

## **TITLE XV: LAND USAGE**

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## CHAPTER 150: BUILDINGS AND BUILDING REGULATIONS

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### **GENERAL PROVISIONS**

#### **§ 150.01 LAND DISTURBING ACTIVITY; DEPOSIT REQUIRED BEFORE COMMENCEMENT OF WORK.**

(A) For the purpose of this section, **LAND DISTURBING ACTIVITY** is defined as the use of any type logging equipment, commercial clearing equipment, bulldozers, backhoes, ditch diggers, cement or mixer trucks, logging trucks, or other heavy type equipment. Specifically excluded are bushhogs, riding mowers, lawn mowers or garden type tractors.

(B) Prior to any land disturbing activities on any lot or parcel within the zoning jurisdiction of the town, a security deposit, the amount to be determined by the Board of Commissioners, must be posted to cover any damages or problems that may occur as a result of the land disturbing activity. This sum shall be deposited with the Town Clerk. If the land disturbing activity is in connection to a project for which a building permit is in place, no deposit will be required.

(C) The Building Inspector will check the property both before and after the land disturbing activity. Upon his or her certification that the street, shoulder and right-of-way have suffered no damages or that the damages have been corrected and that no drainage problems that may require culverts have been created, the security deposit will be refunded. Where culverts are needed to ensure proper drainage, a minimum 12-inch culvert shall be properly installed. Should damages or drainage problems not be corrected to the satisfaction of the Building Inspector, this sum will be forfeited and the owner billed for any additional charges. In the event a building permit is in place for the project, a certificate of occupancy or compliance will not be issued until any damages have been corrected.

(1997 Code, § 6-1) (Am. Ord. 99-08-06, passed 8-16-1999; Am. Ord. 2009-02, passed 2-16-2009)

#### **§ 150.02 OBSTRUCTION OF PASSAGEWAYS IN PLACES OF PUBLIC ASSEMBLAGE PROHIBITED.**

All doors, aisles and passageways within and leading into or out of churches and all other places of public assemblage shall, during the entire time which any show, performance, service, exhibition, lecture, ball, concert or other assemblage may be held therein, be kept adequately lighted and free from easels, signs, standards, campstools, chairs, sofas, benches and any other article or articles that might obstruct or delay the exit of the audience, congregation or assemblage. Doors of the buildings, while occupied, shall be fastened so that they can easily be opened by anyone from within. No person shall sit or stand or remain seated or standing, nor shall the owner or operator of the place allow any person to remain in any place of public assemblage in any aisle under any circumstances, or in any exit, or passage required for the safe exit of the assemblage. Clear passage from all exits and on outside walks of all places of public assemblage shall be maintained at all times. No aisle, passageway or stairway in any store shall be obstructed with tables, show cases or other obstructions during the hours the store is open to the public.

(1997 Code, § 6-2)

#### **§ 150.03 BUILDING INSPECTOR; DUTIES.**

(A) There is hereby created the office of Town Building Inspector.

(B) The Building Inspector shall have the following duties:

(1) *Zoning and subdivisions.* The Building Inspector shall enforce the provisions of the Zoning Code of the town. The Zoning Enforcement Officer is one designated by the Board of Commissioners.

(2) *Building construction.* The Building Inspector shall enforce the provisions of the regulatory codes, relating to the construction, repair or alterations of buildings, as provided in § 150.21.

(3) *Fire prevention.* The Building Inspector shall enforce the provisions of the Fire Prevention Code and shall act as the town's Fire Inspector.

(4) *Permits.* The Building Inspector shall act as the Coastal Area Management Act (CAMA), being G.S. Ch. 113A, Art. 7, minor permit officer.

(5) *Other.* The Building Inspector shall carry out all duties required of him or her by state law, this code, or other ordinances of the town or order of the Board of Commissioners.  
(1997 Code, § 6-2) (Am. Ord. 00-12-10, passed 12-18-2000)

**§ 150.04 TENNIS COURTS.**

All tennis courts that are within 35 feet of the property line must have, at a minimum, a 10-foot fence on all sides that face the property line.  
(Ord. 00-12-08, passed 12-18-2000)

**§ 150.05 SWIMMING POOLS AND SPAS.**

(A) All swimming pools and spas with a depth greater than 18 inches shall be surrounded by a 4-foot barrier or enclosure; unless the swimming pool or spa has a lockable cover, in which case a barrier or enclosure is not required. A house or other structure located adjacent to the swimming pool or spa may be considered part of the barrier or enclosure. A barrier is not required on the waterside of a waterfront lot.

(B) If the swimming pool or spa is located above ground and is 4 feet or taller on its exterior sides, then the structure itself shall be considered a barrier sufficient to meet the requirements of the preceding paragraph. Any steps or ladder used to access the above ground swimming pool or spa must, however, be made inaccessible from the swimming pool or spa when not in use.  
(Ord. 00-12-08, passed 12-18-2000)

***REGULATORY CODES*****§ 150.20 APPLICATION OF REGULATIONS AND REGULATORY CODES.**

The provisions of this chapter and of the regulatory codes adopted in this chapter shall apply to the following:

(A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to the building or structure;

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

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

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

(E) The installation, alteration, maintenance or repair of all insulating materials.  
(1997 Code, § 6-31)

**§ 150.21 ADOPTION OF STATE BUILDING CODE BY REFERENCE.**

The North Carolina State Building Code, as adopted by the North Carolina State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth in this section as the building code of the town.

(1997 Code, § 6-32)

**§ 150.22 FILING COPIES OF REGULATORY CODES WITH BUILDING INSPECTOR.**

An official copy of each regulatory code adopted in this subchapter, and official copies of all amendments thereto, shall be kept on file in the office of the Building Inspector. The copies shall be the official copies of the codes and the amendments.

(1997 Code, § 6-33)

***PERMITS***

**§ 150.35 REQUIRED.**

(A) No building, manufactured (mobile) home, or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building or the location of a well or septic tank be commenced until the town has issued a zoning permit for the work.

(B) Building, plumbing, electrical, heating, air conditioning and refrigeration permits and any other permit required by the regulatory codes adopted in this chapter or any permits required by state law shall be obtained from the appropriate authority prior to beginning any construction, repair or alteration regulated by codes or state law.

(C) A building permit issued pursuant to this chapter shall expire 6 months after 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 therefore shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.  
(1997 Code, § 6-61)

**§ 150.36 APPLICATION FOR AND ISSUANCE OF BUILDING, PLUMBING AND HEATING PERMITS.**

(A) Applications for building, plumbing, electrical, air conditioning and refrigeration permits shall be made to the Building Inspector, who shall issue the permit upon payment of the appropriate fees and proof of compliance with applicable regulations by the applicant.

(B) The fees to be paid for the appropriate permit required by § 150.35 shall be as determined by the Board of Commissioners from time to time. A schedule of the fees, as determined by the Board of Commissioners, shall be maintained on file in the office of the Building Inspector where it shall be available for public inspection during the normal office hours of the Building Inspector.  
(1997 Code, § 6-62)

**§ 150.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$25 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.  
(1997 Code, § 6-4) (Am. Ord. 00-12-10, passed 12-18-2000)



## CHAPTER 151: FLOOD DAMAGE PREVENTION

### Section

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**GENERAL PROVISIONS****§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in G.S. §§ 143-21.6; 160A-19.3, 5 and 8; 160A-8, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. passed 7-14-2003)

**§ 151.02 FINDINGS OF FACT.**

The Board of Commissioners of Cape Carteret, North Carolina, does ordain as follows:

(A) The flood prone areas within the jurisdiction of Cape Carteret 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.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. passed 7-14-2003)

**§ 151.03 STATEMENT OF PURPOSE.**

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

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

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

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

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

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. passed 7-14-2003)

**§ 151.04 OBJECTIVES.**

The objectives of this chapter are:

(A) To protect human life and health;

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

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

(D) To minimize prolonged business losses and interruptions;

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

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(G) To insure that potential home buyers are notified that property is in a Special Flood Hazard Area. (Ord. passed 7-14-2003)

#### § 151.05 DEFINITIONS.

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

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

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

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

**AREA OF SHALLOW FLOODING**. A designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from 1 to 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)**.

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

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

**BASE FLOOD ELEVATION (BFE)**. A determination as published in the Flood Insurance Study of the water surface elevations of the base flood.

**BREAKAWAY WALL**. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

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

**CAMA - NORTH CAROLINA'S COASTAL AREA MANAGEMENT ACT.** This act, being G.S. Ch. 113A, Art. 7, along with the Dredge and Fill Law, being G.S. § 113-229, and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

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

**COASTAL HIGH HAZARD AREA.** A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in § 151.07, as Zone VE or V1-30.

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

**DISPOSAL.** Defined as in G.S. § 130A-290(a)(6).

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

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

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is pre-FIRM.

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

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

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

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

**FLOOD INSURANCE.** The insurance coverage provided under the National Flood Insurance Program, being 42 U.S.C. §§ 4001 *et seq.*

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

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

**FLOODPLAIN or FLOOD PRONE AREA.** Any land area susceptible to being inundated by water from any source.

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

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

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

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

**FLOOD PRONE AREA.** See **FLOODPLAIN**.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

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

**FLOOR.** See **LOWEST FLOOR.**

**FREEBOARD.** The additional amount of height added to the Base Flood Elevation (BFE) to account for uncertainties in the determination of flood elevations. See also **REGULATORY FLOOD PROTECTION ELEVATION.**

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

**HAZARDOUS WASTE MANAGEMENT FACILITY.** A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in G.S. § 130A-9.

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

**HISTORIC STRUCTURE.** Any structure that is:

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

(2) 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;

(3) Individually listed on a state inventory of historic places; and

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(a) By an approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

**LOWEST ADJACENT GRADE (LAG).** The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

**LOWEST FLOOR.** The subfloor, top of slab or grade 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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in 1 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.

**MARKET VALUE.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

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

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the original version of this chapter and includes any subsequent improvements to the structures.

**NONCONFORMING BUILDING OR DEVELOPMENT.** Any legally existing building or development, which fails to comply with the current provisions of this chapter.

**NON-ENCROACHMENT AREA.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot as designated in the Flood Insurance Study report.

**OBSTRUCTION.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**POST-FIRM.** Construction or other development, which started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

**PRE-FIRM.** Construction or other development, which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.



**PRIMARY FRONTAL DUNE.** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

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

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

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

**REFERENCE LEVEL.** The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of the building:

- (1) Within Special Flood Hazard Areas designated as zones AI-A30, AE, A, A99, AO, or AH, the **REFERENCE LEVEL** is the top of the lowest floor; and
- (2) Within Special Flood Hazard Areas designated as zones VE or V 1-V30, the **REFERENCE LEVEL** is the bottom of the lowest horizontal structural member.

**REGULATORY FLOOD PROTECTION ELEVATION.** The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated, or floodproofed if non-residential. Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to 2 feet above the highest adjacent grade.

