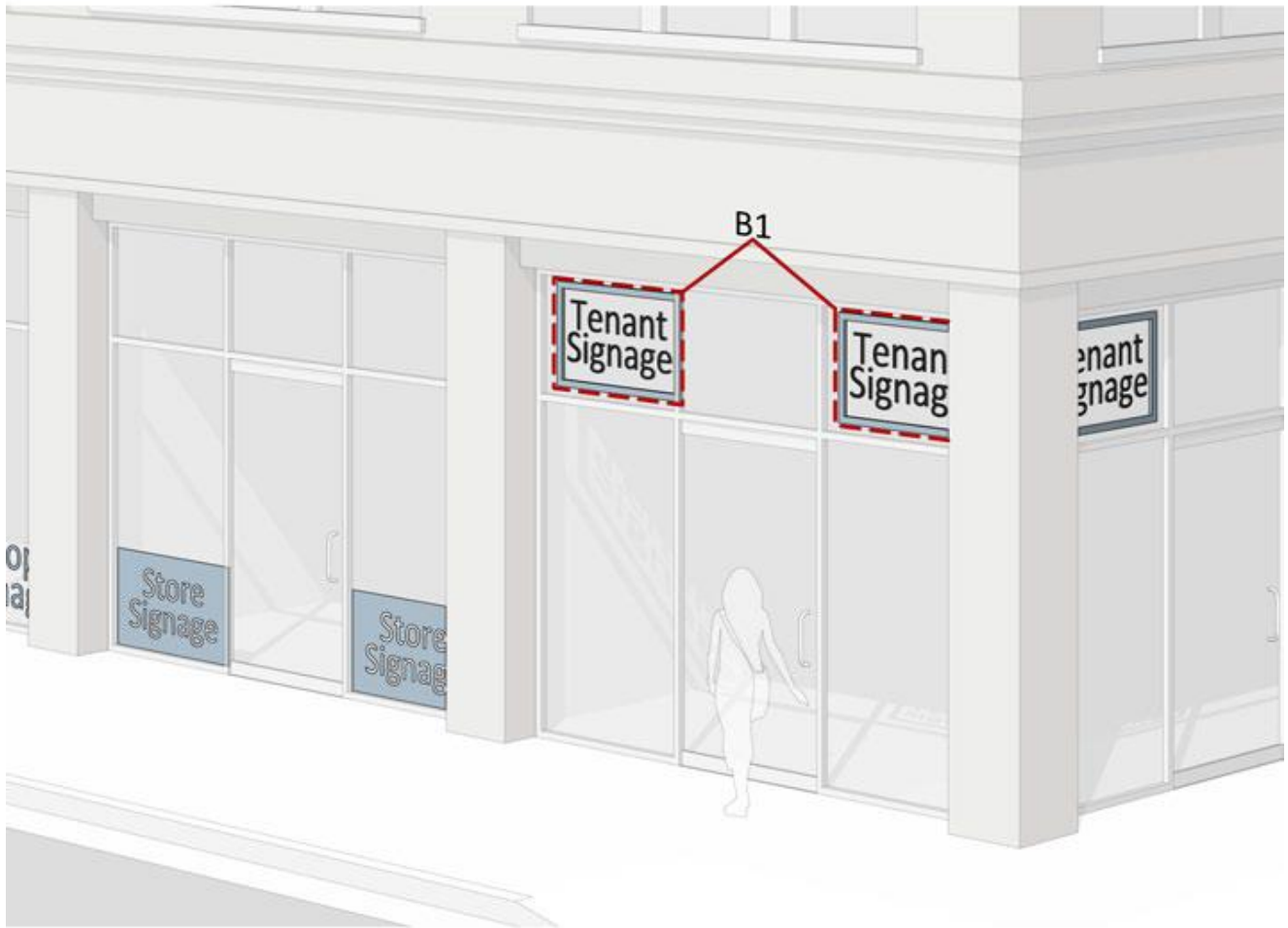
C1	Signs per business (max per street frontage)	1	C3	Projection from wall (max)	5'
C2	Clear height (min)	9'	C4	Distance from curb (min)	18"

D. Frontage Standards

D1	Ground story: Sign area per sign face (max)	40 sf	D1	Upper story: Sign area per sign face (max)	72 sf
D2	Ground story: Height (max)	8'	D4	Upper story: Height (max)	12'

E. Miscellaneous

- Projecting signs erected at the intersection of building corners when the building corner adjoins the intersection of two streets may intersect at a 45 degree angle to the corner of the building, in which case only one projecting sign is allowed.
- No projecting sign is allowed to extend above the roof line or the parapet wall.
- Buildings with two or more stories may not have a projecting sign located higher than the second story or 24 feet, whichever is less.

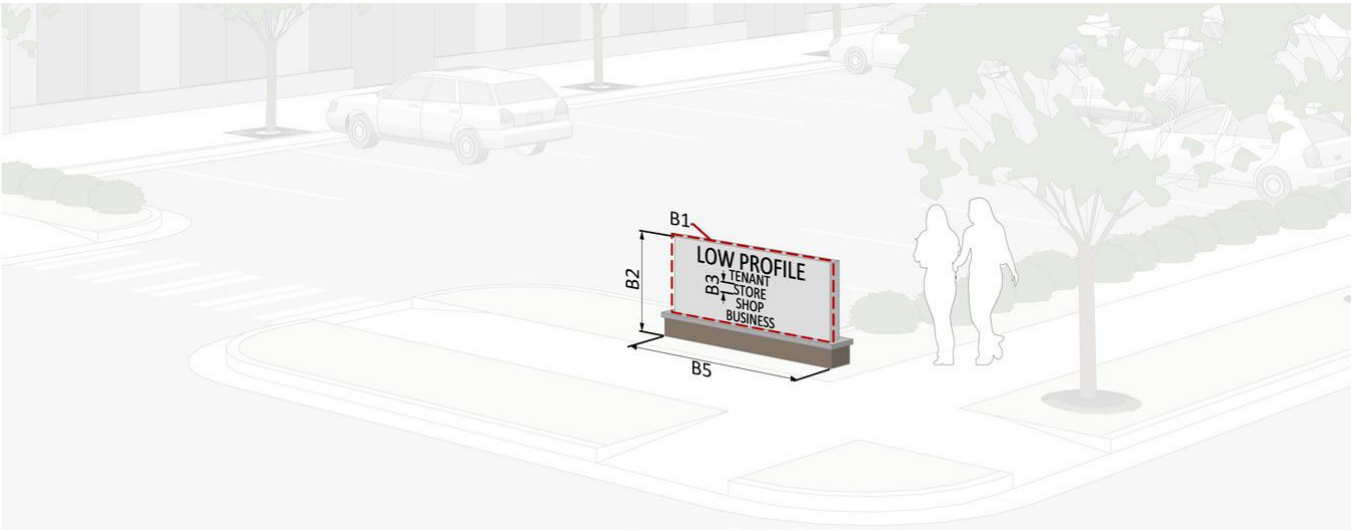


A. Description

A window sign is an on-premise sign attached flat but parallel to the inside of a window or is within twelve (12) inches of the inside of the window. A sign permit is not required.

B. Size

B1	Area per business (max combination of all windows covered by window signs)	30%	B2	Window signs may only cover 5% of window area between 4 and 7 feet above the adjacent sidewalk
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A. Description

A freestanding sign no more than 3½ feet in height on a supporting structure, post, mast, or pole and not attached, supported or suspended to or from any building or structure. The calculation for allowable sign area shall be for a single side of the freestanding sign. A sign permit is required for a ground sign.

B. Size

B1	Area (max)	70 sf	B3	Size of copy (min)	4"
B2	Height (max)	5'	B4	Lines of copy (max)	5

C. Location

C1	Signs per site	1	C3	Setback	10'
C2	Street frontage required (min)	n/a			

D. Miscellaneous

- All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.



A. Description

A freestanding sign no more than 70 square feet in area erected on a supporting structure, mast, post, or pole not more than 15 feet in height; or a freestanding sign no more than 100 feet in area erected on a supporting structure, mast, post, or pole not more than 10 feet in height. A ground sign is not attached, supported or suspended to or from any building or structure. The calculation for allowable sign area shall be for a single side of the freestanding sign. A sign permit issued is required for a ground sign.

B. Size

B1	Option 1: Area (max)	70 sf	B3	Option 2: Area (max)	100 sf
B2	Option 1: Height (max)	15'	B4	Option 2: Height (max)	10'
B5	Size of copy (min)	4"	B6	Lines of copy (max)	6

C. Location

C1	Number of Signs per site (max)	1	C3	Setback	10'
C2	Street frontage required (min)	100'			

D. Miscellaneous

- All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.



A. Description

A freestanding sign no more than 100 sq ft in area erected on a supporting structure, mast, post, or pole not more than 25 feet in height not attached, supported or suspended to or from any building or structure. The calculation for allowable sign area shall be for a single side of the freestanding sign. A sign permit is required for a ground sign.

B. Size

B1	Area (max)	100 sf	B3	Size of copy (min)	4"
B2	Height (max)	25'	B4	Lines of copy (max)	6

C. Location

C1	Number of Signs per site (max)	1	C3	Street frontage required (min)	200'
C2	Additional signs for double frontage lots	SUP	C4	Setback	10'

D. Miscellaneous

1. All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.



A. Description

A freestanding ground sign identifying entry to a residential, commercial or mixed development or a nonresidential establishment in a residential district. A sign permit is required for a tract identification sign.

B. Size

B1	Copy Area (max)	16 sf	B4	Sign area (max)	160 sf
B2	Copy Height (max)	3.5'	B5	Sign height (max)	6'

C. Location

C1	Number of Signs per street frontage (max)	1	C3	Setback	10'
C2	Site with more than 400 ft street frontage	1 add			

D. Miscellaneous

- Identifying signs may be placed on a subdivision wall or fence provided that no part of the wall or fence exceeds six feet in height, or, may be placed on a retaining wall greater than six feet in height provided that no part of the sign exceeds a height of five feet.



A. Description

A small, unlit, freestanding, on-site, portable ground sign that is displayed during business hours and removed when the business is closed. A-Frame (sandwich board) signs may be displayed by businesses to advertise information beyond identifying the name and location of the business. A sign permit is not required.

B. Size

B1	Sign area (max)	9 sf	B4	Sign height (max)	4'
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C. Location

C1	Distance from main pedestrian entrance (max)	10'	C3	Number per establishment (max)	1
C2	Clear pedestrian space	5'			

D. Miscellaneous

1. Sidewalk signs must not interfere with pedestrian travel or encroach upon the required accessible path.
2. Sidewalk signs may only be displayed during business hours and must be removed when the business is closed.
3. Signs must be made of wood or metal.

N. COMPUTATION OF SIGN AREA

For the purpose of determining the number of signs permitted, a sign shall be considered to be a single display device containing elements organized, related, and composed to form a unit. Without limiting the generality of the above, a multi-sided sign shall be regarded as one sign.

1. The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
2. If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.
3. Freestanding signs are typically two-sided therefore the surface area shall be computed by calculating each of the two sides independently to determine the maximum square footage allowed.
4. Generally, parcels and businesses are permitted to have both freestanding and wall mounted signs to the extent to which signs can be erected and maintained to be in full compliance with this ordinance. The area of these signs is calculated independently.

O. PERMANENT SIGNS NOT SUBJECT TO PERMIT REQUIREMENTS

The following permanent signs are allowed and are not subject to the permit requirements of this Ordinance, but are subject to all other applicable provisions of this Ordinance.

1. Non-illuminated signs not exceeding two (2) per lot and six (6) square feet each in area, bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises.
2. Signs two (2) square feet in area posted on private property relating to private parking, warning the public against trespass or danger from animals.
3. Flags or insignia of any governmental or non-profit organization when not displayed in connection with commercial activity or promotion. One (1) flag (each) of the United States and of the State of North Carolina no larger than 100 square feet may be displayed in connection with a commercial activity without being subject to the permit requirements of this section.
4. Legal notices, identification and informational signs installed by governmental agencies authorized by the Village of St. Helena.
5. Local traffic directional signs erected in the travel right of way by or on behalf of a governmental entity provided such signs are consistent with the Manual of Uniform Transportation Control Devices or Village's official wayfinding plan.
6. Memorial signs or tablets, and names and construction dates of buildings when cut into any masonry surface or when placed as a cast iron (or similar) plaque affixed to the building structure.
7. Signs not exceeding four (4) square feet and bearing no advertising matter directing and guiding traffic on multi-family or non-residential property.
8. In addition to the signs allowed in *Section 7.1(L), TRACT IDENTIFICATION SIGNS*, above, the owner, property manager, homeowners association or residents association of a residential or multi-family development may install a community event bulletin board at each entrance to the development. A community event bulletin board shall not be located in the public right of way, nor shall it be located in such a way as to interfere with lines of sight for vehicular traffic on, entering or exiting the public right of way. Each sign shall meet the following criteria: one unlighted, single-sided sign per entrance, 3' X 4' maximum dimensions, and 6' maximum installation height. The sign face (i.e., the single side of the sign on which information may be

posted) shall be oriented toward traffic exiting the development, so that the sign face is not visible from the public right of way outside the subdivision or multi-family development it serves. Postings on the bulletin board shall be maintained in a neat and orderly condition and monitored by the homeowner's association or property manager.

P. TEMPORARY SIGNS NOT SUBJECT TO PERMIT REQUIREMENTS

No temporary sign may be affixed, attached, or painted upon any utility pole, or upon any tree, rock, or other natural object. All temporary signs referring to commercial operations must include the name of the business entity sponsoring the sign and must be professionally printed. The following temporary signs are not subject to the permit requirements of this Ordinance but are otherwise subject to the requirements of this Ordinance except as specifically indicated herein:

1. Temporary real estate signs on lots of less than one (1) acre, a single sign on each street front. The sign shall not exceed four (4) square feet in area and may contain the message that the property is for sale, lease, or rent and the name, address, and phone number of the property owner or agent. For lots of one (1) acre or more acres in area, a sign not exceeding thirty-two (32) square feet in area may be displayed. Such signs must be located on the property but are not subject to the setback requirements.
2. Temporary real estate signs advertising an existing single family dwelling for sale or rent may use up to two (2) off site "pointer" signs not to exceed four (4) square feet in area and only displaying "for sale," "for rent," and either "by owner," or the logo of the agent. This type of sign is exempted from the provision requiring the business entity name.
3. Construction site identification signs identifying the project, the architect, engineer, contractor, funding sources and/or other individuals or firms involved with the construction, the intended use or name of the building, and the expected completion date. Not more than one (1) sign may be erected per site. The sign may not exceed four (4) square feet in area for single family or duplex construction, or thirty-two (32) square feet for multi-family or non-residential construction. The sign may not be erected prior to issuance of a Building Permit, and shall be removed within seven (7) days after of issuance of a Certificate of Occupancy for construction projects for which a Certificate of Occupancy will be issued or otherwise within seven (7) days of completion of the work. This section also applies to signs identifying renovation and/or maintenance work on an existing, developed site.
4. Yard or garage sale signs announcing yard or garage sales, provided they do not exceed two (2) signs and four (4) square feet in area per display surface, and are displayed not more than two (2) days prior to the event and are removed within twenty-four (24) hours of the event.
5. Temporary signs or banners announcing grand openings of new businesses only, which may be displayed for no more than thirty (30) consecutive days. There shall be no more than two (2) signs or banners for each business, such signs or banners shall not exceed thirty-two (32) square feet in area, and shall be affixed to the structure the business is located within or at the driveway access for the building.
6. Temporary political signs advertising candidates or issues, provided such signs do not exceed nine (9) square feet in area per display surface, are mounted on stakes, do not exceed three (3) feet in total height, are not erected more than forty-five (45) days before the date designated as election day, and are removed within seven (7) days after the election (in cases of run-off election, the political signs of the run-off candidates may remain until seven (7) days after the run-off election). Political signs may be located within the public right-of-way and setbacks provided that they do not intrude on the sight preservation triangle.
7. Banners or flags that are decorative or seasonal in nature or that are displayed in connection with the observance of holidays not to exceed three (3) per lot located in any zoning district. Banners or flags advertising special sale events of for-profit organizations are not covered by this section.

8. Advertising Flags - No site shall contain more than three (3) Advertising Flags. Each Advertising Flag erected to a tether, pole, mast, building, or any structure shall be deemed to be a separate distinct sign. The maximum height of an Advertising Flag shall not exceed fifteen (15) feet. Advertising Flags must be kept and remain in a good state of repair and shall be removed within seventy-two (72) hours upon damage or disrepair.
9. Directional or "pointer" signs for events. Any event may have up to off-site two (2) signs, not exceeding two (2) square feet each. Events do not have to meet the definition of "public event" in this ordinance to use this sign. The signs may be displayed for no more than one (1) twenty-four (24) hour period only that coincides with the event. Village of St. Helena sponsored events are exempt from these regulations.

Q. TEMPORARY SIGNS SUBJECT TO PERMIT REQUIREMENTS

The following temporary signs are subject to the permit requirements of this Ordinance.

1. Announcements of public events as defined by this ordinance taking place within the Village or its extraterritorial jurisdiction may be permitted subject to the following standards. If an event that otherwise meets the definition occurs monthly or more frequently, the event does not qualify for the signage allowed in this section. Village of St. Helena sponsored events are exempt from these regulations.
 - (a) The event is sponsored by a non-profit, unit of state or local government, or formal association of merchants. For the purposes of this section, the entity that wishes to qualify may be requested to provide documentation of their status as an association, or organization by the Building Inspector.
 - (b) Signs may be erected no more than fourteen (14) days prior to the event and shall be removed no later than forty-eight (48) hours after the event has concluded. For any event lasting more than two (2) days, signs may not be displayed for more than seventeen (17) days.
 - (c) No event shall display more than one hundred (100) square feet of off-site signage.
 - (d) No event shall display more than twelve (12) signs, as detailed below. The Building Inspector will issue a Zoning Compliance Permit detailing the approved sign number, size, and locations.
 - i. Two (2) signs may be located on the lot hosting the event for the same display period. These signs may be banners if they are securely fastened and adequately vented to not pose a threat to traffic. A combination of these signs shall be no larger than sixty-four (64) square feet.
 - ii. One (1) sign may be a banner posted as per *Section 7.1(Q)(2)* detailed below. No event is required to have a banner. If an event decides to not use a banner, the total number of signs permitted is reduced to eleven (11).
 - iii. Nine (9) off-site signs, displayed in different locations, may be located in the public right of way, but not in a driveway or intersection sight triangle. These signs must be of rigid construction (not banners) and a single side may not exceed eight (8) square feet. The sign locations must be included in the permit application materials.
2. Banners advertising public events, as defined by this ordinance, may only be installed at the Village of St. Helena sponsored and approved locations. The Building Inspector shall issue a Zoning Compliance Permit for each banner on a first come, first served basis. Building Inspector will resolve any overlapping requests for banner displays. Banners that are part of a public event sign package authorized in *Section 7.1(Q)(1)* shall be displayed for a time period matching the other event signage. Otherwise the display period shall not exceed 14 days. Banners shall conform to written standards and safety guidelines as established by the Building Inspector.