**REMEDY A VIOLATION.** To bring the structure or other development into compliance with state or 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 chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**REPETITIVE LOSS.** Flood-related damages sustained by a structure on 2 separate occasions during any 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**RETROFITTING.** Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

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

**SALVAGE YARD.** Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

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

**SOLID WASTE DISPOSAL FACILITY.** Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

**SOLID WASTE DISPOSAL SITE.** Defined as in G.S. § 130A-290(a)(36).

**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 (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, 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.** A walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any 1-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL**

**IMPROVEMENT. SUBSTANTIAL DAMAGE** also means flood-related damage sustained by a structure on 2 separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any 1-year period whereby the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 151.25 through 151.47 is presumed to be in violation until the time as that documentation is provided.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

**WATER SURFACE ELEVATION (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.  
(Ord. passed 7-14-2003)

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

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extraterritorial Jurisdictions (ETJ) if applicable, of Cape Carteret and within the jurisdiction of any other community whose governing body agrees, by resolution, to the applicability.  
(Ord. passed 7-14-2003)

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

(A) The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Cape Carteret dated April 1, 1977, which with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this chapter. The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

- (1) Generated as a requirement of § 151.27(K) and (L) of this chapter;
- (2) Preliminary FIRMs where more stringent than the effective FIRM; or
- (3) Post-disaster Flood Recovery Maps.

(B) In addition, upon annexation to Cape Carteret or inclusion in the Extraterritorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the State of North Carolina and FEMA as stated above for the Unincorporated Areas of Carteret County, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this chapter.

(Ord. passed 7-14-2003)

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

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within Special Flood Hazard Areas as determined in § 151.07.

(Ord. passed 7-14-2003)

**§ 151.09 COMPLIANCE.**

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

(Ord. passed 7-14-2003)

**§ 151.10 ABROGATION AND GREATER RESTRICTIONS.**

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

(Ord. passed 7-14-2003)

**§ 151.11 INTERPRETATION.**

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

(A) Considered as minimum requirements;

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

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

(Ord. passed 7-14-2003)

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

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

(Ord. passed 7-14-2003)

***ADMINISTRATION***

**§ 151.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Carteret County Building Inspector, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter.

(Ord. passed 7-14-2003)

**§ 151.26 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATE REQUIREMENTS.**

(A) *Plans and application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within flood prone areas. The following items/information shall be presented to the Floodplain Administrator to apply for a floodplain development permit.

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

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

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in § 151.07 or a statement that the entire lot is within the Special Flood Hazard Area;

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

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

(e) The Base Flood Elevation (BFE) where provided as set forth in §§ 151.07; 151.27(K) and (L); or 151.42, 151.43, and 151.41(E);

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

(g) The boundary and effective date of COBRA zone or OPA, if applicable; and

(h) Preparation of the plot plan by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

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

(b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a floodproofing certificate and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the flood-proofing criteria in §§ 151.41(B) and 151.42(B).

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

(a) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);

(b) Should solid foundation perimeter walls be used in floodplains other than coastal high hazard areas, details of sufficient openings to facilitate the unimpeded movements of floodwaters in accordance with § 151.41(D);

(c) In Coastal High Hazard Areas, the following must also be submitted prior to floodplain development permit issuance. Specific requirements are detailed in §§ 151.45 and 151.41(D)(2).

1. V-zone Certification form with accompanying plans and specifications verifying the engineered structure and breakaway wall designs as set forth in § 151.41(D)(2) of this chapter;

2. Plans for latticework or decorative screening, if applicable. Plans for any structures that will have lattice work or decorative screening must be submitted to the floodplain administrator for approval prior to floodplain development permit issuance;

3. Plans for non-structural fill, if applicable. Plans for placement of any non-structural fill must be submitted to the Floodplain Administrator for approval prior to floodplain development permit issuance. Requirements are detailed in § 151.46(B)(8) of this chapter.

(5) Usage details of any enclosed space below the regulatory flood protection elevation;

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

(7) Copy of all other local, state and federal permits required prior to floodplain development permit issuance (i.e. Wetlands, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, and the like);

(8) If floodplain development permit is issued for placement of recreational vehicles and/or temporary structures, documentation to ensure § 151.41(F) and (G) of this chapter are met; and

(9) If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Floodplain development permit data requirements.* The following information shall be provided at a minimum on the Floodplain Development Permit to ensure compliance with this chapter.

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

(2) The Special Flood Hazard Area determination for the proposed development per available data specified in § 151.07;

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

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

(5) All certification submittal requirements with timelines; and

(6) States that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.

(C) *Certification requirements.*

(1) An elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) is required after the reference level is completed. Within 21 calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-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 the review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make corrections required shall be cause to issue a stop-work order for the project.



(2) A final as-built elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) 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 or floodproofed elevation of the reference level and all attendant utilities. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, 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 submitted. Deficiencies detected by the 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 corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) A V-Zone/breakaway wall certification is required prior to issuance of a floodplain development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator the certification to ensure the design standards of this chapter are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this chapter. This certification is not a substitute for an elevation certificate.

(4) If a manufactured home is placed within an A, AO, AE, or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per § 151.41(C).

(5) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 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.

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

- (1) Recreational vehicles meeting requirements of § 151.41(F)(1);
- (2) Temporary structures meeting requirements of § 151.41(G); and

(3) Accessory structures less than 150 square feet meeting requirements of § 151.41(H).  
(Ord. passed 7-14-2003)

**§ 151.27 FLOODPLAIN ADMINISTRATOR; DUTIES AND RESPONSIBILITIES.**

Duties of the Floodplain Administrator shall include, but not be limited to:

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

(B) Advise permittee that additional federal or state permits (i.e., Wetlands, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, and the like) may be required, and if specific federal or state permits are known, require that copies of the permits be provided and maintained on file with the floodplain development permit;

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

(D) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the floodcarrying capacity is not diminished;

(E) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.44 are met;

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with § 151.26(C);

(G) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with § 151.26(C);

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with § 151.26(C);

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 151.26(C) and 151.41(B);

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

(K) When Base Flood Elevation (BFE) data has not been provided in accordance with § 151.07, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 151.42(D), in order to administer the provisions of this chapter;

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

(M) When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Floodplain Administrator in the floodplain development permit file;

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

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

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

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

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

(S) Follow through with corrective procedures of § 151.28.  
(Ord. passed 7-14-2003)

**§ 151.28 CORRECTIVE PROCEDURES.**

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

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

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

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than 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

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

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 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 the lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 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.

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

(Ord. passed 7-14-2003)

**§ 151.29 VARIANCE PROCEDURES.**

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

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

(C) Variances may be issued for 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 the variance is the minimum necessary to preserve the historic character and design of the structure.

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

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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

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

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

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

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

(3) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

and

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

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. The notification shall be maintained with a record of all variance actions.

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

(I) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met. A floodplain development permit may be issued for the development only if a variance is granted.

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

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

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

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

(5) Cape Carteret has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 days prior to granting the variance. (Ord. passed 7-14-2003)

***PROVISIONS FOR FLOOD HAZARD REDUCTION***

**§ 151.40 GENERAL STANDARDS.**

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

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

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

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

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

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

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

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

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

(I) Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless the enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that the repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. 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 according to § 151.26(C) of this chapter.  
(Ord. passed 7-14-2003)

#### § 151.41 SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in § 151.07, or § 151.27(K) and (L), the following provisions are required:

(A) *Residential construction.* New construction or 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.

(B) *Non-residential construction.* New construction or 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. Structures located in A, AO, AE and A1-30 zones may be floodproofed (to the regulatory flood protection elevation) in lieu of elevation provided that all areas of the structure below the required 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. A registered professional engineer or architect shall certify that the standards of this division are satisfied. The certification shall be provided to the official as set forth in § 151.26(C).



(C) *Manufactured homes.*

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

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to G.S. § 143-1 through 143-15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All foundation enclosures or skirting shall be in accordance with § 151.41(D).

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

(D) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level and meet the following design criteria:

(1) In A, AO, AE, and A1-30 zones:

(a) Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:

1. Provide a minimum of 2 openings on different sides of each enclosed area subject to flooding;

2. The total net area of all openings must be at least 1 square inch for each square foot of each enclosed area subject to flooding;

3. If a building has more than 1 enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;

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4. The bottom of all required openings shall be no higher than 1 foot above the adjacent grade;

5. Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

6. Foundation enclosures:

a. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore the skirting does not require hydrostatic openings as outlined above.

b. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this chapter.

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

(2) In Coastal High Hazard Areas (VE and V1-30 zones). Breakaway walls, lattice work or decorative screening shall be allowed below the regulatory flood protection elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

(a) Material shall consist of open wood lattice or mesh insect screening;

(b) Breakaway walls meeting the following design specifications:

1. Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or

2. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(E) *Additions/improvements.*

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

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

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

(2) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.

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

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

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

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

(F) *Recreational vehicles.* Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:

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

(2) Meet all the requirements for new construction, including anchoring and elevation requirements of §§ 151.26, 151.41 and 151.42(C).

(G) *Temporary structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

(1) Applicants must submit to the Floodplain Administrator a plan for the removal of the structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

- a. A specified time period for which the temporary use will be permitted;
- 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 a trucking company to insure the availability of removal equipment when needed; and
- e. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

(H) *Accessory structures.*

(1) When accessory structures (sheds, detached garages, and the like) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
- b. Accessory structures shall be designed to have low flood damage potential;
- c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- d. Accessory structures shall be firmly anchored in accordance with § 151.40(A);
- e. All service facilities such as electrical and heating equipment shall be installed in accordance with § 151.40(D); and
- f. Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with § 151.41(D)(1).

(2) An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 151.26(C).  
(Ord. passed 7-14-2003)

**§ 151.42 SUBDIVISIONS, MANUFACTURED HOME PARKS AND MAJOR DEVELOPMENTS.**

All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:

(A) Be consistent with the need to minimize flood damage;

(B) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) Have adequate drainage provided to reduce exposure to flood hazards; and

(D) Have Base Flood Elevation (BFE) data provided if development is greater than the lesser of 5 acres or 50 lots/manufactured home sites. The Base Flood Elevation (BFE) data shall be adopted by reference per § 151.07 to be utilized in implementing this chapter.  
(Ord. passed 7-14-2003)

**§ 151.43 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the Special Flood Hazard Areas established in § 151.07, where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or 5 times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If § 151.42(A) is satisfied and Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within the areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with elevations established in accordance with § 151.27(K) and (L). When Base Flood Elevation (BFE) data is not available from a federal, state, or other source, the reference level, including basement, shall be elevated at least 2 feet above the highest adjacent grade.  
(Ord. passed 7-14-2003)

**§ 151.44 STANDARDS FOR FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where Base Flood Elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS, 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 1 foot at any point within the community.

(Ord. passed 7-14-2003)

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

(A) Located within the Special Flood Hazard Areas established in § 151.07 are areas designated as floodways or nonencroachment areas.

(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.

(C) The following provisions shall apply to all development within these areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. The certification and technical data shall be presented to the Floodplain Administrator prior to issuance of a floodplain development permit.

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

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

(a) The anchoring and the elevation standards of § 151.41(C); and

(b) The no encroachment standards of division (A) above are met.

(Ord. passed 7-14-2003)

**§ 151.46 COASTAL HIGH HAZARD AREAS (VE AND V1-30 ZONES).**

(A) Coastal High Hazard Areas are Special Flood Hazard Areas established in § 151.07, and designated as Zones VE or V 1-30.

(B) These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall apply to all new construction, substantial improvements and all other development:

(1) All development shall:

- (a) Be located landward of the reach of mean high tide;
- (b) Be located landward of the first line of stable natural vegetation; and
- (c) Comply with all applicable CAMA setback requirements.

(2) All development shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Floodproofing may not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

(3) All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water.

(4) Open wood lattice work or mesh insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with § 151.41(D)(2). Design plans shall be submitted in accordance with § 151.26(A)(4)(c).

(5) All development shall be securely anchored on pilings or columns.

(6) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(7) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in § 151.26 and divisions (B)(4), (6) and (8) of this section.

**Cape Carteret - Land Usage**

(8) There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/ aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with § 151.26(A)(4)(c). The Floodplain Administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been fully considered:

(a) Particle composition of fill material does not have a tendency for excessive natural compaction;

(b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and

(c) Slope of fill will not cause wave run-up or ramping.

(9) There shall be no alteration of sand dunes, which would increase potential flood damage.

(10) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this section.

(11) Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the recreational vehicle criteria of § 151.41(F)(1) and the temporary structure provisions of § 151.41(G).

(Ord. passed 7-14-2003)

**§ 151.47 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).**

(A) Located within the Special Flood Hazard Areas established in § 151.07, are areas designated as shallow flooding areas.

(B) These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.



(C) The following provisions shall apply within the areas:

(1) All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the Special Flood Hazard Areas where no BFE has been established.

(2) All new construction and substantial improvements of non-residential structures shall have the option to, in lieu of elevation, be completely floodproofed together with attendant utilities and sanitary facilities to or above that level so that any space below that level is 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 as per §§ 151.26(C) and 151.41(B).

(Ord. passed 7-14-2003)

***LEGAL STATUS PROVISIONS***

**§ 151.60 EFFECT ON RIGHTS AND LIABILITIES UNDER EXISTING FLOOD DAMAGE PROTECTION ORDINANCE.**

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 21, 1977 (original adoption date of this chapter) as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of the existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Cape Carteret enacted on March 21, 1977, as amended, which are not reenacted herein are repealed.

(Ord. passed 7-14-2003)

**§ 151.61 EFFECT UPON OUTSTANDING BUILDING 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 chapter; provided, however, that when construction is not begun under the outstanding permit within a period of 6 months subsequent to passage of this chapter or any revision thereto, construction or use shall be in conformity with the provisions of this chapter.

(Ord. passed 7-14-2003)

**§ 151.99 PENALTY.**

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor.

(B) Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both.

(C) Each day the violation continues shall be considered a separate offense.

(D) Nothing herein contained shall prevent Cape Carteret from taking other lawful action as is necessary to prevent or remedy any violation.

(E) The Zoning Enforcement Officer is one designated by the Board of Commissioners.  
(Ord. passed 7-14-2003)

## CHAPTER 152: PLANNING AND DEVELOPMENT

### Section

#### *General Provisions*

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- 152.02 Definition

#### *Planning Board*

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#### *Implementation and Enforcement Program for Minor Development Permits in Areas of Environmental Concern*

- 152.40 General provisions
- 152.41 Administration
- 152.42 Minor development permits
- 152.43 Appeals and injunctive relief
- 152.44 Amendments of the implementation and enforcement plan and complaint procedure
  
- 152.99 Penalty

***GENERAL PROVISIONS*****§ 152.01 PURPOSE.**

The purposes of this chapter are as follows:

(A) To develop procedures for discharging the responsibilities of the local permit-letting agencies as authorized by the Coastal Area Management Act (CAMA), being G.S. Ch. 113A, Art. 7, by issuing minor development permits in areas of environmental concern (AECs) within the jurisdictional area of the town;

(B) To ensure that minor development undertaken within AECs is in conformance with local land use plans and applicable state guidelines and regulations; and

(C) To set forth the geographic extent of the jurisdiction of the local permit-letting program.  
(1997 Code, § 26-71)

**§ 152.02 DEFINITION.**

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

***MINOR DEVELOPMENT.*** Any development that does not require permission, licensing, approval, certification or authorization in any form from the Environmental Management Commission, the Department of Human Resources, the Department of Natural Resources and Community Development, the Department of Administration, the State Mining Commission, the State Pesticides Board, the State Sedimentation Control Boards or any federal agency; that occupies a land area of 20 acres or less; or that occupies on a single parcel a structure or structures with a ground area of 60,000 square feet or less.  
(1997 Code, § 26-72)

***PLANNING BOARD*****§ 152.15 ESTABLISHMENT.**

Pursuant to G.S. §§ 160A-361 and 160A-362, there is hereby created a Planning Board of the town, to perform the functions and duties prescribed in this chapter.  
(1997 Code, § 26-31)

**§ 152.16 MEMBERSHIP; VACANCIES.**

(A) The Planning Board shall consist of 7 members. Five members shall be citizens and residents of the town and shall be appointed by the Board of Commissioners, 2 members shall be citizens of the county who reside outside the town but within the extraterritorial jurisdiction of the town as specified by an extraterritorial boundary ordinance adopted pursuant to G.S. § 160A-360(b) and shall be appointed by the Board of County Commissioners. The initial members shall be appointed for staggered terms of 3 years. Their successors shall be appointed for terms of 3 years or for the balance of an unexpired term.

(B) Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. The Board of Commissioners may appoint alternate members to serve on the Planning Board in the absence of any regular member. Each alternate member, while attending a meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

(1997 Code, § 26-32)

**§ 152.17 ATTENDANCE AT MEETINGS.**

(A) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Planning Board.

(1997 Code, § 26-33)

(B) The Board of Commissioners may declare that a vacancy exists in the Planning Board membership when any individual regular or alternate member has missed more than 3 meetings (whether regular, special or called meetings) within a 6-month period without having been excused by the Chairperson of the Planning Board. The Board of Commissioners shall appoint a new member to complete the remaining portion of the term wherein the vacancy exists.

(Am. Ord. 2005-07-14, passed 7-18-2005)

**§ 152.18 ORGANIZATION; RULES; RECORDS.**

The Planning Board shall elect a Chairperson and create and fill the other offices as it may determine. The term of the Chairperson and other officers shall be 1 year, with eligibility for reelection. The Planning Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The Planning Board shall hold at least 1 meeting monthly, and all of its meetings shall be open to the public.

(1997 Code, § 26-34)

**§ 152.19 JURISDICTION; VOTING.**

(A) The 2 members appointed to the Planning Board by the Board of County Commissioners as representatives of the extraterritorial area outside the town shall have equal rights, privileges and duties with the other members of the Planning Board in all matters pertaining to the regulation of the area, both in preparation of the original regulations and in consideration of any proposed amendments to the regulations.

(B) On all matters pertaining to the regulation of the area within the corporate limits, only those Planning Board members appointed by the Town Board of Commissioners to represent the area within the corporate limits shall vote.

(C) For taking action on any matter pertaining to the extraterritorial zoning area, there shall be present a quorum of 4 members, 1 of whom must be a representative from the extraterritorial zoning area.

(D) For taking action on any matter pertaining to the area within the corporate limits, there shall be present a quorum of 3 of the members appointed to represent the area.  
(1997 Code, § 26-35)

**§ 152.20 POWERS AND DUTIES.**

It shall be the general duty of the Planning Board to:

(A) Acquire and maintain in current form basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;

(B) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

(C) Establish principles and policies for guiding action in the development of the area;

(D) Prepare and recommend to the Board of Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;

(E) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

(F) Keep the Board of Commissioners and the general public informed and advised as to these matters; and

(G) Perform any other duties which may lawfully be assigned to it.  
(1997 Code, § 26-36)

**§ 152.21 BASIC STUDIES.**

(A) As background for its comprehensive plans and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts.

(B) In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition and adequacy of special facilities, which may include but are not limited to studies of housing, commercial and industrial facilities, parks, playgrounds, and recreational facilities, public and private utilities, and traffic, transportation and parking facilities.

(C) All officials of the town shall, upon request, furnish to the Planning Board available records or information as it may require in its work. The Planning Board or its agents may, in the performance of its official duties, enter upon lands and make examination or surveys and maintain necessary monuments thereon.

(1997 Code, § 26-37)

**§ 152.22 COMPREHENSIVE PLANS.**

(A) The comprehensive plans, with the accompanying maps, plats, charts and descriptive matter, shall be and show the Planning Board's recommendations to the Board of Commissioners for the development of the area, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, or water, power, gas, lights, sanitation, transportation,

communication, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, properties, utilities or terminals; and the most desirable pattern of land use within the area.

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

(1997 Code, § 26-38)

#### **§ 152.23 ZONING AMENDMENTS.**

(A) The Planning Board shall prepare and submit to the Board of Commissioners for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of G.S. §§ 160A-360 *et seq.*

(B) The Planning Board may initiate from time to time proposals for amendment of the zoning ordinance and map, based upon its studies and plans. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the zoning ordinance and map.

(1997 Code, § 26-39)

#### **§ 152.24 SUBDIVISION REGULATIONS.**

(A) The Planning Board shall review, from time to time, the existing regulations for the control of land subdivision in the area and submit to the Board of Commissioners its recommendations, if any, for the revision of those regulations.

(B) The Planning Board shall review and make recommendations to the Board of Commissioners concerning all proposed plats of land subdivision.

(1997 Code, § 26-40)



**§ 152.25 URBAN RENEWAL.**

The Planning Board shall make findings and recommendations concerning urban renewal projects in the area, as provided by G.S. §§ 160A-500 *et seq.*  
(1997 Code, § 26-41)

**§ 152.26 PUBLIC FACILITIES.**

The Planning Board shall review with the Mayor and other town officials and report its recommendations to the Board of Commissioners upon the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation from the Planning Board, the Board of Commissioners may, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the Planning Board for review and recommendation, take final action.  
(1997 Code, § 26-42)

**§ 152.27 CONDUCTING PUBLIC HEARINGS.**

The Planning Board may conduct public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plans. Before recommending any plans to the Board of Commissioners, the Planning Board shall hold at least 1 public hearing thereon.  
(1997 Code, § 26-43)

**§ 152.28 PROMOTING PUBLIC INTEREST.**

The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine.  
(1997 Code, § 26-44)

**§ 152.29 ANNUAL REPORT; ANALYSIS OF EXPENDITURES; BUDGET REQUEST.**

(A) The Planning Board shall, in May of each year, submit in writing to the Board of Commissioners a report of its activities and an analysis of the expenditures to date for the current fiscal year, and shall submit to the Board of Commissioners for budget consideration its requested budget of funds needed for operation during the ensuing fiscal year.

(B) The Planning Board is authorized to receive contributions from private agencies and organizations or from individuals, in addition to any sums which may be appropriated for its use by the Board of Commissioners. It may accept and disburse the contributions for special purposes or projects

subject to any specified conditions which it deems acceptable, whether or not the projects are included in the approved budget. The Planning Board shall report all contributions and expenditures to the Board of Commissioners when it submits its annual report.