R. PROHIBITED SIGNS & PROHIBITED CHARACTERISTICS

1. Temporary signs, both new and existing, other than those expressly allowed in this Ordinance, are prohibited.
2. Devices consisting of flags other than those exempted by *Section 7.1(P)(7)* or *Section 7.1(P)(8)*, banners, streamers, pennants, windblown propellers, balloons, strung light bulbs, flashing lights, rotating lights, strobe lights, fluorescent lights, rotating or other moving or apparently moving installations, are prohibited.
3. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure to minimize the danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.
4. Any sign(s) placed on any curb, sidewalk, post pole, utility pole, hydrant, bridge, tree, or other surface located on, over, or across any public street, right-of-way, property or thoroughfare, unless authorized by the Village Council or by another section of this ordinance, are prohibited.
5. Any sign which pertains to a business, profession, commodity, or service which is vacant, unoccupied, or discontinued for a portion of 120 days or more; any part of a sign which is unused for a period of 120 days or more; or any sign which pertains to an event or purpose which no longer applies shall be deemed abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner or tenant of the property.
6. Mobile-style marquee signs are prohibited in all districts.
7. All non-exempt signs shall comply with the construction requirements of the North Carolina State Building Code. Trailer mounted signs do not meet these requirements.
8. Any sign unlawfully erected or maintained.

S. TRAFFIC SAFETY PRECAUTIONS

Notwithstanding any other provisions in this Ordinance, the following practices in relation to signs are prohibited in order to preserve the safety of pedestrian and vehicular movement:

1. No part of any permanent sign may intrude into the sight preservation triangle.
2. Any sign which the Building Inspector determines obstructs the view of any pedestrian, bicyclist, or motorists using any street, private driveway, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal.
3. No privately owned sign shall use words such as "stop", "slow", "caution", "danger", or similar admonitions in a format or manner which could be confused with traffic directional signs erected by government agencies.
4. No sign shall be erected which, by its location, color, nature, or message, might be confused with or obstruct the view of traffic signals or signs or might be confused with the warning lights of an emergency or public safety vehicle.

T. RESTRICTIONS ON ILLUMINATION

Unless otherwise prohibited by this chapter, signs may be illuminated only in accordance with this section. All illuminated signs allowed by this Ordinance must also comply with duly adopted regulations regarding light emissions as described in *Section 6.11, LIGHTING*.

1. Directional lighting fixtures used for sign lighting shall be top mounted so lighting is aimed down. Ground mounted signs with a height of eight (8) feet or less may be ground lit, provided that the lights are shielded so as to illuminate the sign only, and the light shall not exceed ten (10) foot candles at the sign surface.
2. No illuminated signs are allowed in any residential zoning district, except signs at the entrance to a residential subdivision, neighborhood or multi-family development allowed by *Section 7.1(L), TRACT IDENTIFICATION SIGNS* above may be illuminated.

3. Freestanding signs and window signs may not be illuminated when the business is closed. Those signs advertising multiple businesses may not be illuminated when all the businesses advertised are closed.
4. Lighting directed toward a sign shall be shielded so that it illuminates on the face of the sign and does not shine directly into a public right-of-way or residential premises.
5. Subject to *Section 7.1 (T)(7)* illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
6. Subject to *Section 7.1(T)(7)* no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, or weather conditions.
7. *Sections 7.1 (T)(5)* and *7.1(T)(6)* do not apply to temporary signs erected in connection with observance of holidays.

U. ELECTRONIC SIGNS & ELECTRONIC MESSAGE BOARDS

1. **Electronic Time, Date, Temperature Sign**
An electronic time, date and temperature sign may be applied to a freestanding or attached sign of any permitted nonresidential use. An electronic time, date, and temperature sign shall not be included in the calculation of sign area permitted.
2. **Electronic Message Board Sign**
Electronic Message Board Signs shall be allowed in all nonresidential zoning districts. A development may have either attached or freestanding Electronic Message Board signage, but not both, unless otherwise provided for in this ordinance. The following conditions shall apply to Electronic Message Board Signs:
 - (a) **Calculation of Area.** An Electronic Message Board Sign which is included within a larger sign shall be included in the calculation of the total permitted sign area.
 - (b) **Changes Per Day.**
 - i. Signs shall have a maximum change rate of every five (5) seconds;
 - ii. Signs may use various form of transitions between messages, however, signs may not scroll or flash.
 - (c) All Electronic Message Board Signs in place prior to the adoption of this ordinance must comply with *Subsection (b), Changes per Day.*
 - (d) **Attached Signs.** Attached Electronic Message Board Signs shall have a maximum area of thirty-six (36) square feet, unless otherwise provided for in this ordinance.
 - (e) **Area Bonus.** Signs six (6) feet in height and lower containing electronic messages shall be allowed a ten (10) percent increase in maximum sign area.

V. BILLBOARDS/OFF-PREMISE SIGNS

No Billboards or off-premise signs are allowed except those in currently in existence at the time this ordinance is adopted. Billboards in existence at the time of this ordinance may be repaired in compliance with *7.1 W – Nonconforming Signs.*

W. NONCONFORMING SIGNS

1. Nonconforming signs, because of their location, design, height and other features, detract from the quality of life and sense of place St. Helena seeks to achieve and maintain. Therefore, it is the intent of this Ordinance that all nonconforming signs will eventually be brought into conformity with its provisions, and that nonconforming signs will ultimately be phased out of existence.
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, nor may any illumination be added to any nonconforming sign.
3. A nonconforming sign structure may not be moved, replaced, or otherwise changed except to bring the sign into complete conformity with this Ordinance. The message contained on the sign

may be changed provided that no change is made to the sign structure, and the sign area and dimensions are not changed.

4. If a nonconforming sign is damaged to an extent equal to or greater than 50% of the sign replacement cost (new) or destroyed, 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.
5. If the owner or occupant of premises with of a nonconforming sign discontinues operations for a period of 90 consecutive days, then the owner shall remove the nonconforming sign and the sign structure shall be cleared from the land.

X. REMOVAL OF NONCONFORMING SIGNS

1. Any non-exempt temporary sign on private property must be removed within thirty (30) days of the receipt by the property owner of the written notice from the Building Inspector detailing the nonconformity.
2. Any temporary sign, either exempt or nonconforming, located within the public right-of-way may be removed by Village staff if such sign is determined to be in violation of this Ordinance. Persons or businesses who repeat violations of this provision twice within any thirty (30) day period may be subject to escalating fines as described in Chapter 9, Enforcement.

Y. SIGNAGE FOR MULTI-TENANT DEVELOPMENTS

1. Upon application for a multi-tenant development, the owner shall submit a sign allocation plan that indicates how square footage will be shared among tenants. Different tenants may be advertised on a single sign attached to the same main sign structure. No tenant listing can be in print smaller than 6 inches tall. The total allocation of sign area shall be divided (but not necessarily equally) between tenants and shall not exceed 150 square feet of total sign area and shall not exceed a height of thirty (30) feet. All other regulations for a high profile sign (*Section 7.1(K): HIGH PROFILE SIGNS*) are to be followed.
2. Outparcels within a multi-tenant development (lots owned by entities other than the multi-tenant development) may install freestanding signs along the public road or private access drive to which they have driveway access. For the purposes of determining sign specifications, a private access drive shall be treated as a public road for determining setback, height, and size of sign. A freestanding sign may only be installed oriented toward a street or access drive that the outparcel has driveway access to.

Z. INTERNAL WAYFINDING

Multi-tenant developments with 2 or more access points or 3 or more buildings shall develop and install an internal wayfinding sign program with components for both drivers and pedestrians. Such signage may also be developed and installed for non-residential developments with 2 or more access point or 3 or more buildings. A unified sign plan must be submitted and approved before the signs are installed, showing that the signs comply with location, lighting, construction, and height limitations of this section. Individual wayfinding signs do not count toward development or tenant signage and will be permitted on a single Zoning Compliance Permit. Internal wayfinding signage must be at least 50 feet from the right of way of the street providing site access and must be oriented toward on-site traffic flow.

AA. INSTITUTIONAL SIGNS

Signs erected by schools, churches, hospitals, governmental buildings, and other institutions are permitted in all districts, but the size, type and other regulations are limited according to *Table 7.1.1, SIGNS ALLOWED BY DISTRICT* above. A sign permit is required for all types of intuitional signs.

BB. FENCE WRAPS

Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation per G. S. 160D-908 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, the Village of St. Helena 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 ordinance 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.

Chapter 8. TELECOMMUNICATIONS

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Chapter 8. TELECOMMUNICATIONS

Section 8.1 Local authority to regulate wireless structures and facilities

- A. The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.
- B. 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 Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create 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. Therefore, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.
- C. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission. (d) This Part shall not be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. § 160D-9-31. Definitions. [160D-931] The following definitions apply in this Part.
 1. Antenna. - Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
 2. 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.
 3. Application. - A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or wireless support facility.
 4. 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.
 5. Building permit. - An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-11-10.
 6. City right-of-way. -A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.
 7. City utility pole. -A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.
 8. Collocation. - The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city 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, city utility poles, or wireless support structures.
 9. 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.

10. 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.
11. 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.
12. 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.
13. Equipment compound. - An area surrounding or near the base of a wireless support structure within which a wireless facility is located. Equipment but does not include a substantial modification.
14. 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.
15. 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.
16. 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 structure.
17. Small wireless facility. –A wireless facility that meets both of the following qualifications: a. 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 six cubic feet. b. 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.
18. Substantial modification. - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. 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. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. a. 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. b. 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 that protrudes horizontally from the edge of the 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. c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
19. 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.
20. 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.
21. 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: a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated. b. Wireline backhaul facilities. c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

22. 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.
23. Wireless provider. –A wireless infrastructure provider or a wireless services provider.
24. 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.
25. Wireless services provider. –A person who provides wireless services.
26. 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 city utility pole is not a wireless support structure. (160D-930)

A local government may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a local government from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160D-9-30. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (160D-932)

Section 8.2 Construction of new wireless support structures or substantial modification of wireless support structures

- A. Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and development regulation jurisdiction of a local government must do both of the following:
 1. Submit a completed application with the necessary copies and attachments to the Village of St. Helena Building Inspector.
 2. Comply with any local ordinances concerning land use and any applicable permitting processes.
- B. A local government'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 local government 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. A local government 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. A local government may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the local government may review the following:
 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.
 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.

3. A local government 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. Local governments may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.
- C. The local government shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other development approvals in the case of other applications, each as measured from the time the application is deemed complete.
 - D. A local government may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a local government on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the local government in connection with the regulatory review authorized under this section. The foregoing does not prohibit a local government from imposing additional reasonable and cost-based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a local government for review of the application may not be used for either of the following:
 1. Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.
 2. Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.
 - E. The local government may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A local government shall not deny an initial development approval based on such documentation. A local government may condition a development approval on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.
 - F. The local government may not require the placement of wireless support structures or wireless facilities on local government owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on local government owned or leased property, including an expedited approval process.
 - G. This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to this Article. 160D-933

Section 8.3 Collocation and eligible facilities requests of wireless support structures.

- A. Pursuant to section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a local government may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part 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. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A local government may require an application for collocation or an eligible facilities request.

- B. A collocation or eligible facilities request application is deemed complete unless the local government 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. A local government 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. A local government 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.
- C. The local government shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the local government shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.
- D. A local government may impose a fee not to exceed one thousand dollars (\$1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A local government may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a local government for the review of the application may not be used for either of the following:
 - a. Travel expenses incurred in a third-party review of a collocation application.
 - b. Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement. (2019-111, s. 2.4.) (160D-934)

Section 8.4 Collocation of small wireless facilities

- A. Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.
- B. A city may not establish a moratorium on (1) filing, receiving, or processing applications or (2) issuing permits or any other approvals for the collocation of small wireless facilities.
 - 1. Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.
 - 2. A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:
 - (a) A city 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 collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.
 - (b) The wireless provider shall complete an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
 - (c) A permit application shall be deemed complete unless the city provides notice otherwise 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 application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

- (d) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.
 - (e) A city may deny an application only on the basis that it does not meet any of the following:
 - (i) the city's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment, (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or (iv) the historic preservation requirements in G.S. 160D-936(i). The city 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 city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city 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.
 - (f) An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
 - (g) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city shall be allowed, at the applicant's 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. A city 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 city may issue a separate permit for each collocation that is approved.
 - (h) The permit may 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 city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- C. Subject to the limitations provided in G.S. 160A-296(a)(6), a city 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 city 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 city has the burden of proving that the fee meets the requirements of this subsection.
- D. Subject to the limitations provided in G.S. 160A-296(a)(6), a city 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. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city for the review of the application shall not be used for either of the following:

1. Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
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 city has the burden of proving that the fee meets the requirements of this subsection.

- E. A city may 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 city may 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 city reasonable evidence that it is diligently working to place such wireless facility back in service.
- F. A city 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 city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).
- G. Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way. (2019-111, s. 2.4.)

Section 8.5 Use of public right-of-way for wireless

- A. A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.
- B. Subject to the requirements of G.S. 160D-9-35, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under G.S. 160D-9-35(d) if the wireless provider meets all the following requirements:
 1. Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
 2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.
- C. Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.
- D. Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.
- E. Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

- F. Except as provided in this part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:
1. The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
 2. The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.
 3. The right-of-way charge shall be reasonable and nondiscriminatory. Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services. Design standards for decorative utility poles or city 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.

Section 8.6 Access to city utility poles to install small wireless facilities

- A. A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions.
- B. 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, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city 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.
- C. If a city that operates a public enterprise as permitted by Article 16 of Chapter 160A has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.
- D. Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city 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.
- E. In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city 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.
- F. The city shall provide a good-faith estimate for any make-ready work necessary to enable the city 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 city utility pole necessary for the city 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.
- G. The city 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.

- H. 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 G.S. 62-350. (i) 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, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, “excluded entity” means (i) a city that owns or operates a public enterprise pursuant to Article 16 of Chapter 160A 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. (160D-936)

Section 8.7 Wireless Applicability

- A. A city 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 city. This subsection does not prohibit the enforcement of applicable codes.
- B. Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.
- C. Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city 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 city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.
- D. Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way. (e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part 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. (160D-938)

Section 8.8 Wireless Telecommunication Facilities Design Standards

- A. Local Authority
A local government may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with NC GS 160D-932. Except as expressly stated, nothing in this Part shall limit a local government from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160D-930. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (2019-111, s. 2.4.)(160D-932)
- B. Wireless Telecommunication Support Structure (RA and I-1 with a special use permit)
1. Exterior Appearance Height and Setback

- (a) The exterior appearance of all non-tower buildings shall have the appearance of a residential dwelling, including but not limited to, pitched roof(s) and frame or brick veneer construction. Towers shall be required to be of the latest technology and utilize "stealth" technology to blend into the surrounding environment. The less intrusive slick stick/ flag pole technology for a Tower is preferred.
- (b) The lighting on the proposed tower shall be no more than is required by applicable Federal and State regulations.
- (c) All proposed telecommunication towers shall be no more than one hundred twenty-five (125) feet in height.
- (d) Tower shall be a minimum of three hundred (300) feet from any property line, and two hundred (200) feet minimum from any occupied structure.

C. Use of Facilities

- 1. Associated buildings locations in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- 2. No advertising sign or logo is permitted on any tower or antenna;
- 3. Upon cessation of use, the permit holder shall take down the tower and all associated equipment within sixty (60) days.

D. Co-Location Requirements

- 1. All towers shall be designed structurally, electrically, mechanically and in all other respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be designed to allow co-location of public safety service equipment at usual and customary commercial rates, and these spaces shall be in addition to the antenna sites required for additional users as mentioned in this section. The exact design of public safety service equipment will be determined upon receipt of an application after consultation with the Police Chief and Fire Chief;
- 2. A Development Permit shall not be granted unless it is found that the proposed equipment cannot be accommodated on existing or approved towers or alternative structures with a one- half (1/2) mile radius of the proposed location due to one (1) or more of the following reasons:
- 3. The planned equipment would exceed the structural capacity of the existing or approved towers, building or other structures, as documented by a qualified and licensed NC professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;
- 4. The planned equipment would cause interference materially impacting the usability of other existing of planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;
- 5. Existing or approved towers, buildings, or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed NC professional engineer;
- 6. Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower, building, or other structure.

E. General Requirements

- 1. FCC License Required: The applicant must demonstrate that it is licensed by the FCC to provide fixed or mobile wireless communication services or, if the applicant is not such an FCC licensee, must demonstrate that it has binding commitments from one or more FCC licensees to utilize the proposed wireless telecommunication facility. Written evidence of licensing by the FCC is required to be

submitted to the Building Inspector annually. Failure to provide such evidence shall cause the Certificate of UDO Compliance to be revoked.

2. Insurance Required: Prior to issuance of a Certificate of UDO Compliance, the applicant shall be required to provide certificate of insurance demonstrating it has a minimum of \$1,000,000 in general liability insurance covering any liability arising out of its construction or operation of the telecommunication tower. The applicant shall be required to maintain such coverage in full force and effect until such time as all aboveground portions of the tower (not including any part of the foundation) have been removed.
3. Wireless Service Provider Agreement Required: The applicant must supply a letter of intent agreeing to make all of its telecommunication facilities available to providers of functionally equivalent services at usual and customary commercial rates or the duration of time that the facility is in operation. Verification shall be provided demonstrating that the applicant has an executed lease for the property that allows that landowner and/or the applicant to enter into leases or subleased with other wireless service providers.
4. Annual Report Required: An annual report must be submitted to the Building Inspector that includes, but is not limited to, documentation of current FCC licensing, the names of users of the tower, and how many additional users can be accommodated on the tower.

F. Additional Engineering Review May Be Required

1. The siting of Telecommunications Facilities may involve complex technical issues that require review and input by outside experts. The Building Inspector may require the applicant to pay the reasonable costs of a third-party technical study of a proposed Telecommunications Facility requiring a variance to the provisions set forth in this section. Selection of expert(s) to review the proposal shall be at the sole discretion of the Building Inspector.
2. If an applicant for a Telecommunications Facility claims that one or more standards of this Ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the Building Inspector may require that the application be reviewed by a qualified engineer and a report prepared and presented on the matter to the Board of Commissioners. Any costs shall be charged to the applicant. 160D-930

Section 8.9 Small/Micro Wireless Facility Design Standards (allowed in the public right of way or in a utility easement or in non-residential zoning districts; O&I, B-2, and I-1)

- A. Small/Micro Wireless Facilities shall not be located on residential properties.
- B. The maximum height for small/micro wireless facilities shall be fifty (50) feet in non-residential areas and forty (40) feet in residential areas or 10 foot taller than existing poles.
- C. Where feasible, small/micro wireless facilities shall be located on existing utility poles. Where not feasible to locate on an existing pole, decorative poles shall be installed to match new lighting and stop light installations made by the Village of St. Helena in the historic downtown. Also they are allowed in a utility easement not on residentially zoned property.
- D. All supporting utilities and infrastructure shall be located underground in a vault or similar structure.
- E. When located within the Village of St. Helena right-of-way, pedestrian facilities, vehicular facilities (including driveways and sight triangles) and stormwater facilities shall not be negatively impacted.
- F. When a facility is abandoned or no longer in use the antenna and equipment shall be removed within 180 days.
- G. When located within the Village of St. Helena right-of-way an encroachment agreement is required.
- H. When located outside of NCDOT right-of-way, a development permit is needed.

- I. A survey, elevations, shop drawings and equipment rendering shall be provided to ensure compliance.

Section 8.10 Concealed Wireless Telecommunications Facility Design Standards (allowed in RA or non-residential zoning districts; O&I, B-2, and I-1)

- A. Concealed Wireless Telecommunications Facilities shall be permitted in as an accessory use provided the following conditions are met:
 1. In order to be considered an accessory use, a Concealed Wireless Telecommunications Facility must be clearly incidental and subordinate to the main use of a structure.
 2. Antennas associated with a Concealed Wireless Telecommunications Facility shall be concealed from exterior view.
 3. The addition of antenna, support or other equipment shall not add more than ten (10) feet in height to the attached structure unless a variance is obtained from the Zoning Board of Adjustment. Notwithstanding the foregoing, any increase in the height of an existing structure must comply with other provisions of this Ordinance unless appropriate approvals are obtained.
 4. Electronic equipment associated with Concealed Wireless Telecommunication Facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or façade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, equipment enclosures shall be screened so as to make them unobtrusive.
 5. All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless telecommunications facilities shall be colored or concealed in a manner as to render them unobtrusive.
 6. Antennas associated with a Concealed Wireless Telecommunications Facility may not be co-located on a tower or other support structure used by an amateur radio operator.
 7. Antennas associated with a Concealed Wireless Telecommunications Facility shall not be located upon a Single Family Dwelling or Multi-Family Dwelling.
 8. Should the existing support structure require to be replaced and/or rebuilt it shall comply with all applicable codes including but not limited to these provisions.
 9. Any modifications to an existing structure associated with the installation of a Concealed Wireless Telecommunications Facility shall comply with all limitations, requirements, and standards contained in other provisions of this Ordinance. All other applicable local, state, and federal approvals and permits shall also be obtained.
 10. A structural analysis shall be performed by a licensed professional engineer in the State of North Carolina in accordance with the current revision to ANSI EIA/TIA-222 certifying that the structure is capable of supporting the proposed loading.
 11. Prior to installation of a Concealed Wireless Telecommunications Facility, a copy of the operators.

Section 8.11 Wireless Telecommunication Facilities. Purpose and compliance with federal law.

- A. The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.
- B. 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, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create 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. Therefore, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

- C. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.
- D. Nothing in this Part shall be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. (2019-111, s. 2.4.) 160D-930

Chapter 9 – Nonconformities

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Chapter 9 – Nonconformities

9.1 GENERAL APPLICABILITY

A. NONCONFORMITIES GENERALLY

Uses of land which do not conform to the requirements of this Ordinance may not be enlarged, expanded, nor altered, except in conformance with this Ordinance.

Nonconformities shall not be used as grounds for adding other prohibited uses or structures, nor for the enlarging by means of extension or expansion, except as specifically provided by this Ordinance.

B. COMPLETION OF NONCONFORMING PROJECTS

1. For purposes of this section, a nonconforming project shall include any structure, development, or undertaking that is incomplete at the effective date of this Ordinance, or amendment thereto, and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
2. A nonconforming project for which a completed application has been submitted to and accepted by the Building Inspector prior to the effective date of this Ordinance shall be reviewed in accordance with the standards applicable on the date the complete application was accepted.
3. Any nonconforming project for which a permit was issued under the previous Zoning Ordinance may be completed in accordance with the terms of such permit, so long as it remains unexpired and unrevoked.
4. If a permit has been issued for a nonconforming project and such permit remains unexpired and unrevoked, an applicant may seek modification of such permit from the permit issuing authority that granted the original permit, and such permit issuing authority may approve the requested modification if it determines that the proposed changes will result in a project that is not more nonconforming in terms of the present Ordinance than the project approved under the previous Ordinance.

C. CLASSIFICATION OF NONCONFORMITIES

Nonconformities are classified as:

1. Uses of major structures and premises (*Section 9.2*),
2. Characteristics of uses (*Section 9.3*) which were lawful but would be prohibited, regulated, or restricted by the enactment of this Ordinance or a subsequent amendment thereto,
3. Structures (*Section 9.4*) and/or
4. Lots (*Section 9.5*).

9.2 NONCONFORMING USES

A. INTENT CONCERNING NONCONFORMING USES: SPECIFICALLY DECLARED TO BE INCOMPATIBLE WITH PERMITTED USES

It is the intent of this Ordinance that nonconforming uses of land shall be considered to be incompatible with the permitted uses within the district(s) in which they are located. Such nonconforming uses shall not be enlarged or extended in any respect.

Once a nonconforming use has ceased to operate or has been discontinued for a period of 120 consecutive days, it may not be resumed and shall only be replaced with a conforming use.

B. CHANGE OF USE

1. GENERAL

A nonconforming use shall not be changed to any other nonconforming use, except as provided in *Section 9.2(B)(2), EXCEPTIONS*.

2. EXCEPTIONS

Nonconforming residential or office uses within an industrial or commercial base zoning district may be continued or replaced by another nonconforming residential or office use, upon the issuance of a Zoning Compliance Permit based on the standards in *Section 9.2(B)(3)*.

Nonconforming non-residential uses within a residential zoning district may be replaced by another nonconforming non-residential use, upon the issuance of a Zoning Compliance Permit based on the standards in *Section 9.2(B)(3)*.

3. The Building Inspector may issue a Zoning Compliance Permit for a replacement use described in *Section 9.2(B)(2), EXCEPTIONS*, if the applicant substantiates that:
- (a) The proposed use is a permitted use in some zoning district with either Zoning Compliance Permit or site plan approval;
 - (b) All the applicable requirements of this Ordinance must be met to the extent reasonably possible. Compliance with a requirement of this Ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking or increased landscaping does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created; and,
 - (c) The proposed replacement use will have the same or less adverse impact on those most affected by it than the existing or previous nonconforming use and will be equal or more compatible with the surrounding neighborhood than the existing or previous nonconforming use applied for. The applicant shall provide the following information for both the existing and proposed use to demonstrate to the Building Inspector the existence of an equal or less adverse impact on the surrounding areas:
 - i. Hours of operation;
 - ii. Traffic generation by vehicle type;
 - iii. Number of employees;
 - iv. External changes to structure;
 - v. Noxious exposure;
 - vi. Customer traffic, including time of day and number of trips; and
 - vii. Nature of use type.
 - (d) The cost of any reconstruction or renovation associated with the use change does not exceed one-third (1/3) of the existing structure's replacement cost (new) prior to the reconstruction or renovation. In cases where the reconstruction or renovation cost exceeds one-third (1/3) of the structure's replacement cost (new), then the use and structure must conform to the requirements of the district where located.

- (e) In the case of a non-residential use in a residential zoning district, the structure is not reasonably suitable for a use allowed by right in the zoning district due to unique or unusual construction or characteristics.

9.3 NONCONFORMING CHARACTERISTICS OF USE

- A. Conforming uses with nonconforming characteristics may continue to operate but shall not be expanded, altered, changed, or relocated in such a manner as to increase the degree of nonconformity.
- B. Nonconforming characteristics which can reasonably be corrected shall be addressed during the review of a new site plan or special use permit. For example, compliance may not be reasonably possible when compliance cannot be achieved without adding additional land to the lot, moving a substantial structure that is on a permanent foundation, or other significant site work. The permit-issuing authority may consider the cost of eliminating nonconforming characteristics in relation to the total project cost and the benefit to the community when determining what improvements are reasonable.

9.4 NONCONFORMING STRUCTURES

A. NONCONFORMING STRUCTURE, OTHER THAN SIGNS

A structure (other than a sign) which is nonconforming, due to non-compliance with one or more requirements in *Section 6.3, DIMENSIONAL REQUIREMENTS*, of this Ordinance and which is used for a use permitted in the district in which located, may remain, provided:

1. That any structural change to the structure shall not increase the degree of nonconformity. Structural changes which decrease or do not affect the degree of nonconformity shall be permitted.
2. That a nonconforming commercial or industrial structure or portion thereof which is damaged by causes other than the intentional or reckless acts of the property owner or authorized agent to such an extent that the cost to repair does not exceed fifty (50) percent of the structure's taxable value, may be reconstructed. If such a structure is damaged by the intentional or reckless act of the property owner or authorized agent, or is otherwise damaged to such an extent that the cost to repair exceeds fifty (50%) percent of the structure's current tax value, or is destroyed, then the structure may not be reconstructed except in accordance with all requirements established by this Ordinance for the zoning district in which it is situated.
3. That a nonconforming residential structure, or a portion thereof which is partially or totally destroyed, may be reconstructed or replaced. 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, a larger mobile home intended for residential use may replace a smaller one, and a mobile home may be replaced by a framed structure. The reconstructed residential structure 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 structure. A building permit must be obtained within one (1) year from the time of damage or destruction.
4. Nonconforming provisions related to signs are provided in *Section 7.1(W), SIGNAGE*.

B. ADDITIONS TO NONCONFORMING STRUCTURES

The Building Inspector may issue a Zoning Compliance Permit to authorize an existing nonconforming structure to encroach upon a setback required in *Section 6.3, DIMENSIONAL REQUIREMENTS*, provided:

1. The proposed encroachment results from an addition to or extension of an existing structure that already is nonconforming with respect to the requirements of *Section 6.3, DIMENSIONAL REQUIREMENTS*; and
2. The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.

C. NONCONFORMING USES OF MAJOR STRUCTURES AND PREMISES IN COMBINATION

Nonconforming use of structures may be continued provided:

1. Such uses may not be enlarged, extended, altered, or replaced, except for to change to a use permitted in the district in which located, except as provided in *Section 9.4(C)(2)* below.
2. A nonconforming use may be extended through portions of a building manifestly arranged or intended for such use, but not otherwise, and shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established.
3. If a nonconforming use ceases for more than one hundred eighty (180) consecutive days, subsequent use shall conform to the regulations of the district in which it is located.

D. NONCONFORMING STRUCTURES UNSAFE FOR REASONS OTHER THAN LACK OF MAINTENANCE

Nonconforming structures or portions thereof, which the Building Inspector has declared unsafe, but not because of lack of maintenance, may be repaired and restored to the extent required to make them safe unless this would violate those provisions of *Section 9.4(A), NONCONFORMING STRUCTURE OTHER THAN SIGNS*.

9.5 NONCONFORMING LOTS OF RECORD

A. USE OF SINGLE NONCONFORMING LOTS FOR ONE-FAMILY DETACHED DWELLINGS

A one-family detached dwelling and customary accessory structure may be erected, occupied, and used on a single nonconforming lot of record, subject to *Section 9.5(B), COMBINATION OF CONTIGUOUS NONCONFORMING LOTS IN SINGLE OWNERSHIP AND WITH CONTINUOUS FRONTAGE, EXCEPTION*, and in accord with requirements applying in the district.

B. COMBINATION OF CONTIGUOUS NONCONFORMING LOTS IN SINGLE OWNERSHIP AND WITH CONTINUOUS FRONTAGE; EXCEPTION

It is the intent of this subsection to require undeveloped nonconforming lots (those having separate, individual deeds) held in single ownership to be combined with other nonconforming lots to create less nonconforming lots under the circumstances below, but not to require such combination when it would be out of character with the way the neighborhood has previously been developed.

1. Where two (2) or more undeveloped nonconforming lots in single ownership adjoin and have continuous road frontage, such lots shall be combined to create less nonconforming lots with respect to minimum lot size, road frontage, and setback requirements.

2. Combination of nonconforming, continuous frontage lots in single ownership shall not be required when all of the following conditions exist:
 - (a) One (1) or more of the lots contains a principal structure built before the original adoption date of this ordinance,
 - (b) The existing structure does not cross the property line between two nonconforming lots,
 - (c) Any vacant lot(s) are not less than fifty (50) feet wide,
 - (d) The lots will be used for one family detached dwellings and customary accessory structures,
 - (e) A majority of the developed residential lots within five hundred feet (500) feet of such lots are also nonconforming with regard to minimum lot size or frontage, and
 - (f) Adequate water and sewer facilities exist or will be install to accommodate the small lot size.

3. Combination is also not required when the nonconforming lot was created by public taking action or as a result of a court order.

C. LOTS NOT MEETING MINIMUM LOT SIZE REQUIREMENTS

In any district in which single family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has dimensions which are less than require by these regulations may be used as building site for a single family dwelling providing the lot area and width are not less than eighty (80) percent of the requirements in the district. If the lot is smaller or narrower, a variance may be requested from the Board of Adjustment.

D. YARD REQUIREMENTS MODIFIED

Lots created prior to the adoption of this ordinance, where a lot width or depth is less than that required in the zoning district to which it is located, a structure will be allowed to be built or placed upon the lot as long as it can meet the current required setbacks. Otherwise, a yard modification may be permitted with a variance granted by the Board of Adjustment.

CHAPTER 10. ENFORCEMENT

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10.1 PURPOSE

This article establishes procedures through which the Village seeks to ensure compliance with the provisions of this Ordinance. It also sets forth the remedies and penalties for violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

10.2 APPLICABILITY

This Ordinance shall apply to all property within the Village of St. Helena and its area of jurisdiction. Unless otherwise specified, the Building Inspector shall have the authority to administer and enforce the provisions of the Ordinance within this area.

10.3 ENFORCEMENT OFFICER

A. ESTABLISHMENT OF DELEGATED AUTHORITY

The Building Inspector may designate one or more persons to assist in the administration and enforcement this ordinance. Orders issued by the Building Inspector's designee shall have the effect as if issued by the Building Inspector. The Building Inspector, or designee, may enter any building, structure, or premises as provided by law, during reasonable hours and upon presenting credentials to perform any duty imposed upon him/her by this ordinance. The Building Inspector, or designee, must have the consent of premises owner or and administrative search warrant to inspect areas not open to the public.

B. GENERAL DUTIES

In addition to the duties of the Building Inspector as identified in *Section 2.5(A)*, the Building Inspector shall:

1. Establish and publish application procedures for permits, appeals, and actions pursuant to this ordinance and forms implementing the same;
2. Issue permits and certificates pursuant to this ordinance;
3. Review and approve all development plans and permits to assure that the permit requirements of this ordinance have been satisfied;
4. Interpret the applicability of the provisions of this ordinance in matters where the text does not clearly provide guidance;
5. Maintain all records pertaining to the provisions of this ordinance in his/her office(s) and make said records open for public inspection;
6. Periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this ordinance;
7. Cause to be investigated violations of this ordinance;
8. Enforce the provisions of this ordinance;
9. Issue notice of corrective action(s) when required;
10. Use the remedies provided in this ordinance to gain compliance;
11. Be authorized to gather evidence in support of said activities;
12. Receive appeals and forward cases to the appropriate body; and
13. Perform other duties as may be assigned by the Village Council.

10.4 VIOLATIONS

Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this article and by state law.

A. DEVELOPMENT WITHOUT PERMIT

To engage in any development, use, construction, remodeling, or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this ordinance without all required permits, certificates, or other forms of authorization as set forth in this ordinance.

B. DEVELOPMENT INCONSISTENT WITH PERMIT

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

C. VIOLATION BY ACT OR OMISSION

To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Village Council or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

D. USE IN VIOLATION

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this ordinance, or any other regulation made under the authority conferred thereby.

E. SUBDIVIDE IN VIOLATION

To subdivide land in violation of this ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this ordinance and recorded in the office of the Pender County Register of Deeds Office. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this ordinance.

F. CONTINUING VIOLATIONS

Each day's violation of any provision of this ordinance is a separate and distinct offense.

10.5 RESPONSIBLE PERSONS

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

10.6 ENFORCEMENT GENERALLY

A. NOTICE OF VIOLATIONS

Upon the Building Inspector's determination that any provision of this Ordinance has been violated, a written notice shall be delivered by personal service, email, first class mail or posted on site, to the permittee and land owner, indicating the nature of the violation and ordering the action necessary to correct it. The Building Inspector must certify the Notice of Violation for the file.

The final written notice, which may also be the initial notice, shall state the action the Building Inspector intends to take if the violation is not corrected, and shall advise that the Building Inspector's order may be appealed to the Board of Adjustment within thirty (30) days of written notice.

Once the final written notice is delivered, the penalties covered in *Section 9.7, REMEDIES AND PENALTIES*, shall apply.

Suspected violations and complaints can be reported to the Building Inspector in writing. Complainants who provide contact information will be apprised of the outcome of the investigation whereas anonymous complainants will not.

10.7 REMEDIES AND PENALTIES

A. STOP WORK ORDER

Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Building Inspector may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with N.C.G.S. 160D-404, as applicable, or the NC Building Code.

B. DENIAL OF PERMIT OR CERTIFICATE

The Building Inspector may withhold or deny any permit, certificate, occupancy permit or other form of authorization on any land, building, sign, structure, or use in which there is an uncorrected violation of a provision of this ordinance or of a condition or qualification of a permit, certificate, or other authorization previously granted.

C. CONDITIONAL PERMIT OR TEMPORARY CERTIFICATE

The Building Inspector may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

D. REVOCATION OF PERMITS.

In addition to initiation of enforcement actions under G.S. 160D-4-4, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable.

E. CRIMINAL PENALTIES

Pursuant to N. C. Gen. Stat., Section 14-4, any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500).

F. CIVIL PENALTIES

1. Unless otherwise stated in a chapter or section, any act constituting a violation of this Ordinance shall also subject the offender to a civil penalty of One Hundred Dollars (\$100.00), if the offender fails promptly to correct such violation after
 - (a) receiving a final written notice of violation which he does not appeal to the Board of Adjustment within the specified period, or
 - (b) denial of his appeal from a final written notice of violation by the Board of Adjustment.
2. Each day that any violation continues beyond
 - (a) thirty (30) days after receiving final written notice of a violation when no appeal is taken, or
 - (b) ten (10) days after the Board of Adjustment has denied an appeal shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.
3. It shall be presumed that all notices of violation are received five (5) days after the date such notices are mailed to the responsible person (*Section 9.5, Responsible Persons*).
4. If the offender fails to pay the penalty within thirty (30) days of receiving final written notice of a violation when no appeal was taken, or within ten (10) days after the Board of Adjustment has denied an appeal, the penalty may be recovered by the Village in a civil action in the nature of the debt. Provided, however, if the civil penalty is not paid within the time prescribed, the Building Inspector may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to N.C.G.S. 14-4.

G. ADDITIONAL PENALTIES

In addition to the penalties and remedies above, the Building Inspector shall pursuant to authorization by the Village Council, institute any appropriate action or proceedings to prevent, restrain, correct, or abate a violation of the Ordinance or to prevent use or occupancy of the building, structure or land so long as said violation continues.

H. CUMULATIVE VIOLATIONS

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

I. INJUNCTION

Any violation of this article or of any condition, order, requirement or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding pursuant to state law.