(C) The Planning Board is authorized to appoint committees and employees, and to authorize expenditures, as it may see fit, subject to limitations of funds provided for the Planning Board by the Board of Commissioners in the town's annual budget.

(1997 Code, § 26-45)

### **§ 152.30 ADVISORY COUNCIL AND SPECIAL COMMITTEES.**

The Planning Board may seek the establishment of an unofficial advisory council and may cooperate with this council to the end that its investigations and plans may receive fullest consideration; but the Planning Board may not delegate to the advisory council any of its official prerogatives. The Planning Board may set up special committees to assist it in the study of specific questions and problems.

(1997 Code, § 26-46)

### ***IMPLEMENTATION AND ENFORCEMENT PROGRAM FOR MINOR DEVELOPMENT PERMITS IN AREAS OF ENVIRONMENTAL CONCERN***

### **§ 152.40 GENERAL PROVISIONS.**

(A) *Statutory authorizations.* Pursuant to North Carolina Legislature G.S. 113A-117-124, the Coastal Area Management Act (CAMA) authorizes a city, county or joint city/county to adopt an Implementation and Enforcement Program to act as the local permit-letting authority for activities related to minor development within areas of environmental concern. This Implementation and Enforcement Plan is hereby adopted as of April 21, 2008 by the Board of Commissioners for the Town of Cape Carteret, North Carolina.

(B) *Purposes.* Intent. The purposes of the implementation and enforcement plan are to establish:

(1) Procedures to be followed in issuing minor development permits in Areas of Environmental Concern (AEC) within the town's jurisdictional limits, including methods of coordinating with other local permits.

(2) Scope and coverage of the program including the geographic extent of jurisdiction of the local management program.

(3) Responsibilities and capabilities of permit-letting agencies; including a description of the criteria to be used in choosing the local permit officer.

(4) Methods of identifying and taking into account projects and impacts of regional, state, and national concern where applicable.

(5) Procedures to insure that the program is consistent with the adopted land use plan for the entire jurisdiction.

(6) Relates other governmental action in regards to the adopted land use plan and provides procedures for assuring consistency of action.

(C) *Geographic extent of jurisdiction.* Town of Cape Carteret Jurisdiction: The issuance of minor development permits as required by the CAMA shall be administered and enforced in those AECs (or parts of those AECs), which are located within the corporate and extraterritorial jurisdictional boundaries of the Town of Cape Carteret.

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

(1) **ADOPTED LAND USE PLAN.** Refers to the town's land use plan prepared and adopted by the Town of Cape Carteret and approved by the Coastal Resources Commission (CRC) pursuant to Part 2 of the Coastal Area Management Act.

(2) **AREAS OF ENVIRONMENTAL CONCERN (AECs).** Refer to areas designated by the CRC, in which development shall require a minor or major development permit.

(3) **COASTAL AREA MANAGEMENT ACT (CAMA).** The law that relates to the management program for orderly growth in the coastal area of North Carolina as adopted by the General Assembly in 1974.

(4) **COASTAL RESOURCES COMMISSION (CRC).** The Coastal Area Management Act established the Coastal Resource Commission within the Department of Environment and Natural Resources.

(5) **DEVELOPMENT.** Any activity in a duly designated area of environmental concern involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging, filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alternation of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.

(6) **IMPLEMENTATION AND ENFORCEMENT PLAN.** Refers to the local management program for the implementation and enforcement of minor permit requirements within areas of environmental concern and the policies of the adopted land use plan within the Town of Cape Carteret.

(7) **LOCAL PERMIT OFFICER.** Refers to the locally designated official(s) who will administer and enforce the minor development permit program in areas of environmental concern and the policy requirements of the land use plan over the entire planning area of the Town of Cape Carteret.

(8) **MAJOR DEVELOPMENT.** Any development, which requires permissions, licensing, approval, certification, or authority in any form from the N.C. Environmental Management Commission, the N.C. Departments of Human Resources, the N.C. Department of Environment and Natural Resources, the N.C. Department of Administration, the N.C. Mining Commission, the N.C. Pesticides Board, the N.C. Sedimentation Control Commission, or any federal agency or authority; or development which occupies a land or water area in excess of 20 acres; includes a structure or structures in excess of a ground area of 60,000 square feet on a single parcel; or which contemplates drilling for or excavating natural resources on land or under water.

(9) **MINOR DEVELOPMENT.** Any development other than a major development.

(10) **TOWN.** The Town of Cape Carteret.  
(Ord. 2009-01, passed 2-16-2009)

#### § 152.41 ADMINISTRATION.

(A) *Designated local permit officer.*

(1) *Creation of position.* The town shall designate one or more employees to hold the position of local permit officer.

(2) *Qualifications.* Any designated local permit officer shall be required to complete an initial training course from the Division of Coastal Management (DCM), within 12 months of appointment. The local permit officer(s) shall attend all regional work sessions held by DCM to inform and coordinate the activities of the local permit officers in each region. In addition, the local permit officer shall be knowledgeable of other local, state or federal permit or regulatory requirements.

(3) *Appointments.* The town shall notify the Commission of the names of all designated local permit officers. In order to continue to process permits in a timely fashion and to avoid the issuance of passive grants, the town shall immediately notify the Division of Coastal Management (DCM) and the Coastal Resources Commission in writing when the local permit officer resigns or is for any reason unable to perform his or her duties. This notice shall indicate the method or methods by which the locality will continue to process permits in a thorough and timely fashion. Such methods can include, but are not limited to, the following:

(a) The appointment of a temporary local permit officer (LPO) until such time as a permanent replacement is selected.

(b) The appointment of one or more LPO(s).

(c) Evidence that an agreement exists between the locality and another appropriate agency for the assumption of the permit program.

(d) A formal request that the Secretary/DCM assume the permit function for the locality.

(B) *Duties of the local permit officer.*

(1) *General enforcement.* The local permit officer shall administer and enforce in duly designated AECs; the minor development permit process as herein established, as well as all applicable local ordinances, and all other guidelines and standards established by the Coastal Resources Commission (CRC) and the town pursuant to the Coastal Area Management Act (CAMA). In addition the local permit officer shall:

(a) Be familiar with existing state and federal permits required in this jurisdiction so as to provide aid to potential developers in determining when a major development permit rather than minor development permit is required, and to aid the developers in applying to the CRC when a major development permit is required, and in general, aid applicants in regard to other state or federal permit requirements.

(b) Assist in identifying and assessing projects of greater than local concern and bring them to the attention of the CRC. (Such projects of regional, state or national concern are almost certain to require some other state permit and, therefore, require a major development permit from the Commission. Therefore, they will usually be brought to the attention of the Commission through the major development permit application.)

(c) Be responsible for implementing any procedures agreed on by the Board of Commissioners to which this plan applies for the purpose of coordinating the CAMA minor development permits with other locally required permits. Such locally required permits include, but are not limited to, plumbing permits, electrical permits, building permits, septic tank permits, flood plain or sand dune permits, and certifications of compliance with zoning and subdivision regulations.

(d) Be responsible for implementing any enforcement procedures, actions or standards that the Board of Commissioners may wish to enforce in regards to the adopted land use plan or revision thereof.

(e) Assist in coordinating permit-letting activities with other local jurisdictions as necessary.

(2) *Records.* The local permit officer shall prepare a quarterly summary of all permit applications and their disposition from the immediately preceding quarter, to be presented to the Board of Commissioners for the town, to the CRC and to the Secretary of the North Carolina Department of

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Environment and Natural Resources (NCDENR). Correct and comprehensive records of all transactions related to minor development permit requests (applications, grants, denials, other dispositions) shall be maintained by the local permit officer, and such records shall be kept so long as any part of the structure or entity to which it relates remains in existence; or, in the case of denials or other instances, for a period of 10 years. From date of receipt and acceptance of application and/or decision on an application, the local permit officer must, within five working days, mail and/or submit copies of same to the appropriate field consultant or the nearest field office of the Division of Coastal Management.

(3) *Location.* The local permit officer shall be located in the Cape Carteret Town Hall, located at 102 Dolphin St, and can be reached at 252-393-7901. The mailing address is:

Town of Cape Carteret  
Attn: Local Permit Officer  
102 Dolphin St., Cape Carteret, NC 28584

The Commission shall be notified immediately of any change in the location of the local permit officer. (Ord. 2009-01, passed 2-16-2009)

### § 152.42 MINOR DEVELOPMENT PERMITS.

(A) *Minor development permit required.* Designation of AECs Requiring minor development permit. The following permit-letting requirements and information in regards to AECs shall be available for review and inspection in the town Planning, Zoning and Inspections Department:

(1) Description of all AECs within the town planning and zoning jurisdiction that is sufficiently clear to provide notice to all property owners within those AECs that a permit must be secured before any development may proceed on that property.

(2) A copy of the standards for development adopted by the Coastal Resources Commission for each type of AEC found in the jurisdiction and the statutory grounds on which a permit application may be denied or conditioned.

(3) The statutory definition of development, as provided in the Coastal Area Management Act (G.S. 113A-103(5a)).

(4) A copy of the approved permit application form for both major and minor development in AECs.

(5) The name and officer address of the local permit officer.

(6) A copy of this plan.

(B) *Minor permit process.*

(1) *Application.* An application for a permit for minor development shall consist of a completed application using the applicable form adopted and approved by DCM and a check or money order, payable to the Town of Cape Carteret in the amount of \$100, or as amended in 15A NCAC 07J .0204(b)(6)(B). Monies so collected shall only be used in the administration of the permit program, specifically including the cost of required public notices and hearing.

(2) *Application review period.* Disposition of the application by the local permit officer shall take place within 25 days of receipt of a complete application, unless the local permit officer gives written notice by registered mail of an additional 25-day extension as necessary for proper evaluation of the application.

(3) *General procedure for processing an application.* The local permit officer shall return incomplete, insufficient, or unauthorized applications within a reasonable time. The 25-day period for consideration of the application shall begin to run upon receipt of a complete application. The time period will continue to run in the case of an incomplete or insufficient application until the local permit officer returns it, with reasons for the rejection in writing, to the applicant for correction of the deficiencies. The time period will begin to run again when a correct application is returned to the local permit officer. Any application received requesting a permit for an activity that constitutes major development shall be returned by the local permit officer with appropriate instructions for submitting the major permit application to the DCM. The local permit officer shall determine from the application what other permits are required for the development. The local permit officer shall inform the applicant of these other permit requirements and aid him or her in properly applying for such permits. The local permit officer shall ordinarily make final decisions concerning the minor development permit only after he or she has determined that any other required local permits will be issued, the application is consistent with the applicable criteria set forth in G.S. 113A-120, the standards for development set forth in 15A NCAC, Subchapters 7H and 7M, and any other applicable rules adopted by the CRC. When an evaluation results in none of the above findings, an unconditional approval shall be granted by the local permit officer. Otherwise, the local permit officer shall deny or conditionally approve a properly completed minor development permit application.

(4) *Proper procedural requirements for disposition.* The procedures and requirements of processing applications shall be conducted in a manner consistent with the expeditious and reasonable evaluation, as well as rational disposition of minor development permits, as set forth and required by the Coastal Area Management Act. The following general procedures shall be followed in reference to application disposition:

(a) *Unconditioned approval.* A minor development permit shall be granted only if consideration of the applications results in no inappropriate findings, as set forth in division (B)(3) above.