J. JUDICIAL ENFORCEMENT

When any person is in violation of the provisions of this ordinance, the Village through the Village Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

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Chapter 11. Building Code Enforcement

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Chapter 11 – Building Code Enforcement

11.1 DEFINITIONS

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

- A. Building or buildings. - Includes other structures.
- B. Governing board or board of commissioners. - Includes the Tribal Council of a federally recognized Indian tribe.
- C. Local government. - Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.
- D. Public officer. - Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article. (2019-111, s. 2.4.)

11.2 BUILDING CODE ADMINISTRATION

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1105 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160D-1105 or Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1105 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services. (2019-111, s. 2.4.)

11.3 QUALIFICATIONS OF INSPECTORS

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position. (2019-111, s. 2.4.)

11.4 DUTIES AND RESPONSIBILITIES

- A. The duties and responsibilities of an inspection department and of the inspectors in it shall be to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:
 - 1. The construction of buildings and other structures.
 - 2. The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.
 - 3. The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.
 - 4. Other matters that may be specified by the governing board.
- B. The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.
- C. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.
- D. Except as provided in G.S. 160D-1115 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the

authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

- E. Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:
 - 1. Initial review by the supervisor of the inspector.
 - 2. The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.
 - 3. Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection shall be deemed to limit or abrogate any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

- F. If a specific building framing inspection as required by the North Carolina Residential Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance. (2019-111, s. 2.4.)

11.5 OTHER ARRANGEMENT FOR INSPECTIONS

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103. (2019-111, s. 2.4.)

11.6 ALTERNATE INSPECTION METHOD FOR COMPONENT OR ELEMENT

- A. Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:
 - 1. The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.
 - 2. Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

3. The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.
- B. Upon the acceptance and approval receipt of a signed written document by the city as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.
 - C. With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer shall be required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.
 - D. As used in this section, the following definitions apply:
 1. Component. - Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.
 2. Element. - A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system. (2019-111, s. 2.4.)

11.7 MUTUAL AID CONTRACTS

- A. Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.
- B. Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.
- C. Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a

party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so. (2019-111, s. 2.4.)

11.8 CONFLICTS OF INTEREST

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

- A. If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.
- B. If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.
- C. If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years. (2019-111, s. 2.4.)

11.9 FAILURE TO PREFORM DUTIES

- A. If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.
- B. A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina

Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d). (2019-111, s. 2.4.)

11.10 BUILDING PERMITS

- A. Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:
1. The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.
 2. The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.
 3. The installation, extension, alteration, or general repair of any heating or cooling equipment system.
 4. The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:
 - a) With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
 - b) With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
 - c) The work is performed by a person licensed under G.S. 87-43.
 - d) The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

- B. A building permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve such residential building plans as it deems necessary. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.
- C. No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes shall be required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars (\$15,000) or less in any single-family residence or farm building unless the work involves any of the following:
1. The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.
 2. The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.
 3. The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.
 4. The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.
 5. The addition (excluding replacement) of roofing.
- D. A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.
- E. No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.
- F. No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

- G. No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more.
- H. No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.
- I. Violation of this section constitutes a Class 1 misdemeanor. (2019-111, s. 2.4.)

11.11 EXPIRATION OF BUILDING PERMITS

A building permit issued pursuant to this Article shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured. (2019-111, s. 2.4.)

11.12 CHANGES IN WORK

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department. (2019-111, s. 2.4.)

11.13 INSPECTIONS OF WORK IN PROGRESS

Subject to the limitation imposed by G.S. 160D-1104(b), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local

laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (2019-111, s. 2.4.)

11.14 APPEALS OF STOP ORDERS

- A. The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:
 - 1. Appealing to the Building Code Council.
 - 2. Appealing to the superior court as provided in G.S. 143-141.
- B. The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405. (2019-111, s. 2.4.)

11.15 REVOCATION OF BUILDING PERMITS

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked. (2019-111, s. 2.4.)

11.16 CERTIFICATES OF COMPLIANCE

At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the inspector finds that the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. A temporary certificate of occupancy or compliance may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the

inspector finds that such building or property may safely be occupied prior to its final completion. Violation of this section shall constitute a Class 1 misdemeanor. A local government may require the applicant for a temporary certificate of occupancy to post suitable security to ensure code compliance. (2019-111, s. 2.4.)

11.17 PERIODIC INSPECTIONS

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law. (2019-111, s. 2.4.)

11.18 DEFECTS IN BUILDINGS TO BE CORRECTED

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property. (2019-111, s. 2.4.)

11.19 UNSAFE BUILDINGS CONDEMNED

- A. Designation of Unsafe Buildings. - Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.
- B. Nonresidential Building or Structure. - In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:
 - 1. It appears to the inspector to be vacant or abandoned.
 - 2. It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.
- C. Notice Posted on Structure. - If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the

purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

- D. Applicability to Residential Structures. - A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-601. (2019-111, s. 2.4.)

11.20 REMOVING NOTICE FROM CONDEMNED BUILDING

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4.)

11.21 ACTION IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-1117 shall fail to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

- A. That the building or structure is in a condition that appears to meet one or more of the following conditions:
 - 1. Constitutes a fire or safety hazard.
 - 2. Is dangerous to life, health, or other property.
 - 3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
 - 4. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.
- B. That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.
- C. That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing. (2019-111, s. 2.4.)

11.22 ORDER TO TAKE CORRECTIVE ACTION

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-1119, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible. (2019-111, s. 2.4.)

11.23 APPEAL; FINALITY OF ORDER IF NOT APPEALED

Any owner who has received an order under G.S. 160D-1120 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The governing board shall hear in accordance with G.S. 160D-406 and render a decision in an appeal within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order. (2019-111, s. 2.4.)

11.24 FAILURE TO COMPLY WITH ORDER

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1120 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4.)

11.25 ENFORCEMENT

- A. Action Authorized. - Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.
- B. Removal of Building. - In the case of a building or structure declared unsafe under G.S. 160D-1117 or an ordinance adopted pursuant to G.S. 160D-1117, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

- C. Additional Lien. - The amounts incurred by a local government in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for municipalities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.
- D. Nonexclusive Remedy. - Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (2019-111, s. 2.4.)

11.26 RECORDS AND REPORTS

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require. (2019-111, s. 2.4.)

11.27 APPEALS

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (2019-111, s. 2.4.)

11.28 FIRE LIMITS

- A. County Fire Limits. - A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.
- B. Municipal Fire Limits. - The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

- C. Restrictions Within Municipal Primary Fire Limits. - Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.
- D. Restrictions Within Municipal Secondary Fire Limits. - Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.
- E. Failure to Establish Municipal Primary Fire Limits. - If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest. (2019-111, s. 2.4.)

11.29 REGULATION AUTHORIZED AS TO REPAIR, CLOSING, AND DEMOLITION OF NONRESIDENTIAL BUILDINGS OR STRUCTURES; ORDER OF PUBLIC OFFICER

- A. Authority. - The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.
- B. Investigation. - Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.
- C. Complaint and Hearing. - If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and

parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

D. Order. - If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

E. Limitations on Orders. -

1. An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.
2. An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.
3. An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

F. Action by Governing Board Upon Failure to Comply With Order. -

1. If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be

recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

2. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.
- G. Action by Governing Board Upon Abandonment of Intent to Repair. - If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
1. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.
 2. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the

property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

- H. Service of Complaints and Orders. - Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- I. Liens. -
1. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
 2. If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
 3. If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- J. Ejectment. - If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10

days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (F) this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (F) of this section to vacate and close or remove and demolish the nonresidential building or structure.

- K. Civil Penalty. - The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.
- L. Supplemental Powers. - The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:
1. To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
 2. To administer oaths, affirmations, examine witnesses, and receive evidence.
 3. To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
 4. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.
 5. To delegate any of his or her functions and powers under the ordinance to other officers and agents.
- M. Appeals. - The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.

- N. Funding. - The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.
- O. No Effect on Just Compensation for Taking by Eminent Domain. - Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.
- P. Definitions. - As used in this section, the following definitions apply:
1. Parties in interest. - All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.
 2. Vacant industrial warehouse. - Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.
 3. Vacant manufacturing facility. - Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use. (2019-111, s. 2.4.)

CHAPTER 12 – MINIMUM HOUSING CODE REQUIREMENTS

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CHAPTER 12 – MINIMUM HOUSING CODE REQUIREMENTS

12.1 AUTHORIZATION

- A. Occupied Dwellings. - The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever any local government finds that there exists in the planning and development regulation jurisdiction dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the local government to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

- B. Abandoned Structures. - Any local government may by ordinance provide for the repair, closing, or demolition of any abandoned structure that the governing board finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation. (2019-111, s. 2.4.)

12.2 DEFINITIONS

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

- 1. Owner. - The holder of the title in fee simple and every mortgagee of record.
- 2. Parties in interest. - All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.
- 3. Public authority. - Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.
- 4. Public officer. - The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Article. (2019-111, s. 2.4.)

12.3 ORDINANCE AUTHORIZED AS TO REPAIR, CLOSING, AND DEMOLITION; ORDER OF PUBLIC OFFICER

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160D-1201 exist, the governing board is authorized to adopt and enforce ordinances relating to dwellings within the planning and development regulation jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

- A. Designation of enforcement officer. - One or more public officers shall be designated to exercise the powers prescribed by the ordinance.
- B. Investigation, complaint, hearing. - Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.
- C. Orders. - If, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
 1. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.
 2. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance

or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

- D. Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- E. Demolition. - If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- F. Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
2. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

G. Liens. -

1. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
2. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
3. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

- H. Civil action. - If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the

execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

- I. Additional notices to affordable housing organizations. - Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition. (2019-111, s. 2.4.)

12.4 HEAT SOURCE REQUIRED

- A. A local government shall, by ordinance, require that every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- B. If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.
- C. Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (a) of this section shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.
- D. This section applies only to local governments with a population of 200,000 or over within their planning and development regulation jurisdiction, according to the most recent decennial federal census.
- E. Nothing in this section shall be construed to diminish the rights or remedies available to a tenant under a lease agreement, statute, or at common law or to prohibit a city from adopting an

ordinance with more stringent heating requirements than provided for by this section. (2019-111, s. 2.4.)

12.5 STANDARDS

An ordinance adopted under this Article shall provide that the public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. The ordinances may provide additional standards to guide the public officers in determining the fitness of a dwelling for human habitation. (2019-111, s. 2.4.)

12.6 SERVICE OF COMPLAINTS AND ORDERS

- A. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- B. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. (2019-111, s. 2.4.)

12.7 PERIODIC INSPECTIONS

- A. Except as provided in subsection (B) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has

been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

- B. A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan, (ii) hold a public hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

- C. In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:
 - 1. The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

2. Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.
- D. If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.
 - E. If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter. (2019-111, s. 2.4.)

12.8 REMEDIES

- A. An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by G.S. 160D-306. An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the housing appeals board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished the

appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the board, or by a court of record upon petition made pursuant to subsection (F) of this section.

- B. The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it shall have all the powers of the public officer, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the public officer. The board shall have power also in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- C. Every decision of the housing appeals board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.
- D. Any person aggrieved by an order issued by the public officer or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- E. If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling. (2019-111, s. 2.4.)

12.9 COMPENSATION TO OWNERS OF CONDEMNED PROPERTY

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State. (2019-111, s. 2.4.)

12.10 ADDITIONAL POWERS OF PUBLIC OFFICER

An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

- A. To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction in order to determine which dwellings therein are unfit for human habitation.
- B. To administer oaths, affirmations, examine witnesses, and receive evidence.
- C. To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
- D. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.
- E. To delegate any of his or her functions and powers under the ordinance to other officers and other agents. (2019-111, s. 2.4.)

12.11 ADMINISTRATION OF ORDINANCE

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it. (2019-111, s. 2.4.)

12.12 SUPPLEMENTAL NATURE OF ARTICLE

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances. (2019-111, s. 2.4.)

CHAPTER 13 – ADDITIONAL AUTHORITY

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CHAPTER 13 – ADDITIONAL AUTHORITY

13.1 OPEN SPACE ACQUISITION

It is the intent of the General Assembly to provide a means whereby any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, and through the expenditure of public funds, the fee or any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment. (2019-111, s. 2.4.)

13.2 FINDING NECESSITY

The General Assembly finds that the rapid growth and spread of urban development in the State is encroaching upon, or eliminating, many open areas and spaces of varied size and character, including many having significant scenic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic, or economic assets to existing and impending urban development. The General Assembly declares that it is necessary for sound and proper urban development and in the public interest of the people of this State for any local government to expend or advance public funds for, or to accept by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest or right in real property so as to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas within their respective jurisdictions as defined by this Article.

The General Assembly declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. (2019-111, s. 2.4.)

13.3 LOCAL GOVERNMENTS AUTHORIZED TO ACQUIRE AND RECONVEY REAL PROPERTY

Any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any local government may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale. (2019-111, s. 2.4.)

13.4 JOINT ACTION BY GOVERNING BODIES

A local government may enter into any agreement with any other local government for the purpose of jointly exercising the authority granted by this Part. (2019-111, s. 2.4.)

13.5 POWERS OF GOVERNING BODIES

A local government, in order to exercise the authority granted by this Part, may:

- A. Enter into and carry out contracts with the State or federal government or any agencies thereof under which grants or other assistance are made to the local government.
- B. Accept any assistance or funds that may be granted by the State or federal government with or without a contract.
- C. Agree to and comply with any reasonable conditions imposed upon grants.
- D. Make expenditures from any funds so granted. (2019-111, s. 2.4.)

13.6 APPROPRIATIONS AUTHORIZED

For the purposes set forth in this Part, a local government may appropriate funds not otherwise limited as to use by law. (2019-111, s. 2.4.)

13.7 DEFINITIONS

As used in this Part, the following definitions apply:

- A. Open space or open area. - Any space or area characterized by great natural scenic beauty or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. The terms also include interests or rights in real property and open space land or uses.
- B. Open space land or open space uses. - Any undeveloped or predominantly undeveloped land in an urban area that has value for or is used for one or more of the following purposes:
 - 1. Park and recreational purposes.
 - 2. Conservation of land and other natural resources.
 - 3. Historic or scenic purposes. (2019-111, s. 2.4.)

13.8 RESERVED FOR FUTURE CODIFICATION PURPOSES

13.9 RESERVED FOR FUTURE CODIFICATION PURPOSES

13.10 RESERVED FOR FUTURE CODIFICATION PURPOSES

PART 2 - COMMUNITY DEVELOPMENT AND REDEVELOPMENT

13.11 COMMUNITY DEVELOPMENT PROGRAMS AND ACTIVITIES

- A. A local government is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In

undertaking community development programs and activities, in addition to other authority granted by law, a local government may engage in the following activities:

1. Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low- and moderate-income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans.
 2. Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.
- B. A governing board may exercise directly those powers granted by law to local government redevelopment commissions and those powers granted by law to local government housing authorities and may do so whether or not a redevelopment commission or housing authority is in existence in such local government. Any governing board desiring to do so may delegate to any redevelopment commission, created under Article 22 of Chapter 160A of the General Statutes, or to any housing authority, created under Article 1 of Chapter 157 of the General Statutes, the responsibility of undertaking or carrying out any specified community development activities. Any governing board may by agreement undertake or carry out for another any specified community development activities. Any governing board may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education may by agreement undertake or carry out for any other governing board any specified community development activities.
- C. A local government undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.
- D. A governing board proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such local government. No State or local taxes shall be appropriated or expended by a county pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided.
- E. A government may receive and dispense funds from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee program, Subpart M, 24 C.F.R. § 570.700, et seq., either through application to the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any local government that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A local government may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

A government that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future

CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes.

- F. All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities and counties in "economically distressed counties," as defined in G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes, but is not limited to, (i) payment of principal and interest on loans made by the county using CDBG funds, (ii) proceeds from the lease or disposition of real property acquired with CDBG funds, and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration. (2019-111, s. 2.4.)

13.12 ACQUISITION AND DISPOSITION OF PROPERTY FOR REDEVELOPMENT

Any local government is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

- A. To acquire, by voluntary purchase from the owner or owners, real property that meets any of the following criteria:
 - 1. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
 - 2. Appropriate for rehabilitation or conservation activities.
 - 3. Appropriate for housing construction or the economic development of the community.
 - 4. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development.
- B. To clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired.
- C. To retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit, provided the disposition of such property shall be undertaken in accordance with the procedures of Article 12 of Chapter 160A of the General Statutes, or the procedures of G.S. 160A-514, or any applicable local act or charter provision modifying such procedures, or subdivision (4) of this section.

- D. To sell, exchange, or otherwise transfer real property or any interest therein in a community development project area to any redeveloper at private sale for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the community development plan, subject to such covenants, conditions, and restrictions as may be deemed to be in the public interest or to carry out the purposes of this Article, provided that such sale, exchange, or other transfer, and any agreement relating thereto, may be made only after approval of the governing board and after a public hearing; a notice of the public hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area, the notice shall be published the first time not less than 10 days nor more than 25 days preceding the public hearing, and the notice shall disclose the terms of the sale, exchange, or transfer. At the public hearing, the appraised value of the property to be sold, exchanged, or transferred shall be disclosed, and the consideration for the conveyance shall not be less than the appraised value. (2019-111, s. 2.4.)

13.13 URBAN DEVELOPMENT ACTION GRANTS

Any local government is authorized, either as a part of a community development program or independently thereof, to enter into contracts or agreements with any person, association, or corporation to undertake and carry out specified activities in furtherance of the purposes of Urban Development Action Grants authorized by the Housing and Community Development Act of 1977, P.L. 95-128, or any amendment thereto, that is a continuation of such grant programs by whatever designation, including the authority to enter into and carry out contracts or agreements to extend loans, loan subsidies, or grants to persons, associations, or corporations and to dispose of real or personal property by private sale in furtherance of such contracts or agreements.

Any enabling legislation contained in local acts that refers to "Urban Development Action Grants" or the Housing and Community Development Act of 1977, P.L. 95-128, shall be construed also to refer to any continuation of such grant programs by whatever designation. (2019-111, s. 2.4.)

13.14 URBAN HOMESTEADING PROGRAMS

A local government may establish a program of urban homesteading, in which residential property of little or no value is conveyed to persons who agree to rehabilitate the property and use it, for a minimum number of years, as their principal place of residence. Residential property is considered of little or no value if the cost of bringing the property into compliance with the local government's housing code exceeds sixty percent (60%) of the property's appraised value on the county tax records. In undertaking such a program, a local government may:

- A. Acquire by purchase, gift, or otherwise, but not eminent domain, residential property specifically for the purpose of reconveyance in the urban homesteading program or may transfer to the program residential property acquired for other purposes, including property purchased at a tax foreclosure sale.

- B. Under procedures and standards established by the local government, convey residential property by private sale under G.S. 160A-267 and for nominal monetary consideration to persons who qualify as grantees.
- C. Convey property subject to the following conditions:
 1. A requirement that the grantee shall use the property as the grantee's principal place of residence for a minimum number of years.
 2. A requirement that the grantee rehabilitate the property so that it meets or exceeds minimum housing code standards.
 3. A requirement that the grantee maintain insurance on the property.
 4. Any other specific conditions, including, but not limited to, design standards, or actions that the local government may require.
 5. A provision for the termination of the grantee's interest in the property and its reversion to the local government upon the grantee's failure to meet any condition so established.
- D. Subordinate the local government's interest in the property to any security interest granted by the grantee to a lender of funds to purchase or rehabilitate the property. (2019-111, s. 2.4.)

13.15 DOWNTOWN DEVELOPMENT PROJECTS

- A. Definition. - As used in this section, "downtown development project" or "joint development project" means a capital project, in a central business district, as that district is defined by the governing board, comprising one or more buildings and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.
- B. Authorization. - If the governing board finds that it is likely to have a significant effect on the revitalization of the jurisdiction, the local government may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a joint development project or of specific facilities within such a project. The local government may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract may, among other provisions, specify the following:
 1. The property interests of both the local government and the developer or developers in the project, provided that the property interests of the local government shall be limited to facilities for a public purpose.
 2. The responsibilities of the local government and the developer or developers for construction of the project.
 3. The responsibilities of the local government and the developer or developers with respect to financing the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

- C. Eligible Property. - A joint development project may be constructed on property acquired by the developer or developers, on property directly acquired by the local government, or on property

acquired by the local government while exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505 or G.S. 160D-1311.

- D. Conveyance of Property Rights. - In connection with a joint development project, the local government may convey interests in property owned by it, including air rights over public facilities, as follows:
1. If the property was acquired while the local government was exercising the powers, duties, and responsibilities of a redevelopment commission, the local government may convey property interests pursuant to the "Urban Redevelopment Law" or any local modification thereof.
 2. If the property was acquired by the local government directly, the local government may convey property interests pursuant to G.S. 160D-1312, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.
 3. In lieu of conveying the fee interest in air rights, the local government may convey a leasehold interest for a period not to exceed 99 years, using the procedures of subdivision (1) or (2) of this subsection, as applicable.
- E. Construction. - The contract between the local government and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire joint development project. If so, the contract shall include such provisions as the governing board deems sufficient to assure that the public facility or facilities included in the project meet the needs of the local government and are constructed at a reasonable price. A project constructed pursuant to this subsection is not subject to Article 8 of Chapter 143 of the General Statutes, provided that local government funds constitute no more than fifty percent (50%) of the total costs of the joint development project. Federal funds available for loan to private developers in connection with a joint development project shall not be considered local government funds for purposes of this subsection.
- F. Operation. - The local government may contract for the operation of any public facility or facilities included in a joint redevelopment project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the local government.
- G. Grant Funds. - To assist in the financing of its share of a joint development project, the local government may apply for, accept, and expend grant funds from the federal or state governments. (2019-111, s. 2.4.)

13.16 LOW AND MODERATE INCOME HOUSING PROGRAMS

Any local government is authorized to exercise the following powers:

- A. To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any governing board may contract with any person, association, or corporation to implement the provisions of this subdivision.

- B. To acquire real property by voluntary purchase from the owners to be developed by the local government or to be used by the local government to provide affordable housing to persons of low and moderate income.
- C. To convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income under procedures and standards established by the local government, The local government shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.
- D. To convey residential property by private sale to persons of low or moderate income, in accordance with procedures and standards established by the local government, with G.S. 160A-267, and with any terms and conditions that the governing board may determine. (2019-111, s. 2.4.)

13.17 RESERVED FOR FUTURE CODIFICATION PURPOSES

13.18 RESERVED FOR FUTURE CODIFICATION PURPOSES

13.19 RESERVED FOR FUTURE CODIFICATION PURPOSES

PART 3 - MISCELLANEOUS

13.20 PROGRAM TO FINANCE ENERGY IMPROVEMENTS

- A. Purpose. - The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a local government has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a local government may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.
- B. Financing Assistance. - A local government may establish a revolving loan fund and a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A local government may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A local government may use State and federal grants and loans and its general revenue for this financing. The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

- C. Definition. - As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8. (2019-111, s. 2.4.)

CHAPTER 14 – JUDICIAL REVIEW

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CHAPTER 14 – JUDICIAL REVIEW

14.1 DECLARATORY JUDGMENTS

Challenges of legislative decisions of governing boards, including the validity or constitutionality of development regulations adopted pursuant to this Chapter, and actions authorized by G.S. 160D-108(c) or (g) and G.S. 160D-405(c), may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The governmental unit making the challenged decision shall be named a party to the action. (2019-111, s. 2.4.)

14.2 APPEALS IN THE NATURE OF CERTIORARI

- A. Applicability. - This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.
- B. Filing the Petition. - An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:
 - 1. State the facts that demonstrate that the petitioner has standing to seek review.
 - 2. Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.
 - 3. Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.
 - 4. Set forth the relief the petitioner seeks.
- C. Standing. - A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons shall have standing to file a petition under this section:
 - 1. Any person possessing any of the following criteria:
 - a) 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) An option or contract to purchase the property that is the subject of the decision being appealed.
 - c) 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 local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.
- D. Respondent. - The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.
- E. Writ of Certiorari. - Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct that the petitioner shall serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure shall apply in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on such conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

- F. Response to the Petition. - The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.
- G. Intervention. - Rule 24 of the Rules of Civil Procedure shall govern motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:
1. Any person described in subdivision (1) of subsection (c) of this section shall have standing to intervene and shall be allowed to intervene as a matter of right.

2. Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.
 3. Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.
- H. The Record. - The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.
- I. Hearing on the Record. - The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court may, in its discretion, allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the record is not adequate to allow an appropriate determination of the following issues:
1. Whether a petitioner or intervenor has standing.
 2. Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.
 3. Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (J) of this section.
- J. Scope of Review. -
1. When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:
 - a) In violation of constitutional provisions, including those protecting procedural due process rights.
 - b) In excess of the statutory authority conferred upon the local government or the authority conferred upon the decision-making board by ordinance.
 - c) Inconsistent with applicable procedures specified by statute or ordinance.
 - d) Affected by other error of law.
 - e) Unsupported by competent, material, and substantial evidence in view of the entire record.

- f) Arbitrary or capricious.
2. When the issue before the court is whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.
 3. 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 (i) the evidence was admitted without objection or (ii) 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:
 - a) The use of property in a particular way affects the value of other property.
 - b) The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.
 - c) Matters about which only expert testimony would generally be admissible under the rules of evidence.
- K. Decision of the Court. - Following its review of the decision-making board in accordance with subsection (J) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:
1. If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.
 2. If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.
 3. If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:
 - a) If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be issued, subject to reasonable and appropriate conditions.
 - b) If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based

on an error of law, the court may remand with instructions that the permit be revoked.

L. Effect of Appeal and Ancillary Injunctive Relief. -

1. If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.
2. Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

M. Joinder. - A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding. (2019-111, s. 2.4.)

14.3 APPEALS OF DECISION ON SUBDIVISION PLATS

- A. When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160D-406 and this section shall apply to those appeals.
- B. When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).
- C. For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made. (2019-111, s. 2.4.)

14.4 OTHER CIVIL ACTIONS

Except as expressly stated, this Article does not limit the availability of civil actions otherwise authorized by law or alter the times in which they may be brought. (2019-111, s. 2.4.)

14.5 STATUTES OF LIMITATION

- A. Zoning Map Adoption or Amendments. - A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law or a

development agreement adopted under Article 10 of this Chapter shall accrue upon adoption of such ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

- B. Text Adoption or Amendment. - Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.
- C. Enforcement Defense. - Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party in an action involving the enforcement of a development regulation from raising as a defense in such proceedings the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that such party is in violation of a development regulation from raising in the judicial appeal the invalidity of such ordinance as a defense to such order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.
- D. Quasi-Judicial Decisions. - Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.
- E. Others. - Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes. (2019-111, s. 2.4.)

Chapter 15. Definitions

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15.1 RULES OF MEASUREMENT, COMPUTATIONS, AND EXCEPTIONS

A. PURPOSE

The purpose of this section is to clarify the general rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. This Ordinance may establish other standards for specific circumstances or situations, which specific standards supersede these general rules.

B. DISTANCE MEASUREMENTS, GENERALLY

Unless otherwise expressly stated, distances between points specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points. Unless otherwise expressly stated, measurements determining the spacing between uses are to be taken from property line to nearest property line as a straight line measurement.

C. LOT MEASUREMENTS

1. LOT AREA

The total horizontal area within the boundary lines of a lot exclusive of street or highway rights-of-way and easements for access to other property. Utility and similar easements are included within a lot area.

2. LOT WIDTH

Lot width is the distance between the side lot lines measured along the front building setback line. In cases where a structure is "condominiumized," or the interior floor area of a structure is owned by different owners, the zoning district lot width requirements shall apply only to the parent tract or development site, not the individual ownership units.

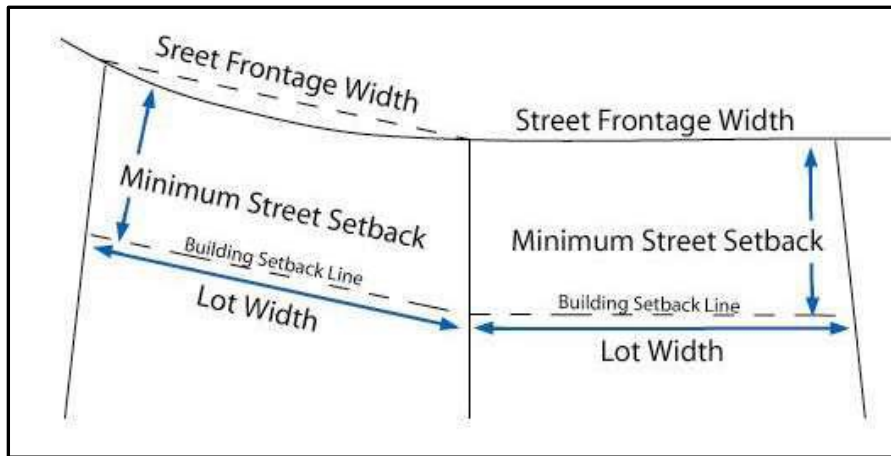
3. LOT DEPTH

The shortest perpendicular distance from the front lot line to the rear lot line.

4. LOT WIDTH AND DEPTH FOR CUL-DE-SAC LOTS

The permit issuing authority may allow the creation of new residential lots that do not meet the minimum lot width requirement at the front setback line if the sole reason for not meeting the minimum width is due to the reduced lot frontage on the public or private road created by the end of a cul-de-sac, provided the required lot width is met within 75' measured from the edge of the right of way. The permit issuing authority may also allow construction in front of the lot width line, so long as the front setback is not less than the district minimum when measured from the edge of the right of way.

Figure 15-1



D. GROSS RESIDENTIAL DENSITY MEASUREMENT

1. Gross residential density (the number of dwelling units per gross acre of land) shall be determined by dividing the total area of land within the boundaries of the parcel, including areas in public streets, rights-of-way and areas reserved as open space, by the minimum lot area for the district in which the parcel is located.
2. For sites being developed as attached dwellings, in cases where a site's acreage allows a gross density that exceeds a whole number by 0.51 or more, the total density may be rounded up to the next whole number, thus allowing an additional dwelling unit to be located on a site.

E. SETBACKS

Setbacks are defined for each zoning district in Section 6.3, Dimensional Requirements. All structures and buildings must meet the setback requirements stated, unless the permit issuing authority modifies such setback pursuant to authority granted by this Ordinance, or dimensional variance is granted by the Board of Adjustment in accordance with Section 3.9.

1. Setback Measurements

A setback from a public street shall be measured from the street right-of-way line if such line is readily determinable in the field or by reference to a recorded map, set irons, or other means.

A setback from a property line shall be measured as the shortest perpendicular distance from the property line to the structure.

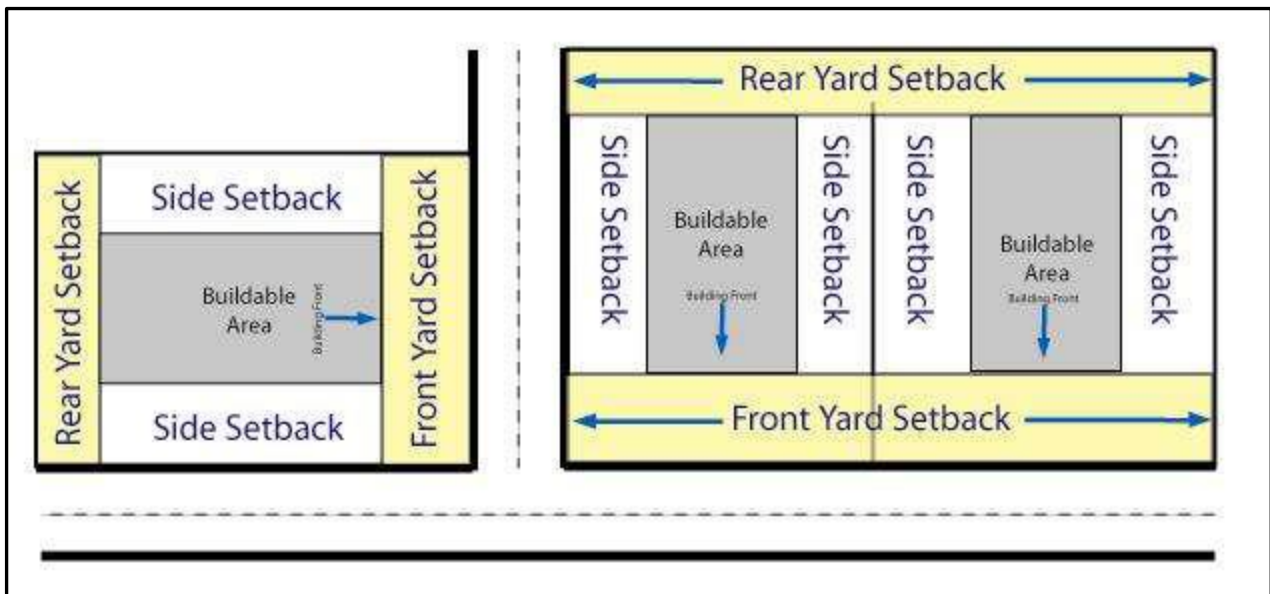
2. Permissible Encroachment into Required Setbacks

- a) One and two family driveways, walkways, fences, retaining or decorative walls, ornaments, furniture, and landscape plantings may be permitted in any setback.
- b) Patios may encroach into required setbacks, provided that the minimum patio setback is ten feet from a rear or side property line and provided that the patio

surface is not more than 6 inches above the adjacent grade. Covered patios or patios with shade structures must observe the setback established for the district as set forth in Section 6.3, Dimensional Requirements.

- c) Accessory buildings may encroach into a side yard or rear yard setback not adjacent to a street right-of-way to within 5 feet of the property line, with the following limits:
 - i. For an accessory building with a highest point 12' or more above the ground elevation, an additional setback of 2' for each 1' of elevation above 12' is required until the standard setback is met.
 - ii. The setback being reduced is not part of a land use or stream buffer required elsewhere in this Ordinance, nor a recorded easement for utilities, drainage, or access.
- d) Parking lots and parking spaces are not allowed within setbacks.
- e) HVAC units and auxiliary power supplies (generators) are not allowed within setbacks.
- f) For setback provisions that apply to nonconforming lots of record, see Section 7.5, Nonconforming Lots of Record.

Figure 15-2



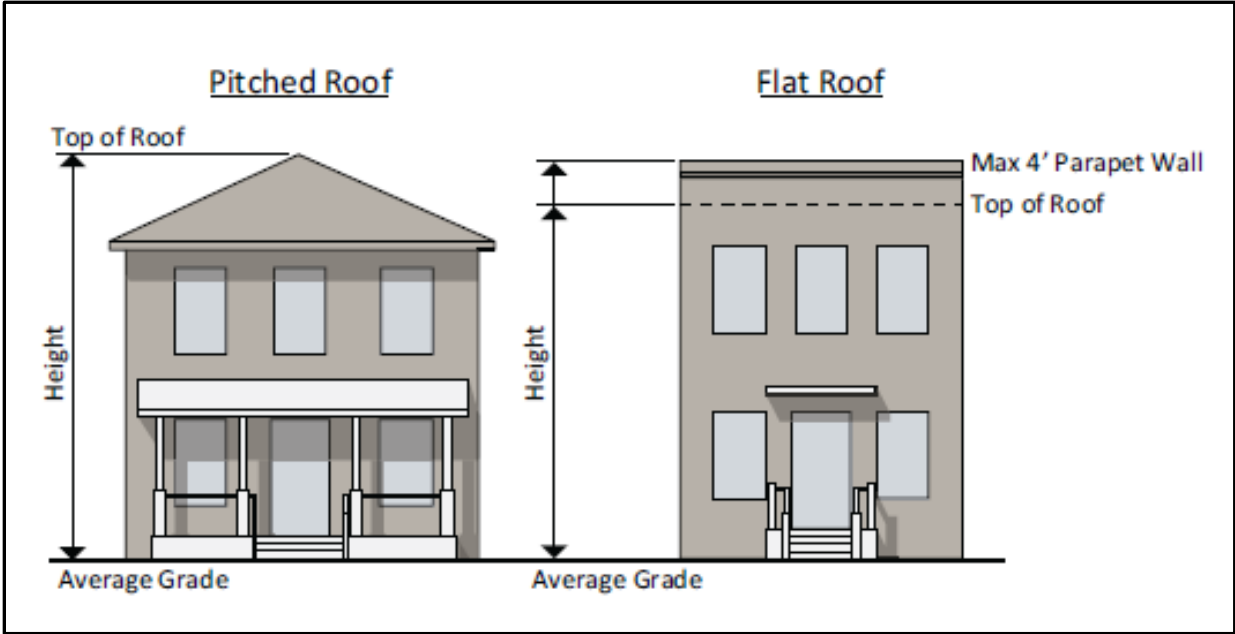
A. HEIGHT MEASUREMENT

1. The height of the side of a building or structure shall be the vertical distance measured from the mean elevation of the finished grade along that side of the building or structure to the

highest point of that building or structure, not including a maximum four (4) foot parapet wall encroachment.

2. Subject to the remaining provisions of this section, no part of a building or structure in any district may exceed the height limit as indicated in Section 6.3, Dimensional Requirements.

Figure 10-3



B. HEIGHT LIMIT EXCEPTIONS

1. The following features are exempt from the height limitations set forth in Section 6.3, Dimensional Requirements, so long as they do not exceed such height limitations by more than 10 feet:
 - a) Chimneys and elevator shafts;
 - b) Antennas which are self-supported shafts of 6" in diameter or less, flag poles and similar devices;
 - c) Solar collectors;
 - d) Church spires and their ornamentation so long as they do not exceed such height by more than 10 feet if located within the Historic District overlay zone; and so long as they do not exceed such height by more than 20 feet when located outside the Historic District.
2. The permit issuing authority may authorize a structure to exceed the height limits set forth in Section 6.3, Dimensional Requirements so long as they do not exceed such height limitations by more than ten (10) feet when it concludes the following:

- a) There are sound architectural, structural, historical, or other reasons why the proposed structure should be allowed to exceed the normal height limits;
- b) That portion of the proposed building or structure that will exceed the height limit will be so located and/or buffered so that it will not be visually obtrusive or offensive in any substantial way, OR the total height of any addition to an existing building including any roof elements does not exceed the maximum height including any roof elements of the existing building;
- c) The Historic District Commission has granted a Certificate of Appropriateness for the project if it is located within the Historic District.
- d) Any adverse impact on neighboring properties is insignificant or is substantially outweighed by the hardship suffered by the applicant if the height exception is denied;
and
- e) Adequate fire protection can be provided.