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(b) *Denial.* Where the local permit officer denies a minor development permit or an application is returned to the applicant for reasons as set forth in division (B)(3) above, statutory grounds upon which the denial is based or the reasons the local permit officer returns an application shall be set forth in writing.

(c) *Conditional approval.* The approval of a minor development permit may be conditioned upon the applicant's amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the findings enumerated in Article III, Section 2 (C) above. Conditional approval shall be granted upon the acceptance by the applicant of certain reasonable conditions as set out by the local permit officer for public interest protection with respect to appropriate findings listed in G.S. 113A-120. The applicant must sign the conditioned grant of approval as an acceptance of the permit conditions before the permit shall become effective. Statutory grounds upon which a conditional approval is granted shall be set out in writing.

(d) *Passive approval.* Failure to approve, conditionally approve or deny a properly completed and filed application, or for the local permit officer to not give notice of an extension beyond the initial 25-day disposition period shall result in passive approval. A passive approval shall have the full force and effect of an unconditioned approval.

(5) *Property owner requirements.* The property owner shall display a properly granted minor development permit in full view on the site of the development. This requirement shall apply to every permit no matter how it is granted. It is therefore necessary that the property owner acquire a permit received by passive approval for the purposes of posting on the site before proceeding with the development.

(6) *Record keeping requirements.* Permit applications shall be numbered serially using a five-digit numbering system. The first two digits will indicate the year in which the application is made, and the last three digits will run serially in the order in which the applications are received. These numbers shall include the letter prefix CC to designate the Town of Cape Carteret. (For example, the first permit applications will be in 2007, and will be numbered CC-07-001, CC-07-002, and so on.) Along with the applications, the Local Permit Officer shall maintain a record of all evidence and all matters relevant to each minor development application. Such relevant information shall include, but not be limited to applications, correspondence, public notices, responses to public notices, and a copy of the final disposition. In cases involving denial or conditional approval, the local permit officer shall send a copy of a conditional approval or denial disposition record to the applicant, either in person or by registered mail. One copy shall be maintained by the local permit officer.  
(Ord. 2009-01, passed 2-16-2009)



**§ 152.43 APPEALS, INJUNCTIVE RELIEF AND PENALTIES.**

(A) *Appeals.*

(1) *Appeal to the Coastal Resources Commission.* Any person directly affected by the local decision of the local permit officer including the Secretary of the NC Department of Environment and Natural Resources, may within 20 days of the local permit officer's disposition, request an appeal hearing by filing a petition with the Office of Administrative Hearings. The hearing shall be a quasi-judicial hearing conducted by an administrative law judge in accordance with the requirements of the Coastal Area Management Act (CAMA) and any other state laws applicable to such procedures. Final decision in the appeal will be made by the CRC based on evidence presented in the hearing.

(2) *Appeal to Superior Court.* Any person directly affected by any final decision or order of the Coastal Resources Commission may appeal to Superior Court.

(3) *Appeal pending.* No action for which a minor development permit is required shall be taken while appeal of the local permit officer's disposition of that permit request is pending.

(B) *Injunctive relief.*

(1) *Injunctive relief.* Upon violation of the provisions adopted by the town pursuant to the CAMA relating to the issuance of minor development permits, the local permit officer may, either before or after the institution of proceedings for the collection of any penalty imposed by the CAMA for such violation, institute a civil action in the General Court of Justice in the name of the town upon the relation of the local permit officer for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by the CAMA for any violation of same.

(2) *Notice.* The local permit officer shall notify the secretary of any civil action undertaken by or against such officer under the CAMA.  
(Ord. 2009-01, passed 2-16-2009)

**§ 152.44 AMENDMENTS OF THE IMPLEMENTATION AND ENFORCEMENT PLAN AND COMPLAINT PROCEDURE.**

(A) *Amendment to the implementation and enforcement program.*

(1) *Notice of public hearing.* Amendments to this implementation and enforcement plan shall be in accordance with the notice and public hearing requirements set forth in the Coastal Area Management Act and the Coastal Resources Commission's "Criteria for Local Implementation and Enforcement Plans" pertaining to the adoption of the original plan. In addition the following shall be required:

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(a) Prior to this plan being amended, a public hearing shall be held by the Board of Commissioners concerning the proposed amendment. It shall be open to comment from any interested persons, agencies, or groups.

(b) Notice of such public hearing shall go out at least 15 days prior to the date of the hearing; shall state the time, place and subject matter of the hearing and shall indicate the nature of the proposed action; shall state that copies of the proposed amendment are available for public inspection at 102 Dolphin St, Cape Carteret; and shall appear at least once no less than 15 days prior to the hearing in at least one newspaper of general circulation in the affected area.

(c) A complete record of the public hearing and comments shall be compiled and maintained. The record of the public hearing, written comment, and any documentation filed with the local permit officer as to the proposed amendment must:

1. Consist of a written account from the minutes or transcribed from an electronic recording, and all written documents.
2. Remain open for 15 days after the hearing.
3. Be available to the Commission upon request.

(2) *Procedure to amend.* Requests for amendment of this plan shall be referred to the Planning Board. If the amendment is recommended by the majority of the Board, that recommendation shall then be conveyed to the Board of Commissioners for final approval.

(3) *Request to waive formal amendment requirements.* Whenever a proposed amendment is deemed by the Planning Board and Board of Commissioners to be of little interest to the public, a petition may be sent to the Coastal Resources Commission for a waiver of the formal hearing and notice requirements. Such a petition shall include the proposed amendment and state why the Planning Board and Board of Commissioners concluded that the rights or convenience of the public is not substantially affected by it.

(4) *Commission approval.* Upon local acceptance of any amendment requiring notice and hearing, the amendment shall be submitted to the Commission for approval. Upon Coastal Resources Commission's approval, the amendment shall be adopted as part of the ordinances implementing this plan.

(B) *Procedures for responding to complaint that this plan is not properly enforced and administered.*

(1) Citizen complaints. Upon receiving complaints from local citizens that the implementation and enforcement plan is not being properly administered and enforced, the Board of Commissioners will investigate the situation and respond to the alleged deficiencies. If the person making the complaint is not satisfied, then he or she will be advised that he or she may take their complaint either in writing or in person to the CRC.

(2) *Response to the CRC.* Upon notification from the CRC concerning deficiencies in administration and enforcement of the plan, the Board of Commissioners will investigate the alleged problem and prepare a response for the CRC. If the allegation of deficiencies is found to be valid, the Board of Commissioners will, within 30 days of the original notifications from the CRC, inform the CRC of its willingness and ability to correct the deficiency and prevent similar problems in the future. If the Board of Commissioners finds the CRC's allegation of deficiencies invalid, they will so inform the CRC. If the CRC disagrees with that finding, the Board of Commissioners may request a hearing before the CRC or in some other manner attempt to reach a mutually acceptable agreement with the CRC within a 90 day period after receipt of the CRC's original notification of the 90-day period, then the authority to issue permits for minor development pursuant to this plan shall be automatically relinquished until such a time as the CRC is convinced that the program will be properly enforced.  
(Ord. 2009-01, passed 2-16-2009)

**§ 152.99 PENALTY.**

Any person adjudged guilty of knowingly and willfully undertaking any development requiring a minor development permit without acquiring such a permit, or of conduct exceeding the authority of a permit or of failure to observe the agreed modifications of a conditioned grant, or of violation of any other applicable regulations adopted by the town or the Commission pursuant to the CAMA shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than \$100 nor more than \$1,000 or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues or further commits any of the above violations after written notice from the local permit officer, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.  
(Ord. 2009-01, passed 2-16-2009)



## CHAPTER 153: SIGNS

### Section

- 153.01 Purpose
- 153.02 Definitions
- 153.03 Permits and fees
- 153.04 Permitted signs
- 153.05 Off-premises directional signs
- 153.06 Outdoor advertising signs
- 153.07 Temporary signs
- 153.08 Nonconforming signs
- 153.09 Prohibited signs
- 153.10 Illumination
- 153.11 Inspection and maintenance
- 153.12 Street numbers
- 153.13 Exemptions
- 153.14 Appeals
  
- 153.99 Penalty

### § 153.01 PURPOSE.

(A) The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas.

(B) It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of the natural environment and enhance community development.

(1997 Code, § 30-1)

## § 153.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***CANOPY, MARQUEE or AWNING.*** Any roof-like structure permanently extended over a sidewalk or walkway, or temporary structure if the structure is used to display signs.

***CANOPY, MARQUEE or AWNING SIGN.*** Any sign, other than a projecting sign, appearing on a canopy, marquee or awning and identifying the name or address of a building or an establishment contained therein.

***CONTROLLED-ACCESS HIGHWAY.*** A state highway, or section thereof, especially designed for through traffic and over, from or to which highway owners or occupants of abutting property, or others, shall have only controlled right or easement of access.

***FREESTANDING SIGN.*** A sign erected that is wholly independent of any building for support. All signs may be permanently affixed to or constructed upon the lot where they are located. Except as otherwise provided by this chapter, no ***FREESTANDING SIGN*** shall exceed 35 feet in height, from the top of the sign to ground level. No ***FREESTANDING SIGN*** made of wood shall exceed 24 feet in height, from the top of the sign to the ground level. The bottom of any ***FREESTANDING SIGN*** shall not be less than 16 feet above the ground thereunder if accessible to vehicles. If less than 16 feet above the area, freestanding signs shall be so located, designed or protected as to prevent physical damage to the signs.

***HABITUAL OFFENDER.*** Any individual, agent, property owner, tenant, organization, civic group, corporation, or other similar entity that is continuously cited for the same violation of the Town of Cape Carteret Sign Ordinance on at least 2 separate occasions with the second violation occurring after compliance with the ordinance has been achieved. The Police Department, Town Building Inspector, or Zoning Enforcement Officer shall have the authority to designate an individual a ***HABITUAL OFFENDER***, in accordance with the provisions contained herein, and require that the individuals adhere to specific enforcement provisions to abate identified violations as contained within § 153.99 of this chapter.

### ***IDENTIFICATION SIGN.***

(1) A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises, or the profession of the occupant, or the name of the building on which the sign is displayed.

(2) A permanent sign announcing the name of a subdivision, shopping center, church, school, park, or public or quasi-public structure, facility or development and the name of the owners or developers.

**MAJOR THOROUGHFARE.** The following thoroughfares: N.C. Highway 24 and N.C. Highway 58.

**NONCONFORMING SIGN.** A sign not in compliance with the provisions of this chapter as of the effective date of the ordinance from which this chapter derives. The term also means a sign which does not comply with the provisions of any amendment to this chapter, or any sign erected, after the effective date of the ordinance from which this chapter derives or any amendment thereto which does not comply with all of the provisions of this chapter or any amendment.

**OFFICIAL SIGN.** Any sign, symbol or device erected and maintained by a federal, state, county or municipal government or any governmental agency for the purpose of informing or guiding the public.

**OFF-PREMISES OUTDOOR ADVERTISING SIGN.** Any sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located.

**ONPREMISES OUTDOOR ADVERTISING SIGN.** Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered on the premises where the sign is located.

**OWNER.** Any person, firm or corporation, lessee, receiver, trustee, guardian or personal representative holding legal title or right to occupy or carry on business in a structure or any facility and shall include every person who shall have title to or benefit of a sign, or for whose benefit any type of sign is erected or maintained. Where there is more than 1 owner, their duties and obligations under this chapter are joint and several, and shall include the responsibility of the sign.

**PARAPET SIGN.** A sign that extends the entire wall length to form a parapet.

**SIGN.** Any structure or any attention-directing device, or any part thereof, painted on or represented in any other manner on a building or other structure upon which is displayed or included any letter, figure design, symbol, trademark, decoration, device or representation used as or which is in the nature of any announcement, direction advertisement or any other attention-directing function.

#### **SIGNS, NUMBER AND SURFACE AREA.**

(1) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device which may or may not contain elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationships of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(2) The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all the elements of the matter displayed. Frames and structural members not bearing

advertising matter shall not be included in computation of surface area. Freestanding signs shall be computed on the basis of 1 surface only, provided the opposite surface is identical in size, not necessarily in copy or advertisement.

(3) The allowable sign area computed by applying the square feet/linear feet multiplier shall cover all signs on the building or structure and freestanding signs.

**TEMPORARY SIGN.** A banner, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other material and displayed for a limited period of time as set forth in § 153.07.

**WALL SIGN.** Any sign attached to or erected against the wall of a building or structure, or which is an integral part of the building or structure. No sign shall project into a public right-of-way or more than 1 foot beyond the physical dimensions of the building.

(1997 Code, § 30-2) (Am. Ord. 03-12-05, passed – -; Am. Ord. passed 5-10-2004)

### § 153.03 PERMITS AND FEES.

(A) No sign of any type nor any part thereof shall be erected, painted, repainted, posted, reposted, placed, replaced or hung in any zoning district except in compliance with these regulations and the issuance of a permit.

(B) Each application for a sign permit shall be accompanied by plans drawn to approximate scale that shall:

(1) Indicate the proposed site by identifying the owner by name, address and telephone number, and if applicable, the lessee by name, address and telephone number; and

(2) Show the location of the sign on the lot in relation to the property lines and building, zoning district boundaries, right-of-way lines, utility and drainage easements and lines, and existing signs.

(C) The fee, based on the fee schedule in effect, shall be paid prior to the issuance of a sign permit.

(D) If work authorized under the permit issued hereunder has not been completed within 6 months after the date of issuance, the permit shall become null and void.

(1997 Code, § 30-3)



**§ 153.04 PERMITTED SIGNS.**

(A) *Generally.* Only signs as described in this section and as may be permitted otherwise in this chapter will be allowed. No sign described herein shall be erected unless a permit for the same has been issued. All signs erected under the requirements of this chapter may be illuminated in accordance with § 153.10 unless provided otherwise herein.

(B) *Residential districts, R-10, R-10M, R-13, R-20, R-30.* The only signs permitted are as follows:

(1) One sign per lot only pertaining to the lease, rent or sale of the property upon which displayed. The sign shall not exceed 4 square feet in area. No sign shall be illuminated.

(2) Church bulletin boards and signs announcing clubs and other recreation facilities and schools. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 153.10.

(3) Directional signs indicating location of churches, clubs, recreation facilities, schools and nonprofit organizations. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs, recreation facilities, schools and nonprofit organizations. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.

(4) One identification sign per lot describing the location and the owner's name. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 153.10.

(5) Permanent identification signs for planned subdivisions not exceeding 16 square feet in area. A maximum of 2 freestanding signs, to be located only at major entrances to the subdivision shall be permitted. Signs may be illuminated subject to regulations prescribed in § 153.10 and shall be located on private property no closer than 10 feet to any property line. No sign shall exceed 6 feet in height above the ground.

(C) *Business district B-10.* The only signs permitted are as follows:

(1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and may be illuminated subject to regulations prescribed in § 153.10.

(2) Church bulletin boards and signs announcing clubs and other recreation facilities. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 153.10.

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(3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs, recreation facilities, schools and nonprofit organizations. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.

(4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to requirements prescribed in § 153.10.

(5) Wall, canopy, awning, marquee and free-standing signs on the side of the building facing a public street, provided the total sign area for all signs including accessory uses on the same premises shall not exceed 2 square feet for each lineal foot of building wall facing public streets.

(6) One freestanding sign announcing the name of an office center development and the tenants or occupants therein provided:

- (a) The sign does not exceed 180 square feet in area; and
- (b) A 20-foot setback distance from the property line is observed.

(7) One freestanding sign for any 1 business occupying a freestanding building provided:

- (a) The business is not part of a planned office, shopping center or industrial development;
- (b) The sign does not exceed 80 square feet in area; and
- (c) A 20-foot setback distance from the front property line is observed.

(8) One freestanding sign for any 1 business occupying a freestanding building located within but on the periphery of any planned office development, provided:

- (a) The sign does not exceed 32 square feet in area; and
- (b) A 20-foot setback distance from the front property line is observed.

(9) One freestanding sign for any 1 non-profit emergency medical facility providing medical assistance to the general public provided that the sign does not exceed 32 square feet in area.

(10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.

(D) *Business district B-20*. The only signs permitted are as follows:

(1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and shall not be illuminated.

(2) Church bulletin boards and signs announcing clubs and other recreation facilities. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 153.10.

(3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs and recreation facilities. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.

(4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 153.10.

(5) Wall, marquee and freestanding signs on the side of the building facing a public street, provided the total sign area for all signs, including accessory uses on the same premises, shall not exceed 2 square feet for each lineal foot of building wall facing public streets.

(6) One freestanding sign announcing the name of a planned shopping center and the tenants or occupants therein provided:

- (a) The sign does not exceed 250 square feet in area; and
- (b) A 20-foot setback distance from the front property line is observed.

(7) One freestanding sign for any 1 business occupying a freestanding building provided:

- (a) The business is not part of a planned office, shopping center or industrial development;
- (b) The sign does not exceed 80 square feet in area; and
- (c) A 20-foot setback distance from the front property line is observed.

(8) One freestanding sign for any 1 business occupying a freestanding building located within but on the periphery of any planned shopping center provided:

- (a) The sign does not exceed 32 square feet in area; and

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(b) A 20-foot setback distance from the front property line is observed.

(9) One freestanding sign for any 1 non-profit emergency medical facility providing medical assistance to the general public, provided that the sign does not exceed 32 square feet in area.

(10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.

(E) *Business district B-30*. The only signs permitted are as follows:

(1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and shall not be illuminated.

(2) Church bulletin boards and signs announcing clubs and other recreation facilities. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 153.10.

(3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs and recreation facilities. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.

(4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 153.10.

(5) Wall, marquee and freestanding signs on the side of the building facing a public street, provided the total sign area for all signs, including accessory uses on the same premises, shall not exceed 2 square feet for each lineal foot of building wall facing public streets.

(6) One freestanding sign announcing the name of a planned industrial development and the tenants or occupants therein provided:

(a) The sign does not exceed 250 square feet in area; and

(b) A 20-foot setback distance from the front property line is observed.

(7) One freestanding sign for any 1 business occupying a freestanding building provided:

(a) The business is not part of a planned industrial development;

(b) The sign does not exceed 80 square feet in area; and

(c) A 20-foot setback distance from the front property line is observed.

(8) One freestanding sign for any 1 business occupying a freestanding building located within but on the periphery of any planned industrial development provided:

(a) The sign does not exceed 32 square feet in area; and

(b) A 20-foot setback distance from the front property line is observed.

(9) One freestanding sign for any 1 non-profit emergency medical facility providing medical assistance to the general public, provided that the sign does not exceed 32 square feet in area.

(10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.

(1997 Code, § 30-4) (Am. Ord. 02-10-02, passed 10-21-2002; Am. Ord. 2009-11, passed 4-20-2009)

#### **§ 153.05 OFF-PREMISES DIRECTIONAL SIGNS.**

(A) Off-premises directional signs shall be permitted to call attention to businesses which are located off a major thoroughfare and not visible from or easily accessible to the thoroughfare.

(B) All off-premises directional signs shall be subject to the following provisions:

(1) Directional signs shall be limited to a maximum size of 12 square feet;

(2) Only 1 off-premises directional sign shall be allowed for any 1 business;

(3) Signs may be permitted only in business zoning districts and must meet the zoning regulations of the district in which it is located;

(4) Each sign shall be placed off the road right-of-way. Upon selection of a site, written authorization from the landowner shall be required to permit the siting of the sign in that location;

(5) Only 1 off premises directional sign may be located on a single lot, and the sign will not count toward the maximum square foot sign allowance of the business located on the lot; and

(6) Directional signs may be illuminated subject to regulations prescribed in § 153.10.  
(1997 Code, § 30-5)

**§ 153.06 OUTDOOR ADVERTISING SIGNS.**

(A) Outdoor advertising signs shall be permitted in the business district provided they are on the premises where the business is conducted.

(B) Outdoor advertising signs shall be subject to all building setback lines, front and side yard requirements and building height limitations applicable to buildings located in the zone in which the signs are located.

(C) No outdoor advertising sign shall exceed 80 square feet in area.

(D) In no case shall an outdoor advertising sign be located closer than 100 feet to a lot zoned or developed for residential purposes.

(E) Outdoor advertising signs may be illuminated in accordance with § 153.10. However, if located within a direct line of vision of any traffic control signal, the structure shall not have red, green or amber illumination.

(F) No outdoor advertising sign shall be erected at the intersection of streets in a manner as to obstruct clear vision.

(G) No outdoor advertising signs shall copy or simulate official signs or signals.  
(1997 Code, § 30-6)

**§ 153.07 TEMPORARY SIGNS.**

The following signs of a temporary nature are permitted in all zoning districts and shall require no permit unless provided otherwise herein:

(A) *One non-illuminated sign per street frontage.* One non-illuminated sign per street frontage pertaining only to the lease, rent or sale of the property upon which it is to be displayed. The maximum size of the signs shall be as follows:

- (1) In all residential districts, 12 square feet; and
- (2) In all other districts, the signs shall be limited to no more than 32 square feet.

(B) *Political signs/election campaign signs.*

- (1) *Number and area limits.*

(a) *Residential districts.* Not more than 4 signs per residential unit in any residential district, provided that no single sign may exceed 3 square feet in area.

(b) *Commercial districts.* Not more than 4 separate signs per commercial lot in any commercial district, provided that the total area of all signs on any one lot shall not exceed 32 square feet in area. Political campaign signs are permitted in commercial districts, provided the owner of the property has given written consent.

(2) *Time and placement limits.*

(a) Political campaign signs may be displayed beginning 60 days prior to the election, and shall be removed within 2 days following the primary or general election date for which an individual is a candidate or a public question issue appears on the ballot.

(b) Political signs shall not be placed in or on any street right-of-way. Signs placed in the street right-of-way or which otherwise create a traffic hazard may be removed by the town.

(c) Political signs shall not be placed on any utility poles.