15.2 DEFINITIONS

Accessory Apartment

An accessory apartment is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. Accessory apartments include guest houses, mother-in-law suites, and a separated dwelling that are attached to the principal dwelling.

Includes secondary dwelling units(s) either

1. Inside of or added to an existing single-family dwelling
2. On any floor except for the ground floor of a commercial use in the B-1 zoning district
3. Detached dwellings.

Accessory Use

A use customarily associated with and clearly subordinate to a principal use located on the same zoning lot and in the same zoning district as the principal use. Accessory uses may be listed in Table 5.1.1, Table of Permitted Uses, but are not limited to uses provided in the table.

Active Recreation

Any use or mix of uses including but not limited to the following: athletic fields, buildings or structures for recreational activities, concession, community garden, courses or courts, children's play area, dog play area, or a bike path.

Administrative Decision

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative Hearing

A proceeding to gather facts needed to make an administrative decision.

Adult Day Care

A for profit or not for profit establishment which provides supervision and activities for senior citizens who for reasons of age or abilities should not be alone during daytime hours.

Adult Establishments

A facility wherein the activities described in N.C. Gen. Stat. § 14-202.10 are intended to occur.

Adverse Impact

A negative effect caused by or resulting from development. These effects may include, but are not limited to the following:

noise, vibration, air pollution, liquid waste, glare, traffic congestion, and storm water run-off.

Aggrieved Party	Person or entity whose interests or property rights are, or may be, negatively impacted by a land use decision or activity
Agricultural Uses	<p>The cultivation of crops or livestock, including (but not limited to) orchards, vineyards, nurseries, or animal husbandry, along with any buildings or structures necessary to conduct such activities.</p> <p>Livestock is limited to per acre in the RA, R-40, and R-20 Districts:</p> <p>Fifteen (15) chickens</p> <p>Three (3) cows</p> <p>Five (5) goats</p> <p>Five (5) pigs</p> <p>Fifteen (15) turkeys</p> <p>Four (4) horses</p> <p>Five (5) sheep</p> <p>Or Five (5) of any other kind of animal at one time</p>
Angled Parking	Vehicle parking arrangement where the chassis of the vehicle is parked on a diagonal to the curb or flow of traffic.
Apartment	Type of attached dwelling unit
Appeal	Action taken by person claiming to be aggrieved by a final decision of the Planning Director or of a Town board acting under authority granted by this Ordinance.
Applicant (Stormwater)	An owner or developer who has or intends to apply to the Village of St. Helena for the necessary permits to allow construction or development of a site located within the planning or zoning jurisdiction of the Town.
Application (Stormwater)	Application form to be submitted by applicant requesting a permit from the town to construct a project pursuant to this article.
Approved Accounting Tool	The accounting tool for nutrient loading approved by the EMC for the relevant geography and development type under review.
Arboretum	A place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational or passive

recreational purposes, not including the harvest of plants or their produce.

Architectural Elevation

Building façade

Architectural Feature

Component or characteristic of a building façade including but not limited to windows, doors, trim, cornice, etc.

Architectural Style

A recognized period or type of building construction

Artisan Studio

A facility where physical artists or craftsmen practice, display, and sell their works to the general public

Authorized registered

A professional engineer, professional land surveyor, landscape architect,

professional (Stormwater)

or other professional who is registered, licensed, or certified pursuant to the North Carolina General Statutes and who is authorized by law to prepare plans and specifications, and to oversee the construction of a stormwater control device required under this ordinance.

Automated Teller Machine (ATM)

An unstaffed machine for accessing financial accounts. These may be attached to a bank branch or independently located for walk up or drive up customers.

Bank & Financial Institution

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and checkcashing facilities, but shall not include bail bond brokers. Financial institutions may also provide Automated Teller Machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. Financial institutions may include drive-up windows.

Bar

Premises 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 accessory to the principal use. (See also definitions for Nightclub and Restaurants.

Berm

A constructed landscape feature, usually an elongated mound of soil, which creates a vertical barrier above the adjacent grade

Bed and Breakfast Facility	A building or group of attached or detached buildings containing, in combination, three (3) to twelve (12) lodging units for daily or weekly occupancy, with or without board, and primarily for occupancy by transients, as distinguished from rooming houses, in which occupancy is primarily by residents rather than transients.
BMP	“Best Management Practice” – a structural or nonstructural management-based practice used singularly or in combination to reduce point source inputs to receiving waters for the purpose of achieving a given level of water quality in stormwater runoff or to control the quantity thereof.
Bona Fide Farm purposes	Agricultural activities as set forth in G.S. 160D-9-3.
Botanical Garden	A garden having documented collections of living plants for the purposes of scientific research, conservation, display, or education.
Buffer	A screening device used to moderate the adverse impact(s) of one land use upon another. Buffers may include walls, hedges, landscaped areas, berms, additional setbacks, or combinations of the above.
Building	Any structure used or intended for supporting or sheltering any use or occupancy.
Building Height	The height of the side of a building or structure shall be the vertical distance measured from the mean elevation of the finished grade along the side of the building or structure to the highest point of that building or structure.
Building Permit	Document issued by the Duplin County Building Inspector authorizing the commencement of construction work, which includes permits issued for any of the individual building trades, and details the conditions under which work may proceed.
Building/Trade Contractor’s Office	An establishment that serves as the base of operations for building contractors, plumbers, electricians, mechanical systems technicians, and the like. This use also includes other service type businesses dispatching to a work site including but not limited to exterminators, carpet cleaners, or mobile vehicle

service with no on-site garage. This use may include office, onsite and off-site repair, and sale of related supplies and equipment. Outside storage of supplies, equipment, or vehicles that meet the definition of storage rather than parking is only permitted as a combination use.

Building, Accessory

A subordinate structure detached from the principal structure, the use of which is incidental to the permitted use of the principal building.

Built-upon Area

For the purposes of stormwater regulation, that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Bus Passenger Shelter

A small structure to house bus passengers during inclement weather.

Canopy Tree

Any deciduous tree with at least a 12" diameter measured at breast height or non-deciduous tree with at least a 24" diameter measured at breast height (4' from the ground).

Cemetery

Uses intended for the interment of the dead and dedicated for cemetery purposes and may include public or private cemeteries. This Use Type may include a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.

Certificate of Appropriateness

A permit reviewed and approved by the Historic District Commission indicating compliance of a development application with the standards of evaluation and design guidelines applicable within the Historic District Overlay district.

Certificate of Completion (Stormwater)

Signed, sealed and dated certificate prepared by an authorized design professional which states that the construction authorized by the permit-to-construct as issued by the town has been completed.

Certificate of Occupancy (Stormwater)	The certificate from the county inspections department allowing the occupancy of a building.
Changeable Message Sign	A sign, the face of which contains an area where the message can be changed regularly by adding, removing or adjusting individual letters or numbers, or the use of LED fixtures. This definition does not apply to signs displaying the prices for motor vehicle fuels or movie theatre marquees.
Child Day Care	In accordance with state statutes, child day cares are an arrangement or program where, at any one time, either three (3) or more preschool-age children or nine (9) or more school age children receive child care in a building other than a residence on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the provision of educational services in preparation for elementary school. Institutions providing elementary education are designated as an elementary school, regardless of whether they also provide pre-school services.
Church, Place of Worship	A structure used in the practice or celebration of beliefs in religious entities or deities. Normal accessory uses include, but are not limited to, offices related to the operation of the organization, meeting rooms, missionary operations, residential facilities for clergy, child care, and related facilities so long as the principal use is the place of worship.
Circulation Space	That portion of a parking lot or vehicle accommodation space used for access to parking or loading spaces or other facilities on the lot. Essentially, driveways and other maneuvering spaces (other than parking spaces) comprise the circulation space.
Civil Penalty	A fee imposed on a property owner for the violation of this ordinance.
Clearing (Stormwater)	Any activity which removes the vegetative ground (root mat) cover from a site.
Club or Lodge	An establishment operated by a corporation or association of persons for social, recreational, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business. Clubs and lodges require

private membership. (See also definition for Community Center.)

Combination Use	Use consisting of a combination of two (2) or more principal uses separately listed in the Table of Permitted Uses.
Community Center	A public or privately owned facility used as a place of meeting, recreation, or social activity and not operated for profit. Community centers do not require private membership or allow membership by the general public. (See also definition for Club or Lodge.) Community centers typically do not include lodging space for overnight accommodations.
Comprehensive Plan	The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.
Conditional Zoning	A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.
Condominium Development	A project of two (2) or more units in one (1) or more buildings designed and constructed for unit-ownership as permitted by the North Carolina unit-ownership act.
Connection (Stormwater)	Any ditch, pipe or other device for the diversion or transmission of storm drainage which will in any way affect the operation or maintenance of the receiving stormwater conveyance.
Construction	The process of building, erecting or making improvements on or to land.
Contiguous Property	Parcel or lot which adjoins a subject property by either sharing a property line, or would share a common property line but for the existence of an intervening right-of-way.
Contractual Interest	Interest in real estate via a lease, contract to purchase or other legal document or instrument.
Contributing Building	A building determined to contribute to the character of the Historic Overlay District due to its age, architectural style, integrity, or history as noted in the architectural inventory.
Critical Root Zone	The subsurface area under the dripline of a tree or shrub.

Crop Production	See Agricultural Uses
Cultural Resource	A structure, landscape, vista or other characteristic of land or an improvement thereto, that provides information about the history or development of the community.
DBH	(Diameter at Breast Height) diameter of a tree measured four feet above the ground.
De Minimus	Something or some act which, standing alone, is so insignificant that it does not warrant consideration.
Debris	Construction debris, stumps, branches and limbs, and mine tailings. This definition does not include household trash, garbage, industrial waste and hazardous material.
Deciduous tree	Any tree which loses its leaves for a portion of the year.
Decision-making Board	A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this Chapter.
Dedication	A conveyance by the owner of land, or an interest therein, for a specified purpose or purposes. Because a transfer of property is entailed, dedication must be made by written instrument and is completed by written acceptance. Dedication is typically made to a unit of government or to a property owners association.
Deed of conveyance (Stormwater)	The transfer of an easement interest or fee simple title in a stormwater management facility or a stormwater control device to the Town.
Destroyed	Damage or alternation to the original or most current existing form of a sign, structure, site, or building caused by some force other than the action or inaction of the owner, someone employed by the owner, or otherwise with the owner's consent. To be considered "destroyed" the damage must be so severe that the cost to repair exceeds 50% of the value of the damaged structure.
Detention (Stormwater)	The collection and storage of stormwater runoff with subsequent discharge to surface waters.

Detention Facility	A facility operated by or on behalf of the government to provide group quarters and rehabilitation for individuals serving sentences within the criminal justice system.
Determination	A written, final, and binding order, requirement, or determination regarding an administrative decision.
Developed land (Stormwater)	Parcels altered from a natural state by construction or installation of impervious surfaces. For new construction, the town shall consider parcels developed upon the issuance of the permit-to-construct pursuant to this and related activities, and the covering of land surfaces with any structure or impermeable material. Mowing and bush hogging operations, which does not disturb the root mat, shall not be considered land disturbing activity.
Developer	A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
Development	<p>Unless the context clearly indicates otherwise, the term means any of the following:</p> <ul style="list-style-type: none"> a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. b) The excavation, grading, filling, clearing, or alteration of land. c) The subdivision of land as defined in G.S. 160D-8-2. d) The initiation or substantial change in the use of land or the intensity of use of land.
Development Approval	An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development Permit	An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following: <ul style="list-style-type: none"> a) Zoning permits b) Site plan approvals c) Special Use Permits d) Variances e) Certificates of appropriateness f) Plat approvals g) Development agreements h) Building permits i) Subdivision of land j) State agency permits for development k) Driveway permits l) Erosion and sedimentation control permits. m) Sign permit
Development Regulation	Any State statute, rule or regulation, or local ordinance affecting the development or use of real property, including any of the following: <ul style="list-style-type: none"> a) Unified development ordinance b) Zoning regulation, including zoning maps c) Subdivision regulation d) Erosion and sedimentation control regulation e) Floodplain or flood damage prevention regulation f) Stormwater control regulation g) Wireless telecommunication facility regulation h) Historic preservation or landmark regulation i) Holding code.
Direct Illumination	Lighting observed when the light source has an unobstructed path to the receiving surface
Drainage nuisance (Stormwater)	The unapproved obstructions of swales, ditches, culverts, pipes or other stormwater conveyances.
Dripline (of a tree)	The ground area under the canopy of branches, often drawn as a circle within the tree trunk of the center and a radius equal to the distance from the center to the farthest branch extent.
Drive-up Window	A window type feature at a facility (such as, but not limited to, a bank, pharmacy or a fast food restaurant) designed to enable a person to transact business while remaining in a motor vehicle.

Driveway	That portion of the vehicle accommodation space that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
Dry Cleaning or Laundry Plant	A facility where retail customers drop off or pick up laundry or dry cleaning and where the cleaning processes take place on site.
Dry Cleaning or Laundry Services	A personal service business maintained for the drop off and pick up of clothes for off-site laundering or dry cleaning, without the operation of any laundry or dry cleaning equipment on the premises.
Duplex	type of attached dwelling unit containing two units of roughly equal size
Dwelling	A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.
Dwelling Unit	A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
Dwelling, Accessory	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached, subordinate structure on the same zoning lot. Efficiency apartments are one type of accessory dwelling. (See also definition for efficiency apartment.)
Dwelling, Attached	Two-or more dwelling units that are joined together by a common wall. Attached dwelling units include duplexes, townhomes, apartments, condominiums, and other multi-family developments.
Dwelling, Mobile Home, Class A	A mobile 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 that satisfies the following additional criteria: <ul style="list-style-type: none"> a) The pitch of the mobile home’s roof has a minimum vertical rise of two feet for each twelve (12) feet of vertical run. The length shall not exceed four times the

width of the home and the minimum width shall be sixteen (16) feet.

- b) The exterior materials are of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site-built houses in the vicinity.
- c) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the mobile home
- d) A deck containing stairs of at least thirty-six (36) feet is required; and
- e) The tongue, axles, transporting lights, and towing apparatus are to be removed subsequent to final placement.

Dwelling, Mobile Home, Class B

A mobile 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 that satisfies the following criteria:

- a) The pitch of the mobile home's roof has a minimum vertical rise of two feet for each twelve (12) feet of vertical run. The minimum width shall be fourteen (14) feet.
- b) The exterior materials are of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site-built houses in the vicinity.
- c) A continuous, permanent masonry foundation or vinyl underpinning, unpierced except for required ventilation and access, is installed under the mobile home
- d) A deck containing stairs of at least thirty-six (36) feet is required; and
- e) The tongue, axles, transporting lights, and towing apparatus are to be removed subsequent to final placement.

Dwelling, Mobile Home, Class C

All mobile homes other than Class A or Class B mobile homes.

Dwelling, Single-Family (Detached)

A residential building that contains one (1) dwelling unit on a single lot and may also include one (1) efficiency apartment.

Easement

A grant of rights by a property owner to another individual, group, or governmental unit to make limited use of a portion of real property for a specified purpose.

Efficiency Apartment	An efficiency apartment is a dwelling use accessory and subordinate to a principal single-family dwelling, that is located within the principal dwelling unit.
Electronic Gaming Operation	Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming/machine operations, or cybercafés that otherwise meet the preceding definition. This does not include the North Carolina Education Lottery.
Electronic Message Display	A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.
Erosion (Stormwater)	The process by which the ground surface is worn by the action of wind, water, ice, or gravity.
Erosion and sediment control measures (Stormwater)	A system of structural and vegetative measures that minimize soil erosion and off site sedimentation. This term, where appropriate, shall include stormwater management and control measures.
Event Center	A building containing in some combination two or more of the following: a bed and breakfast facility; a restaurant; a bar; a night club; or a meeting facility. The facility may make some or all services available to the general public in addition to guests.
Evidentiary Hearing	A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.
Excavation	Addition, removal, or rearrangement of earth on a lot which cannot reasonably be done with hand held tools.

Existing Development	<p>For purposes of stormwater compliance, development not otherwise exempted by this ordinance that meets one of the following criteria:</p> <ul style="list-style-type: none"> a) It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or b) It occurs after the effective date of this ordinance, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.
Expansion of site (Stormwater)	<p>The addition of new buildings, structures, parking lots, or any other new impervious surface to a site. Construction of any new impervious surface on an area previously impervious which does not meet the definition of redevelopment as defined in this section shall be considered as expansion.</p>
Extended Care Facility	<p>A facility licensed by the appropriate state agency, as a facility for fifteen (15) or more unrelated individuals (excluding supervisory personnel) who are mentally or physically handicapped, aged, or disabled and are undergoing rehabilitation or extended care. This includes, but is not limited to, nursing homes, rest homes, hospices for the aged or terminally ill, adult congregate, and assisted living facilities. Adult congregate and assisted living are used with the definitions established by the North Carolina Division of Facilities Management.</p>
Extraction of Earth Products	<p>The process of removing natural deposits of minerals, ores, soils or other solid, liquid, or gaseous matter from their original location. It does not include processing of such materials, beyond incidental mechanical consolidation or sorting to facilitate transportation to the site of use or location for further process. This does not include the necessary removal of material in connection with the construction of a building.</p>
Extraterritorial Jurisdiction	<p>The geographical area, determined by ordinance and recorded in the Register of Deeds office, which is outside the city limits of St. Helena but subject to the requirements of this Ordinance. By state statute, this area is generally 1 miles or less from the city limits at the time it is enacted and is sometimes referred to as the extraterritorial mile or ETJ.</p>

Facility (Stormwater)	A stormwater management facility, and shall include all land, materials, and appurtenances used in construction and operation of the facility. Facilities include, but are not necessarily limited to, constructed wetlands, infiltration systems, retention ponds, detention ponds, grassed swales and ditches.
Familial Relationship	A close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.
Family	Two or more persons related by blood, marriage, state-approved foster home placement, court-approved adoption, or up to five unrelated persons, constituting a single housekeeping unit.
Family Care Home	A facility licensed by the appropriate state agency as a family care home for one (1) to six (6) unrelated individuals, together with support and supervisory personnel. See also definitions in N.C. Gen. Stat. § 106D-907.
Family Child Care Home	In accordance with state statutes, Family Child Care Home is an arrangement located in a private residence where, at any one time, more than two (2) but less than nine (9) children receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption.
Farm, Bona Fide	Land on which the raising of crops or livestock, including orchards, vineyards, nurseries, or animal husbandry, are conducted, along with any buildings or structures necessary to conduct such activities.
Farmer’s Market	an open air market that may be comprised of temporary or permanent structures for multiple vendors occupied at least one day per week on a regular schedule for the sale of produce, farm products, or handcrafted items on a lot owned by a unit of local government, a sponsoring bona fide farm, or the nonprofit entity operating the market
Fill (Stormwater)	Any act, or the conditions resulting there from, by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, pulled or transported.
Flex Space	Building designed and marketed as suitable for offices but including areas suitable to accommodate bulk storage,

showroom (including retail sales as an accessory, but not predominant use), manufacturing, assembly, or similar operations. Generally flex space has storefront type windows in the office area of the space.