(3) *Removal by the town.* Signs within the town limits found to be located in violation of these regulations may be removed by the town at its sole discretion.

(a) The town shall have no liability to any person arising out of its removal of such sign.

(b) Such removal shall not in any manner impair the right of the town to issue a notice of violation and/or civil citation, or to take any other enforcement action authorized by the code or any other applicable law.

(c) Owners may retrieve signs removed by the town by paying the retrieval fee set out in the town's fee schedule within 30 days after the re removal of the sign.

(d) Signs not retrieved by the owner within 30 days after removal of the sign by the town shall be deemed abandoned, and the town will dispose of the signs.

(C) *One construction sign per construction site.* One construction sign may be erected on a site during the period of construction or reconstruction of a building or other similar project. The sign may identify the owner and/or developer, architect, engineer, contractor and other individuals or firms and the character or purpose for which the structure or site is intended. The sign shall be non-illuminated and shall be removed within 2 days after the construction work has been completed. The maximum size of a construction sign shall be as follows:

(1) In residential zones, 12 square feet; and

(2) In all other zones, 32 square feet.

(D) *Banners, pennants and other moving devices.* Banners, pennants, ribbons, posters, streamers, spinners or other similar moving devices may be displayed for a period of not more than 21 days upon the occasion of the opening of a new business and must be removed not later than 30 days after the date of the opening of the new business.

(E) *Garage sale signs.* Signs advertising garage sales, as permitted by § 116.16(C).

(F) *Special event signs.* Temporary signs announcing or commemorating a special event or occurrence to be displayed for not more than 30 consecutive days. Displays shall be limited to 2 banner style signs no larger than 16 square feet in area. The signs shall be placed on the principal structure located on the subject property or an existing freestanding sign located on the same property. Applicants shall be required to wait 30 days from the conclusion of a special event to request temporary signs advertising another special event or occurrence on the same property  
(1997 Code. § 30-7) (Am. Ord. 02-10-02, passed 10-21-2002; Am. Ord. 03-12-05, passed - -; Am. Ord. 2006-11, passed 8-21-2006)

### § 153.08 NONCONFORMING SIGNS.

(A) All signs existing on the effective date of the ordinance from which this chapter derives, may remain in place and be maintained for 5 years after that date, except as hereafter provided. Within 5 years after the effective date of the ordinance from which this chapter derives, all nonconforming signs shall be removed or brought into compliance unless the time is extended pursuant to division (C). However, any nonconforming sign created as a result of an amendment to this chapter or as a result of the extension of the town 1-mile extraterritorial jurisdiction shall have 5 years from the date of the amendment to this chapter or extension of the 1-mile extraterritorial jurisdiction to conform to the requirements of this chapter.

(B) In order to give equitable treatment to new businesses located in an area characterized by a number of nonconforming signs, a special use permit may be obtained from the Board of Adjustment which would allow the erection of a nonconforming freestanding sign subject to the following provisions:

(1) This division shall apply only to new business establishments erected on a vacant parcel of land or occupying a vacant structure on or after the effective date of the ordinance from which this chapter derives.

(2) The area of the signs shall not exceed the average size of all freestanding signs existing within 400 feet of the proposed business establishment subject to the following limitations:



(a) Only those signs existing on either side of the street on which the proposed business establishment has frontage shall be considered.

(b) If more than 1 sign is attached to a single pole and the signs give the general appearance of a single sign, the signs shall be considered as a single sign.

(c) In determining the area of existing freestanding signs, the computations shall be made, whenever possible, from actual measurements of the signs. If the measurements are not possible, photographs of the sign shall be taken in relation to an object of known dimensions, and the area of the sign scaled from that object. If the latter method is utilized, a 5% error factor shall be added to the resulting area computation.

(3) Any nonconforming sign erected under the provisions of this division (B) shall be removed or brought into compliance within 5 years after the effective date of the ordinance from which this chapter derives. No permit for the sign shall be granted until a written agreement has been received that certifies that the applicant will abide by the provisions of this division (B).

(C) The owner of any sign to which division (A) or (B) applies shall have the right, within 5 years from and after the effective date of the ordinance from which this chapter derives, to make application, upon forms provided by the Building Inspector, to the Board of Adjustment for an extension of time within which the sign may be permitted to remain.

(1) If the sign is nonconforming only as to its special location on the building or premises, and can be moved to another part of the building or premises so to conform with the requirements of this chapter, the time may not be extended.

(2) If the sign is nonconforming as to its size then the time may be extended by the Board of Adjustment 1 calendar month for each \$100 of the owner's unused investment in the sign. The term unused investment shall mean the original actual dollar cost of the sign, including cost of installation, less the aggregate accumulated dollar depreciation of the cost for federal income tax purposes, all as certified in writing at the request of the owner by a certified public accountant.

(3) This division (C) does not apply to new signs erected after the effective date of the ordinance from which this chapter derives, nor to signs erected under the provisions of division (B) of this section.



(D) Upon failure to comply with any of the requirements of divisions (A) through (C) of this section, the Building Inspector shall cause the removal of any nonconforming sign as hereafter provided:

(1) If a sign has been registered with the Building Inspector, notice to the registered owner, the occupant of the premises on which the sign is located, or the person receiving the permit shall be sufficient. The notice shall contain a brief statement of the particulars in which this chapter is violated and the manner in which the violation is to be remedied. If any sign is erected, installed or maintained without first obtaining a permit, the Building Inspector shall forthwith cause the sign to be removed.

(2) Failure to correct the violation within 30 days shall constitute a misdemeanor punishable by a fine of not more than \$50, or by imprisonment for not more than 30 days. Each day's continuing violation shall be a separate and distinct offense.

(3) In addition to the penalties set out in divisions (D)(1) and (2) above, the town may apply to the general court of justice in accordance with G.S. § 160A-175(e), for a mandatory or prohibitory injunction and order of abatement directing the owner, occupier or permittee to correct the violation. (1997 Code, § 30-8)

#### **§ 153.09 PROHIBITED SIGNS.**

Unless otherwise permitted, the following signs are prohibited:

(A) Banners, pennants, ribbons, streamers, strings of light bulbs, spinners or other similar moving devices when not part of any sign;

(B) Signs advertising an activity, business, product or service no longer conducted on the premises upon which the sign is located;

(C) Signs other than town traffic and directional signs shall not be permitted within any street right-of-way;

(D) Mobile signs; and

(E) Off-premises outdoor advertising signs.  
(1997 Code, § 30-9)

#### **§ 153.10 ILLUMINATION.**

Where illuminated signs are permitted they shall conform to the following requirements:

(A) Signs that contain, include or are lighted by any flashing, intermittent or moving light are prohibited, except those giving public information such as time, temperature and date.

- (1) The use of light emitting diodes (LEDs) or similar type bulbs is prohibited.
- (2) Liquid crystal display (LCD) signs and similar monitor-type signs are prohibited.

(B) Illuminated signs shall be limited to:

(1) Those lighted from behind to silhouette letters and figures or lighted internally, with glass or plastic faces bearing the advertisement; and

(2) Exposed incandescent or other similar type bulbs, provided that the total wattage for all bulbs used for a sign shall not exceed 300 watts; and all the lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction.

(1997 Code, § 30-10) (Am. Ord. 2009-16, passed 12-14-2009)

#### **§ 153.11 INSPECTION AND MAINTENANCE.**

(A) It shall be the duty of the Building Inspector or his or her designated agent to inspect every free-standing sign, wall sign and outdoor advertising structure at least once every year to determine that the same are in a safe condition and meet the requirements as set forth in this chapter.

(B) All signs and outdoor advertising signs shall be maintained in a state of good repair. No sign or outdoor advertising sign shall be allowed to remain that becomes structurally unsafe or hazardous, or endangers the safety of the public or property. Upon determining that a sign or outdoor advertising sign is structurally unsafe or hazardous or dangerous to the safety of the public or property, the Building Inspector shall order the sign to be made safe or removed, subject to the following provisions:

(1) The owner of the sign or outdoor advertising sign, the occupant of the premises on which the sign or structure is located, or the person maintaining the sign or out-door advertising sign shall, upon written notice by certified mail from the Building Inspector, forthwith in the case of immediate danger and in any case within 10 days, secure or repair the sign or structure in a manner approved by the Building Inspector or shall remove the sign or structure.

(2) If such is not complied with in 10 days:

(a) The town shall have authority, pursuant to G.S. § 160A-193, to summarily remove the sign or structure. The expense of the removal shall be paid by the person in default and, if not paid, shall be a lien upon the land or premises where the trouble arose, and shall be collected as unpaid taxes.

(b) The Building Inspector may order the same to be made safe or removed following the procedure set forth in G.S. § 160A-426 through and including G.S. § 160A-432.

(c) The town may elect to proceed under any provision of § 10.99 of this code.

(C) Whenever a sign or outdoor advertising structure has been abandoned or advertises an activity, business, product or service no longer conducted on the premises, the Building Inspector shall cause the sign or structure to be removed within 30 days after notification to the owner in accordance with the method prescribed for non-conforming signs in § 153.08(D).

(D) The Zoning Enforcement Officer is one designated by the Board of Commissioners. (1997 Code, § 30-11) (Am. Ord. 00-12-10, passed 12-18-2000)

### **§ 153.12 STREET NUMBERS.**

(A) All residences within the jurisdiction of the town shall display street numbers which are no less than 3 inches nor more than 10 inches in height. The street numbers shall be clearly visible from the street, shall be displayed in a neat manner and shall be displayed with a contrasting color on the street side of the residence. If the residence cannot be seen from the street, the street numbers shall be placed on a neatly designed and staked board in a location which can be seen from the access street. The board on which the street numbers are displayed shall be no more than 15 inches in height nor more than 15 inches in width.

(B) All business establishments within the jurisdiction of the town shall display street numbers which are no less than 3 inches in height. The numbers shall be displayed where they may be seen from a public street or facing a private access drive if a structure has no frontage on a public street.

(C) Address signs known or referred to as 911 reflective mail box signs are permissible so long as the same are 18 inches by 6 inches, made out of metal, and painted with reflective paint. The numbers thereon must be reflective white stick on numbers. Any 911 reflective mail box sign should be on the mail box or a post in front of the lot and clearly visible from the street. (1997 Code, § 30-12) (Am. Ord. 00-09-06, passed 9-18-2000)

### **§ 153.13 EXEMPTIONS.**

The following types of signs are exempted from the application of this chapter:

(A) Signs, unlighted, not exceeding 1 square foot in area and bearing only property numbers of occupants of premises, or other identification of premises not having commercial connotations, except as provided in § 153.12;

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(B) Flags and insignia of any government except when displayed in connection with commercial promotion;

(C) Legal notices and identification, informational or directional signs erected or required by governmental bodies;

(D) Integral decorative or architectural features of buildings except letters, trade-marks, moving parts, or flashing and moving lights;

(E) Signs, not to exceed 4 square feet, directing and guiding traffic and parking on private property but bearing no advertising matter;

(F) One freestanding sign displaying time and temperature information only and bearing no advertising matter shall be permitted in addition to other freestanding signs, provided the area requirements for free-standing signs are not exceeded and all sign height and setback requirements are followed;

(G) Temporary signs painted or displayed on the interior of buildings or painted on the exterior of store windows; and

(H) Price signs at automobile service stations or other establishments engaged in the retail sale of gasoline, provided the sign does not exceed 24 square feet. Any such sign shall be affixed to a permanent free-standing identification sign, to a canopy support in the vicinity of the gasoline pumps or flat-mounted against the side of a building.