Floodplain (Stormwater)

Any area susceptible to being inundated by water from any stream, creek, ditch, etc.

Freestanding Sign

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 whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is a freestanding sign. If the message is removed from the structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Funeral Home

An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

Gallery

A facility open to the public for the display and sale of physical art (such as paintings, sculptures, pottery and jewelry).

Garbage (Stormwater)

Any animal and vegetable refuse resulting from the handling, preparation, cooking of food, yard debris from yard maintenance, and construction debris from construction activities.

Governing Board

The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage

Government Facilities

& Office Buildings

An office or other facility occupied by a government agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, motor vehicle licensing and registration services. Government facilities that do not provide services directly to the public but serve as the base of operations for government functions including but not limited motor pools, fleet maintenance

facilities, utility storage yards shall be treated and classified as the most similar private sector use.

Grading	See "excavation"
Greenhouse/Nursery	The growing, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials for retail sale to members of the general public. Such uses may include greenhouses, outdoor storage of goods, materials and equipment irrigation systems, and caretaker's dwellings.
Gross Floor Area	The total area of a building measured based on the exterior dimensions of the building at each floor level intended for occupancy or storage.
Group Care Facility	A facility licensed by the appropriate state agency, as a permanent or transitional residence for seven (7) to fifteen (15) unrelated individuals (excluding supervisory personnel), who as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. This category includes group homes for all ages, nursing/rest homes, halfway houses, and foster homes.
Hazardous material (Stormwater)	Any substance which, when discharged in any quantity, may present an imminent and substantial danger to the public health or welfare or to the environment.
Health Care Facility	An establishment engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists, and other health practitioners, out-patient care facilities, and miscellaneous types of medical services.
Health/Fitness Center	Establishment which offers classes &/or equipment for physical fitness.
High density development (Stormwater)	Development of a nature which results in a concentration of use(s) within a given area, such as apartment, mobile home parks, planned unit developments (PUDs), shopping centers (retail or wholesale outlet stores included), shopping malls, schools, industrial parks, large industrial plants, or any other type of development resulting in the creation of impervious area exceeding 30% of the total land area.

High-Density Project	As defined under state stormwater management regulations, a high-density project is any project that exceeds the low density threshold for dwelling units per acre and built-upon area.
Home Occupation	An accessory commercial use of a residential property by a resident thereof, which is clearly incidental and subordinate to the principal use of the property as a residence. The residence must be the base of operations for the business and the function of the business must take place at the residence to require a permit.
Hospital	An institution providing 24 hour physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.
Hotel & Motel	A building or group of attached or detached buildings, in combination, containing twelve (12) or more lodging units, or ten (10) or more dwelling units, intended primarily for rental or lease to transients by the day or week.
Illicit discharge (Stormwater)	Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.
Impact Vibration	Mechanical oscillations about an equilibrium point caused by the impact of one object upon another with force.
Impervious Surface	A ground covering that limits the absorption of stormwater into the ground water system. Examples include buildings, asphalt, concrete, gravel, and similar treatments
Industrial Use	Use permitted in the industrial districts which involves the creation of consumer products from raw or prepared materials, or is otherwise involved in converting raw materials to final products
Infiltration (Stormwater)	The recharge of stormwater runoff into the subsurface soil.

Intermittent Stream	Any water feature shown as broken blue lines on the most current USGS Quadrangle maps for Duplin County, or so designated by authorized staff upon a field investigation.
Junkyard	An establishment where junk, waste, discarded, salvaged, or similar materials from motor vehicles are brought, sold, exchanged, baled, packed, disassembled, stored, or handled.
Kennels, Boarding	A facility or establishment which offers to the public the service of boarding animals for a fee. Such facility or establishment may offer grooming services for domesticated animals in addition to providing shelter, food, and water.
Kiosk	A freestanding structure meant to display and convey information to passers-by. The information in such structure shall not be comprehensible by passing vehicular traffic. The structure shall provide little or no protection from the elements to pedestrians unless co-located with a transit shelter
Land Disturbing Activities	Activity that disturbs the pavement, building, or topsoil or vegetative cover of a site. Also, any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
Land Owner or Owner	The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding Senate Bill 355 Session Law 2019-111 Page 19 a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals
Land Use Plan	A set of documents and maps that categorize existing patterns of land development and set guidelines for the desirable intensity, density, quantity, and location of future development based on the goals and policies set forth in the Comprehensive Plan.
Larger Common Plan of Development or Sale	Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot

stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Legal Nonconformity

A use or situation that does not satisfy the provisions of this Ordinance, but which use or situation legally existed prior to the adoption of this Ordinance.

Legislative Decision

The adoption, amendment, or repeal of a regulation under G.S. 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative Hearing

A hearing to solicit public comment on a proposed legislative decision.

Library

An establishment where books, periodicals, newspapers, sound recordings, and picture recordings are available for members to borrow and where other resources may be available for members to conduct on site research (books, periodicals, computers, historical collections, and the like).

Light Industry

The manufacture, service, repair or testing of products every aspect of which activity occurs within an enclosed building.

Lighting Contours

Graphic or pictorial representation of the light intensity emanating from light fixtures.

Loading Area

That portion of vehicle accommodation area used to park vehicles which are making pick-ups or deliveries of goods or materials to or from the building to which that area is allocated.

Lodging Unit

A room or rooms connected together, constituting separate lodging for one (1) family and which are physically separated from any other dwelling or lodging units. Where two (2) or more rooms are connected by a doorway or doorways, and are arranged, equipped and furnished in such a manner that they might reasonably be rented, leased, or occupied, either individually or in combination, each room shall be construed as a lodging unit.

Lot Area

The total horizontal area within the boundary lines of a lot exclusive of street or highway rights-of-way and easements for

access to other property. Utility and similar easements are included within a lot area.

Lot Depth	The shortest perpendicular distance from the front lot line to the rear lot line.
Lot, Double Frontage	A continuous (through) lot which is accessible from both the streets upon which fronts on opposite sides.
Lot of Record	A lot created by deed or plat and recorded in the Duplin County registry of Deeds prior to the existence of the establishment of a zoning ordinance and/or subdivision regulations in St. Helena's zoning jurisdiction. (See also definition for Zoning Lot.)
Lot Width	Lot width is the distance between the side lot lines measured along the front building setback line. In cases where a structure is "condominiumized," or the interior floor area of a structure is owned by different owners, the zoning district lot width requirements shall apply only to the parent tract or development site, not the individual ownership units.
Lot, Non-Conforming	Legally created lot of record, existing at the time regulations were passed requiring greater minimum width or area than provided on such lot, or establishing other limitations which such lot does not meet. Such lots may be considered substandard lots of record.
Lot, Non-Legal for Zoning Purposes	A lot which is neither a zoning lot nor a non-conforming lot. No such lot shall be used or occupied, except as open space, until it is made to conform to the requirements of the Ordinance and other applicable regulations.
Lot, Zoning	A designated parcel, tract or area of land established by plat, or as otherwise permitted by law, to be used, developed or built upon as a unit. Zoning lots are designated on the Official Zoning Map for the Village of St. Helena. (See also definition for Lot of Record.)
Low-Density Project	As defined under state stormwater management regulations, a low-density project is any project that has no more than two (2) dwelling units per acre or twenty-four (24) percent built-upon area (BUA) for all residential and non-residential development.

Mail Order House	Enterprise in which the principal activity involves receiving, processing, packaging, and shipping orders for retail goods to individuals or businesses.
Manufactured Home or Mobile Home	A structure as defined in G.S. 143-145(7).
Manufacturing Facility	A building or structure in which manufacturing, processing, creating, renovating, painting, cleaning, and assembling of goods, merchandise or equipment occurs, and which does not require an air quality permit from the State of North Carolina or a Special Industrial Users Permit from the Town Utilities Director.
Master Plan	A plan for the development of 20 or more acres of land approved as part of a rezoning request to a special use district, that defines basic development uses, intensities, and a transportation network for the sites.
Maximum Building Capacity	A value, determined by the State Building Code, of the number of occupants that can safely be inside a building at one time.
Mechanical Equipment	Equipment, usually located outside a building, and attached to the roof or to an outside wall, intended to facilitate the provision of utilities or air handling to the structure. Examples include but are not limited to electrical panels, generators, hot boxes, backflow preventors, and HVAC equipment.
Meeting Facility	A building, part of a building, or series of building available for rent for public and private meetings and events. This type of facility may provide rooms of various sizes to accommodate one or more functions at the same or different time, restrooms or changing rooms for guest use, and/or a warming kitchen or similar food staging area. This use does not include on-site food preparation, lodging, or any personal care services.
Merchant Organization	For the purposes of event signage in Section 6.19, an association of merchants or organization of merchants may include any formal group with bylaws and a membership roster that holds at least 1 meeting per year to conduct the business of the association or organization.

Minor Work	Building modification or landscaping that takes place within the Historic Overlay District, which due to its limited impact or temporary nature, may be approved by the Planning Director.
Mobile Classroom	A structure consisting of one, two or three principal components assembled in a factory and transportable on its own chassis specifically designed and constructed to be used as a classroom or office space as, opposed to a dwelling.
Mobile Home	See dwelling, mobile home.
Mobile Home Park	A lot in single ownership used or proposed to be used for the long term placement of two (2) or more mobile homes for use as dwelling units.
Mobile Home Space	A parcel of land occupied or intended to be occupied by one (1) and only one (1) mobile home, the area of which is to be used exclusively by the occupants of the mobile home.
Modular Home	A dwelling built according to the North Carolina Residential Building Code having neither its own chassis nor wheels, consisting of one (1) or more modules constructed off the building site and designed for transportation to and erection on a permanent foundation at the building site.
Motor Vehicle Fuel Station	An establishment offering retail sale of vehicle fuel or means of propulsion (including gas, diesel, natural gas).
Motor Vehicle Maintenance & Service	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major paint service. Accessory uses can include carwashes, auto detailing, window tinting and related appearance services.
Motor Vehicle Repair	An establishment where automobile maintenance or service is rendered, with the addition of body work, straightening of body parts, painting, welding, temporary storage of motor vehicles not in operating condition, major mechanical work, including engine overhaul and other major work requiring overnight storage.
Motor Vehicle Sales/Rental	An establishment including any building or land area for the display of motor vehicles, trucks, vans, tractor trailers, or

recreation vehicles for the purpose of sale or rental, and including any warranty repair work and other repair service conducted as an accessory use. (See also definition for Personal Vehicle Sales.)

Multi-tenant Development

A non-residential development in which there exists two or more individual tenants or leaseholds, and/or separate activities and in which there are appurtenant shared facilities (such as parking areas or pedestrian mall areas).

Municipal separate storm sewer
(Stormwater)

A stormwater conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains).

Museum

A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food are served to the public.

NAICS

References the North American Industrial Classification System. Codes used are for reference purposed only and are not inclusive of all uses listed under that particular NAICS code. Where the Village of St. Helena has defined a term, that definition will apply.

Natural ground surface (Stormwater)

The ground surface in its original state before any land disturbing activity.

New development (Stormwater)

Any activity for which a building permit or a grading permit is required, or where any land disturbing activity occurs, except for the construction of a single-family home not governed by the town's subdivision ordinance.

Nightclub

An establishment in which alcoholic beverages are served for on-site consumption, which has a capacity for 100 or more persons, and which offers recorded or live music performance.

Nonconforming Project

Any structure, development, or undertaking that is underway, but 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.

Nonconformity	A lot, use of land without structures or with minor structures, use of major structures and premises, structures, and/or, characteristics of uses which are prohibited, regulated, or restricted by the enactment of this Ordinance or a subsequent amendment thereto. Nonconformities which lawfully existed prior to the effective date of this Ordinance may continue, subject to the provisions of Section 7.
Non-deciduous tree	Any tree which does not lose its leaves or needles for a portion of the year.
Non-profit Organization	An entity or group organized for purposes other than generating a profit, such as charitable, religious, fraternal, scientific and/or social organizations.
Non-residential Uses	Uses of land for purposes other than permanent, or long term, residential use by owners or occupants pursuant to lease or rental agreements. This category includes retail, office, commercial, industrial, institutional and other similar uses. This category does not include multi-family or attached dwellings.
Nursing Home	See Group Care Facility
Office Uses Not Providing Services To Clients Via Walk-In Traffic	Establishments that primarily serve as the base of operations for businesses. Examples include, but are not limited to corporate headquarters and enterprises engaged in intellectual research or consulting. The traffic pattern of these uses is generally confined to employee traffic and general service providers rather than clients or customers who came to the establishment for on-site meetings or consultations.
Offices Uses Providing Services To Clients	A business establishment which may offer a range of services for its clients, including but not limited to, government offices, insurance office, attorney office, or real estate office. The traffic pattern of these uses includes client visits as well as employee and general service traffic. This category does not include uses captured by the term "health care facility" or service businesses classified as "personal service businesses."
Off-street Loading	Area, usually in or adjacent to a parking lot, reserved to provide short term parking for delivery vehicles while loading or

unloading goods, materials, equipment, etc. for a nearby commercial establishment.

One-year, 24-hour Storm

The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

On-site facility, with respect to any particular property (Stormwater)

A stormwater management facility serving the property but not located on such property.

Opacity

A measurement indicating the degree of obscuration of light or visibility.

Open Space

That area within a development that is not covered with a structure or impervious surfaces, which has been set aside for resource protection, amenity, and/or buffers (including water quality buffers on streams and required land use buffers), legal title to which may be held by the developer, property owners' association, unit of government, or non-profit entity. Buffers and building setbacks that are privately held on individual lots are not included in the definition of open space. Stormwater control devices, including swales and ponds, recreation areas, reserved rights-of-way, and easements for above ground activities or utilities are not considered open space. Open space shall be designated as such on the preliminary and final plans.

Outlet Sales

Ancillary sales of products on the premises where the products are manufactured or packaged for distribution. Outlet sales areas may not exceed 10% of the building space on the parcel.

Outparcel

A parcel of land adjacent to, and developed in association with a shopping center or multi-tenant property development, which is designated on an approved site plan as a location for a freestanding structure.

Outfall

A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

Owner

For stormwater purposes, this term shall mean the legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity

holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Park, Athletic

A site containing public or non-profit athletic facilities for use by the general public. Examples include ball fields, indoor or outdoor courts, pools, skating rinks, etc. Uses in this category serve the community or regional recreation needs. Substantial indoor facilities will be considered Recreation Facilities.

Park, Community

A site, typically 5 acres or more in area, offering a variety of recreation opportunities for use by the general public. May contain elements of all other park types listed. Generally serves the entire community or region.

Park, Cultural

A site containing public or non-profit recreation facilities of a cultural nature for use by the general public. These include but are not limited to historic sites/structures/areas, concert sites, museum site, and other facilities providing cultural, educational, or interpretive services of a historic, natural, or aesthetic resource.

Park, Natural

A site offering enjoyment of the natural environment for use by the general public. Expected uses include trails, picnic areas, signage, overlooks, etc. Comfort facilities may be installed. Sites which also provide structured interpretive events regularly shall be considered cultural.

Park, Neighborhood

An area created for the recreational enjoyment of the immediate neighborhood that may be owned & maintained by a governmental agency, property owners association, or other non-profit organization. Features typically include: play equipment, picnic area, benches, open areas for non-regulation sports. These parks should be designed with significant neighborhood input.

Parking (principal use)

An off-street parking area (i.e., parking lot or structure) provided on a different parcel than the use(s) it is intended to serve.

Parking Space	A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.
Passive Recreation Area	Undeveloped land or minimally improved lands which includes the following: landscaped area, natural area, ornamental garden, non-landscaped greenspace, stairway, decorative fountain, picnic area, water body, or trail without recreational staffing, devoted to recreational activities.
Patio	An outdoor paved surface without a roof, the elevation of which is less than a 6" above from the surrounding ground level.
Pedestrian Amenities	Items located within the public right of way or on public or private property for the benefit of pedestrians or bicyclists including but not limited to benches, drinking fountains, refuse and recycling containers, bicycle racks or lockers, wayfinding signage
Pedestrian Circulation	The path or paths pedestrians use to move around a site. This includes both improved and unimproved routes.
Pedestrian Façade	That plane of the building elevation or façade that is oriented to pedestrian passers-by and/or has or is expected to have a pedestrian entrance
Perennial Stream	Any water feature shown as solid blue lines on the current USGS Quadrangle maps for Duplin County or so designated by authorized staff upon a field investigation.
Performance Bond	Financial guarantee provided by an applicant to the town to ensure the completion of a required element of a plan or permit.
Performance Facility	A structure designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events.
Permanent Road	Roads intended to be used in excess of one year, and, therefore, designed and constructed to standards sufficient for such long term use.
Permit (Stormwater)	Any and all permits required by federal, state and local ordinances and regulations.

Permittee (Stormwater)	Any person to whom a permit is issued.
Permit-issuing Authority	Term used to generically refer to the various elected, volunteer, and staff entities within the town government possessing authority under this Ordinance to review and approve development proposals.
Permit-to-construct (Stormwater)	Following the satisfactory review of the application form and supporting documents whereby the town finds that the application and supporting documents are consistent with the requirements of this article, the town will issue a permit-to-construct.
Perpendicular Parking	A pattern of parking where the individual parking spaces are oriented perpendicular to the curb or the flow of traffic.
Person	An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.
Personal Property	Property which is owned, utilized and/or maintained by an individual or occupant of his or her residence and acquired in the normal course of living in or maintaining a residence. Personal property shall not include merchandise which was purchased for resale or obtained on consignment.
Personal Service Business	A business establishment which may offer a range of services for its clients' body or clothing, including but not limited to, beauty parlor, barber shop, doctor's office, dental office, salons or spas, tailors, dry cleaning drop off/pick up, laundry self-serve or drop off/pick up, therapeutic massage, and /or mental health counseling.
Personal Vehicle Sales	An establishment including any building or land area for the display and sale of passenger cars, trucks, sport/utility vehicles, mini or conversion vans, motorcycles or other motorized vehicles designed to transport less than 10 individuals. On-site display is limited to 15 or fewer vehicles. (See also definition for Motor Vehicle Sales / Rentals.)

Petroleum Products Storage	Establishments that store and distribute motor vehicle fuel, fuel oil, propane, kerosene, liquefied natural gas, and liquefied propane gas to retail (no more than ten thousand (10,000) gallons or bulk (more than ten thousand (10,000) gallons) sale customers.
Phased Development Plan	Plan for development of property to be completed in distinct sections or phases, the distinction between phases usually involving different uses of land. A phased development plan is typically subject to a special use permit process.
Planning and Development Regulation Jurisdiction	The geographic area defined in Part 2 of this Chapter within which a city or county may undertake planning and apply the development regulations authorized by this Chapter.
Planning Board	Any board or commission established pursuant to G.S. 160D-3-1.
Plat	A map drawn on translucent material for recording in the Register of Deeds.
Pod (Master Plans)	A component of a master plan that shares a single land use designation. It may or may not be intended for subdivision as a single parcel.
Post Office	A facility operated by the United States Postal Service, to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.
Post-development state (Stormwater)	A site in its proposed condition following the completion of a development activity.
Private facility (Stormwater)	Any stormwater management facility not owned or operated by the Town or the State of North Carolina.
Property	All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.
Processing Facility	A building or structure in which manufacturing, processing, creating, renovating, painting, cleaning, and assembling of goods, merchandise or equipment occurs. Uses in this category may require an air quality permit from the State of North Carolina.

Public Event	A discernible activity offered for general public enjoyment including but not limited to performances, competitions, displays of collectables or art not generally available for public viewing, speeches, fund raisers selling items not generally available to the public at that location and the like. The event must be open to the public, with or without an entrance fee, and must take place in Town or in the extraterritorial zoning jurisdiction. Examples of public events include: festivals, fund raisers or tournaments. Public events must be sponsored by non-profits, units of state or local government, or formal associations of merchants. Registration periods for sports leagues or camps (but not individual classes) offered by not-for profit organizations and taking place within the jurisdiction of this ordinance also qualify as “public events.”
Public facility (Stormwater)	Any stormwater management facility owned and/or operated by the Town or the State of North Carolina.
Public Hearing	A meeting of an advisory or elected board to review a proposal for action under this Ordinance or as a component of the comprehensive plan, at which the board receives comments from the applicant, staff, and general public about the proposal.
Public Safety Services	A service operated by government or non-governmental agency to provide protection for citizens or residents, such as fire, police, and rescue squad.
Public Utilities	Facilities and improvements for the provision of water, sewage, electricity, natural gas, cable television, or telephone service (excluding telecommunication towers) to or through an area. This category of uses includes but is not limited to, water treatment plants, wastewater treatment plants, elevated water tanks, electric substations, and other significant installations. This use does not include minor above ground items like transformers, telephone switches or exchanges, or pumping stations.
Quasi-judicial Decision	A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are

quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Recreation Service Area

Sometimes referred to as a “park district,” a “recreation service area” is a defined geographic area within the Town’s jurisdiction which has been designated as a unit for purposes of determining allocation of recreation or park facilities and/or resources.

Recreation Space

That area within a development which is designed, shaped, and constructed to provide a combination of active and passive recreational opportunities to the public and/or the owners and residents of the development, title to which is held by the developer, property owners’ association, unit of government, or non-profit entity.

Recreational Facilities

An indoor establishment (entirely within an enclosed structure) use providing for sport and recreation activities that are operated or carried on primarily for financial gain. Examples of recreational facilities uses include, but are not limited to bowling alleys, dancehalls, skating rinks, indoor commercial swimming pools, and racquet and tennis club facilities (indoor).

Recycling Materials Collections Center

A facility used as a temporary repository for recyclable and recovered materials for collection and transportation

Research Facility

A facility established to aid in the studious inquiry or examination of a scientific topic. This includes, but is not limited to botany, biology, chemistry, physics, computers, and electronics. Studies of the humanities are not included in this use but are included in “office uses not providing services to clients via walk in traffic.”

Residential

Use of land for permanent or long-term dwelling purposes, either by owners or, lessees or renters for periods longer than one month or when the occupant has no other registered address.

Restaurant (Types A, B, and C)

Business specializing in preparing and/or serving food on site. A restaurant may also serve alcoholic beverages for on or off site

consumption provided it has the proper license from the state for such sales and is classified as an eating establishment by virtue of its food/alcohol sales ratio:

- a) Class A restaurants seat no more than 100 persons and do not have drive-thru service.
- b) Class B restaurants seat more than 100 persons and/or offer drive-thru service.
- c) Class C restaurants offer seating capacity for 20 persons or less and may offer carry out and/or delivery of food and beverages.

Restrictive Covenant

Legal instrument, suitable for filing with the Register of Deeds which establishes rights, duties, restrictions or limitations on the use of real property, described in the instrument.

Retail Sale & Rentals

Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase or rental and removal from the premises by the purchaser/renter. Examples include stores selling, leasing, or renting consumer, home, and business goods such as, but not limited to, art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries and food sales, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos.

Retention (Stormwater)

The collection and storage of stormwater runoff without subsequent discharge to surface waters.

Right-of-Way

As used in this Ordinance, this term describes an area of land set aside in a deed, offer of dedication or plat, for use as a strip of land on or within which roads, streets, or other public facilities or utilities may be constructed, improved and maintained. Such rights-of-way are usually "public," title being conveyed to the Town or other public body or entity.

Riparian Buffer

Area set aside along rivers, streams or other bodies of water, within which the use and/or improvement of land is restricted or prohibited.

Rooming/Boarding House

A residential building consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented out or are designed or intended to be rented, but which rooms, individually or collectively, do not constitute separate dwelling

units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month to month tenants) as opposed to overnight or weekly guests.

School: Art and Music

A public or private school or business offering art and music classes to students of a variety of ages. Such uses include classrooms, auditoriums, libraries, and other facilities that further the educational mission of the institution.

School: Dance/Martial Arts

A public or private school or business offering dance, martial arts, cheerleading, gymnastics, and similar classes to students of a variety of ages. Such uses include classrooms and other facilities that further the educational mission of the institution.

School: Elementary, Middle & Secondary

A public or private school offering a State appointed or authorized curriculum of general, technical, or alternative instruction at the elementary, middle, and/or high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

School: Higher Education

A public or private, institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions.

School: Vocational

A public or private school offering general, technical, and vocational instruction that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, libraries, cafeterias, and other facilities that further the educational mission of the institution.

Screen	A built or natural device (hedge, fence, wall, berm, etc.) which defines an area and protects one use from the impacts of an adjacent use or activity.
Sediment (Stormwater)	Soils transported or deposited by the action or erosion or artificial means.
Sediment control (land disturbance) permit (Stormwater)	The sediment control permit issued by the State of North Carolina authorizing land disturbing activities in accordance with applicable ordinances and regulations.
Setback	The minimum distance between a property line and structure including any projection thereof but excluding eaves and gutters, not to exceed twenty four (24) inches. Pedestrian or vehicular access ways may be constructed within the required setback line (see Figure 10-2).
Setback Line	The line on the front, rear and sides of the lot, that delineates the boundary between the approved building area on a lot and the area within which a structure may not be constructed, erected, or placed. The setback line is set according to the zoning district regulations.
Sharp Cut-off Type	A light fixture where no portion of the fixture bulb (light source) may extend below the fixture housing.
Side Yard	The shortest distance between the structure on the lot and the nearest property line, other than the front lot line or rear lot line, measured parallel to the front setback line required for the appropriate zoning district.
Sight Distance	As used in this Ordinance, the minimum distance, usually measured in a straight line, between two fixed points, with no obstructions.
Site Plan	A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations

that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Sight Preservation Triangle

The triangle area formed by a diagonal line connecting two (2) points located on intersecting right-of-way lines (or a right-of-way line and the edge of a driveway), each point being a certain distance from the intersection, and from the two (2) intersecting right-of-way lines (or a right-of-way line and a driveway). On some occasions, the Town or state highway department may require additional sight zones as deemed necessary to provide adequate safety.

Sign

Any words, lettering, parts of letters, pictures, numerals, phrases, sentences, emblems, devices, trade names or marks by which anything is made known in a visible form used to attract attention from any public roadway.

Sign Band

Architectural feature of a building façade that indicates a preferred location for signage. Generally a horizontal depression centered above the primary door entrance of a commercial structure.

Sign, Ground Mounted

A sign which extends from the ground or which has support which places the bottom of the sign less than two (2) feet from the ground.

Sign, Identification and Occupancy

Any sign, symbol, trademark, structure or similar device displayed on premises to inform the public regarding the occupants or activities conducted on, or products available at, said premises.

Sign, Hanging

An advertising sign attached to the façade of a business that projects perpendicularly from the façade. Hanging signs are only permitting in the Historic District, generally have text on both sides, and are treated as wall mounted signs for sign area calculations

Sign, Joint Identification	A sign bearing the name of individual tenants located within a multi-tenant development, and which may include the name of the multi-tenant development.
Sign, Neon	A sign in which illuminated tubing constitutes or forms all or part of the message of the sign. Also includes signs in which the message area of the sign is outlined, underlined, or otherwise highlighted by illuminated tubing.
Sign, Portable	Any freestanding sign that is not permanently affixed to the ground.
Sign, Outdoor Advertising	Any sign which directs attention to a business, company, service, accommodation, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
Sign, Real Estate	A sign informing the public that all or portions of a given premises are for sale or rent.
Sign, Sandwich Board	A self-supporting sign resting on or supported by a means of poles, stands, or any other type of base that sits on the ground.
Sign, Temporary	A sign that (1) 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 (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.
Single-family residential use (Stormwater)	One residential structure on one parcel containing one housing unit.
Site (Stormwater)	That portion of land, lot or parcel of land, or combination of contiguous lots or parcels of land upon which land disturbing activity is to be performed.
Site expansion (Stormwater)	The addition of new buildings, structures, parking lots or any other new impervious surface to the site. Construction of any new impervious surface on an area previously pervious, which does not meet the definition of redevelopment, as defined in this section; shall be considered as expansion.

Site Specific Development Plan	A plan of land development which has been submitted to the town with an application for a conditional use permit or special use permit, describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of land.
Sketch Plan	A preliminary and imprecise drawing of a proposed subdivision submitted for staff review
Sleeping Unit	A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
Solar Energy Facility	<p>A Facility used to convert solar power energy into electrical power for interconnection with the power grid for primarily off-site energy consumption or to convert solar power for any other available uses.</p> <p>Solar Energy Facilities are not allowed in the planning and zoning jurisdiction of the Village of St. Helena.</p>
Solid Waste Residual	Solids from a wastewater treatment plant
Special Use Permit	A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and Page 20 Session Law 2019-111 Senate Bill 355 substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.
Stacking Spaces	Areas designed and located to accommodate motor vehicles waiting to make a turning movement or to be served at a drive-in window.
Storage & Warehousing: Indoor	A use engaged in storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.
Storage & Warehousing: Outdoor	The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the

principal use of the land where located, or an accessory use to a principal use.

Storage & Warehousing: Self

A use that provides individual storage units, buildings, or spaces for rent to businesses or individuals for storage of items excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive. This use may include parking spaces or outside storage areas for long-term storage of vehicles or boats and may include a dwelling for a caretaker or security guard.

Storage Tanks Elevated

Structures designs and built to store water in order to increase the pressure of water in the distribution system and to supply additional capacity for treated water; this does not include tanks used to store petroleum products or chemicals.

Stormwater management

The qualitative and quantitative measures for controlling stormwater runoff. Qualitative controls consist of vegetative, structural and other measures which control or treat pollutants carried by surface runoff. Quantitative controls consist of vegetative and structural measures which control the increased volume and rate of surface runoff caused by manmade changes to the land and have the effect of maintaining the predevelopment patterns of flood magnitude and frequency.

Stormwater management plan

A plan which has been submitted as a prerequisite to obtaining a zoning, conditional use, or building permit from the Village of St. Helena, and which is designed to minimize erosion, prevent off-site sedimentation, and control stormwater runoff. The plan shall be prepared and designed in accordance with the requirements of this ordinance, and all other state laws and regulations as may apply.

Stormwater Runoff

Volume of water leaving a tract or parcel of land after a rain event, which is not retained on-site.

Stormwater system

All manmade structures or natural features within the town that serve to provide for conveyance of stormwater runoff water resulting from natural storm events. Components of the stormwater system include but are not limited to swales, ditches, pipes, channels, creeks, ponds, weirs, culverts, manholes, swales, inlet structures and infiltration fields.

Street	Public or private access ways that accommodate movements of vehicular traffic.
Street, Alley	A minor way which is not intended for general circulation but is used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front.
Street, Arterial	A street used or designed to be used for through traffic, usually on a continuous route. Arterial streets carry high volumes of traffic, in excess of twelve hundred (1200) trips per day. For purposes of these regulations, such streets include those so designated in the Comprehensive Plan or any element thereof.
Street, Collector	A street used or designed to carry traffic between minor, local streets and arterial streets, but which may also provide direct access to abutting properties. It serves or is designed to serve directly or indirectly more than one hundred (100) units and is designed to be used or is used to carry more than eight hundred (800) trips per day.
Street, Cul-de-sac	A street that generally terminates in a circular or bulbous right-of-way. It is used or designed to be used to provide access to abutting properties.
Street, Local	A street used or designed to provide access to abutting properties. It serves or is designed to serve at least ten (10) but not more than twenty-five (25) dwelling units and is expected or does handle between seventy-five (75) and two hundred (200) trips per day.
Street, Private	A street that is a privately maintained vehicular way built to the private street standards of the Village of St. Helena.
Street, Public	A street which has been accepted for permanent maintenance by the State of North Carolina or the Village of St. Helena.
Structure	Anything constructed, erected, or placed on the land, above or below grade. It includes, but is not limited to: buildings, signs, load bearing walls docks, columns, and pools. Walkways, fences, patios, or one and two family driveways are not considered structures.

Structure, Principal	A structure or, where the context so indicates, a group of structures in which is conducted the main or principal use of the lot on which building is situated.
Subdivider	Any person or persons, firm or corporation subdividing land within the jurisdiction of this Ordinance.
Subdivision	The division of land for the purpose of sale or development as specified in G.S. 160D-8-2.
Subdivision, Major	A division of a tract of land into two (2z) or more lots with access to be provided from a public street.
Substantial Progress	For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.
Supporting documents (Stormwater)	The plan, profiles, details, specifications, calculations, deeds, easements, covenants, operation and maintenance plan, maps delineating the 404 wetlands on the site signed by the U.S. Army Corps of Engineers, soils investigation data, and other such material as may be required by the town to review the application for a permit-to-construct for a project pursuant to this article.
Temporary Operating Permit	A permit issued by the Council permitting a nonconforming mobile home park to be maintained and operated for a period of six months subject only to the provisions of this chapter made expressly applicable to the owner, or owners, lessee or agent.
Ten-year frequency storm (Stormwater)	The storm of an intensity expected to occur, on average, once in a ten (10) year period of time, and whose duration can be expected to produce the peak rate of runoff for the watershed of

interest. This information shall be obtained from NOAA's National Weather Service Precipitation Frequency Data server (<http://dipper.nws.noaa.gov/hdsc/pfds/>).

Telephone Exchange and Switching Station	A facility designed and built to handle telecommunications equipment. This installation may contain any necessary storage and maintenance facilities.
Town	The word "Town" or "Village of St. Helena" or "St. Helena" shall refer to all lands in the corporate limits and within the extraterritorial planning boundaries of the Village of St. Helena as recorded in the Duplin County Registry of deeds and as shown on the Official Zoning Map.
Townhouse	A one (1) family dwelling unit in a row of at least three (3) such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one (1) or more common fire resistant walls.
Transmission Lines	For lines carrying electrical energy, transmission lines are those that carry forty-five thousand (45,000) volts or more. For lines which carry liquids or gases, transmission lines are those operating, or designed to operate, at pressures of one hundred (100) pounds per square inch or greater.
Tree Protection Zone	Area on a development plan designated for no development and no land disturbing activity
Understory Tree	A subset of deciduous trees that are smaller in mature height than canopy trees and prefer a growth habitat under the protection of canopy or shade trees
Undisturbed Area	Area where the ground cover plant material is intact and undamaged
Variance	A relaxation of the literal terms of this Ordinance where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, and where a literal enforcement of the Ordinance would result in unnecessary and undue hardship to the property owner. Establishment or expansion of a use otherwise prohibited shall not be permitted by a variance.

Vehicle Accommodation Area	That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of the circulation area, parking spaces and loading and unloading spaces.
Vehicle Restoration	The business of renovating vehicles ten (10) years of age or older to showroom condition that does not involve outside storage or sales of vehicles. Accessory uses of restored parts sales, restored vehicles sales, restored vehicle upholstery, and restored machining are allowed.
Vested Right	The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-1-8 or under common law.
Veterinarian Office / Animal Hospital	An establishment used for the care, grooming, diagnosis, and treatment of animals.
Walkways	Public pedestrian way within the road right-of-way or other public access easement of an approved surface. Walkways are available for public use, but may be owned and maintained by homeowners associations or similar entities.
Water course or drainage way (Stormwater)	Any natural or artificial water course, including, but not limited to: streams, rivers, creeks, ponds, lakes, ditches, channels, canals, conduits, culverts, drains, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continuously or intermittently; and including any areas adjacent thereto which are subject inundation by reason of overflow or flood water.
Water & Sanitary Sewer Pumping Station	Mechanical installation for boosting water pressure or applying pressure to sewage collection lines to address topographic challenges in a water supply or waste water collection system
Water Feature	A prominent aspect or characteristic of a geographic area that exhibits verifiable evidence of a presence of water in the soil. Examples of water features include, but are not limited to, perennial and intermittent streams, lakes, ponds, reservoirs, springs, artesian wells, irrigation wells, marshes or swamps, wetlands, and natural drainage ditches (non-ephemeral).

Wetlands (404 Wetlands) (Stormwater)	Those areas defined by the U.S. Army Corps of Engineers as jurisdiction 404 wetlands.
Wholesale Sales	Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial commercial, institutional, or professional business users; or to other wholesalers.
Written Narrative	A written description of a proposed action
Yard Sales	All sales open to the public, conducted from or on a residential building or premise in any zone, as defined by the Unified Development Ordinance, for the purpose of disposing of personal property including but not limited to, all sales referred to as “garage sale,” “lawn sale,” “yard sale,” “attic sale,” “porch sale,” “room sale,” “backyard sale,” “patio sale,” “rummage sale” or similar name. Yard sales normally consist of selling used household goods and/or belongings. This definition shall not include a sale where no more than 2 specific items are held out for sale and any advertisement of such sale specifically names those items to be sold.
Zoning Compliance Permit	A document signed by the Planning Director, as required in the Unified Development Ordinance, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which acknowledges that such use, structure, or building complies with the provisions of the Unified Development Ordinance. The Zoning Compliance Permit is valid for a period of twelve (12) months from the date of issuance or from the date of the adoption of this Ordinance.
Zoning Lot	See Lot, Zoning.
Zoning Map Amendment or Rezoning	An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes <ul style="list-style-type: none"> (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include

- (i) the initial adoption of a zoning map by a local government,
- (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or
- (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

Zoning Regulation

A zoning regulation authorized by Article 7 of G.S. 160D..

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