(1997 Code, § 30-13)

**§ 153.14 APPEALS.**

(A) Any property owner wishing to request a modification to the regulations outlined within this chapter, or request a review of an action taken by a town official in the interpretation and enforcement of the provisions of this chapter, shall make an application to the Town of Cape Carteret Board of Adjustment requesting either a variance or an administrative review of a town official's decision.

(B) Any and all applications submitted under this section shall be processed, reviewed, and acted upon in accordance with all established regulations outlined within §§ 156.095 through 156.101, Zoning Board of Adjustment, of the Town of Cape Carteret code of ordinances.

(Ord. 01-08-03, passed 8-20-2001)

**§ 153.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$25 per day. A citation for the civil penalty shall be issued by the Police Department, Town Building Inspector or Zoning Enforcement Officer. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) The Town of Cape Carteret reserves the right to confiscate and remove signs prohibited by this chapter. All signs confiscated by town staff shall be stored at a location determined by the Town Board. Owners of the sign may retrieve the illegal sign from town hall during posted business hours and shall be required to pay a retrieval fee of \$25 per illegal sign.

(D) Habitual offenders.

(1) Any individual who is declared a habitual offender of the sign ordinance, as defined within § 153.02 of this chapter, shall be required to abate the identified violation in a timely manner. A timely manner shall be determined by the Town of Cape Carteret, as being the least amount of time deemed necessary to remove the offending sign and bring the property into conformity.

(2) The town shall hand deliver a letter of violation informing the individual that he or she has been designated as a habitual offender and specifically indicate the time period allotted to abate the identified violation.

(3) If the individual does not abate the identified violation within the allotted time frame, the individual will be subject to immediate issuance of a civil citation in the sum or \$25 per day. The issuance and payment of civil citations shall be in accordance with the provisions contained herein.

(Ord. 02-10-03, passed 10-21-2002; Am. Ord. 03-09-02, passed 9-15-2003; Am. Ord. passed 5-10-2004)





## CHAPTER 154: SUBDIVISIONS

### Section

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**GENERAL PROVISIONS****§ 154.001 SHORT TITLE.**

This chapter shall be known as the subdivision regulations of the town, and may be cited as the subdivision regulations.  
(1997 Code, § 36-1)

**§ 154.002 PURPOSE.**

(A) The purpose of this chapter is to establish procedures and standards for the regulation and control of the subdivision of land within the present and future jurisdiction of the town in order to promote the public health, safety and general welfare of the community.

(B) These procedures and standards are designed to:

- (1) Promote the orderly layout and development of land;
- (2) Provide for the coordination and dedication of land for recreation areas serving residents of the subdivision and of rights-of-way or easements for street and utility purposes;
- (3) Ensure adequate provision for transportation facilities, sewers, water supply, schools, parks, playgrounds and other public facilities;
- (4) Ensure the proper distribution of population and traffic to avoid congestion and overcrowding;
- (5) Provide adequate light, air and open space;
- (6) Ensure greater safety from fire, flood and other dangers; and
- (7) Ensure proper legal description, identification, monumentation and recording of subdivision properties.  
(1997 Code, § 36-2)

**§ 154.003 AUTHORITY.**

This chapter is hereby adopted under the authority of provisions of G.S. §§ 160A-371 *et seq.*  
(1997 Code § 36-3)

**§ 154.004 JURISDICTION.**

This chapter shall govern each subdivision of land within the corporate limits of the town, and within any present and future extraterritorial area of the town.  
(1997 Code § 36-4)

**§ 154.005 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ALLEY.** A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

**BLOCK.** A parcel of land intended for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels or a combination thereof.

**BUFFER.** A defined area of land and screening intended to separate different uses of property, or uses of property from public streets, which strip shall contain no building or other structure, no parking area, and no road or drive except as may be required to cross a buffer strip. A **BUFFER** strip shall either remain in its natural state, or be otherwise used for plantings or other materials designed to provide a visual and sound barrier; provided, however, that all buffers shall meet the applicable standards of this code.

**BUFFER SCREEN WIDTHS.** A 1-row screen shall be a minimum of 10 feet in width. A 2-row screen shall be a minimum of 15 feet in width. A 3-row screen shall be a minimum of 20 feet in width.

**BUILDING SETBACK LINE.** A line or lines on a lot designating the area outside of which buildings may not be erected.

**COMMUNITY SEWER SYSTEM.** A public or private sewage disposal system that serves a community that is not an incorporated municipality. This includes unincorporated communities, subdivisions, mobile home parks and apartment complexes having 3 or more connections.

**COMMUNITY WATER SYSTEM.** A public or private water supply that serves a community that is not an incorporated municipality. This includes unincorporated communities, subdivisions, mobile home parks and apartment complexes having 10 or more connections.

**CORNER LOT.** A lot that occupies the interior angle at the intersection of 2 street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot for purposes of front yard setback specified in Appendix A of Chapter 156. The street line forming the most frontage shall be deemed the side of the lot for purposes of side yard setback according to Appendix A of Chapter 156. In any residential district the side yard requirements for corner lots along the side street line shall have the side yard setback as specified in Appendix A of the zoning code plus an additional 10 feet. Where 2 street lines are equal, the subdivider is required to specify on the preliminary and final subdivision plat which line shall be the front yard line and which line the side yard line. Accessory buildings shall observe setback requirements. The designation front of the lot, front yard setback, side of the lot, side yard, or side yard setback shall not restrict the orientation of the front of buildings or other structures as long as the setback requirements are met.

**DOUBLE-FRONTAGE LOT.** A lot which runs through a block from street to street and which has 2 nonintersecting sides abutting on 2 or more streets.

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

**GROUP DEVELOPMENT.** A development comprising 2 or more buildings such as groups of residences, commercial structures or industrial plants where the land is not subdivided into customary streets and lots.

**LOT.** A parcel of land in single ownership occupied or intended for occupancy by a principal building together with its accessory buildings, including open space required under Chapter 156, the town's zoning code. For the purpose of this chapter, the word **LOT** shall be taken to mean any number of contiguous lots or portions thereof, upon which 1 principal building and its accessory buildings are located or are intended to be located.

**MARKERS.** Permanent concrete monuments 4 inches in diameter or square, 3 feet long; iron pipe markers not less than 3/4 inch in diameter and 30 inches long.

**OFFICIAL MAPS OR PLANS.** Any maps or plans officially adopted by the Planning Board or the Board of Commissioners as a guide for the development of the town and its surrounding area, consisting of maps, charts and text.

**PLAT, FINAL.** A map of a land subdivision prepared in a form suitable for filing a record with necessary affidavits, dedications and acceptance and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, other dimensions of land, and the like.

**PLAT, PRELIMINARY.** A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

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

**STREET.** A thoroughfare which affords the principal means of access to abutting property and which has been accepted for maintenance as a **STREET** by the town or the State of North Carolina as a public **STREET** or which has been dedicated to private property owners as a private street.

(1) **COLLECTOR STREET.** A **MINOR STREET** that collects traffic from another street or streets (minor) and serves as the most direct route to a **MAJOR STREET** or a community facility.

(2) **CUL-DE-SAC.** A minor street having 1 end open to vehicular traffic and having 1 end permanently terminated by a vehicular turnaround.

(3) **MAJOR STREET.** A street or highway which is used for moving heavy traffic volumes or high-speed traffic, or both. As used within this chapter, **MAJOR STREETS** shall mean N.C. Highway 58, N.C. Highway 24, and Taylor Notion Road.

(4) **MARGINAL-ACCESS STREET.** A minor street located beside a limited-access street or highway or a railroad, which provides access to abutting properties, provides protection from through traffic, and controls access.

(5) **MINOR STREET.** A street whose primary purpose is to provide access to adjacent properties and that is designed in a manner that will discourage use by through traffic.

**SUBDIVIDER.** Any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land.

**SUBDIVISION.** Includes all divisions of a tract or parcel of land into 2 or more lots for the purpose of sale or building developments, whether immediate or future, and includes all divisions of land that necessitate the dedication of a new street to provide access to a lot not abutting a public street right-of-way or that require a change in existing public streets.

(1997 Code, § 36-5) (Am. Ord. passed 5-9-2005; Am. Ord. 2006-15, passed 10-30-2006)

### **§ 154.006 PREREQUISITE TO PLAT RECORDATION.**

After the effective date of the ordinance from which this chapter derives, each individual subdivision plat of land within the town's corporate limits and within any extraterritorial areas of the town requires the Board of Commissioners' approval following the recommendation of the Planning Board.

(1997 Code, § 36-6)

### **§ 154.007 EXCEPTIONS.**

(A) A subdivision shall not include the following:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed by this chapter or by other municipal ordinances.

(2) The division of land into parcels of 10 acres or greater where no street right-of-way dedication is involved.

(3) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed in this chapter, or any other ordinance of the town.

(B) Prior to a combination, recombination or division of land pursuant to this section of the code, the owner(s) of the property shall present to the Town's Zoning Enforcement Officer (or other person as the Board of Commissioners shall from time to time designate) a recordable plat of the proposed combination, recombination or division, the plat having been prepared by a duly registered North Carolina land surveyor, and the Planning Board Chairman shall certify upon the face of the plat that the combination, recombination or division being accomplished is excepted by this section.

(1997 Code, § 36-7) (Am. Ord. passed 11-18-2002; Am. Ord. 2006-7, passed 4-17-2006)

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## *ADMINISTRATION*

### **§ 154.020 DUTY OF REGISTER OF DEEDS.**

The town shall file this chapter with the register of deeds of the county. The register of deeds shall not thereafter file or record a plat of any subdivision located within the jurisdiction of the town, as defined in § 154.004, without the written approval of the Board of Commissioners as required in this chapter. The filing or recording of a plat of a subdivision without the approval of the Board of Commissioners as required by this chapter shall be null and void.

(1997 Code, § 36-36)

### **§ 154.021 VARIANCES.**

Where topography or other existing physical conditions are that compliance with the requirements of this chapter would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, the Planning Board may recommend, and the Board of Commissioners may authorize a variance, so that the subdivider may develop his or her property in a reasonable manner. A variance, however, will be granted only if the public welfare and interests of the town are protected and the general intent and spirit of this chapter are preserved. Any variance thus authorized is required to be entered in writing in the minutes of the Planning Board and the Board of Commissioners with reasoning on which the departure was justified set forth.

(1997 Code, § 36-37)

### **§ 154.022 AMENDMENTS.**

The Town Board may from time to time amend this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendations. The Planning Board shall have 45 days within which to submit a report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have approved the amendment.

(1997 Code, § 36-38)

### **§ 154.023 COMPLIANCE WITH OFFICIAL PLANS.**

Where a tract to be subdivided embraces any part of a proposed major or minor thoroughfare, or state highway as designated in official maps and plans, the proposed way should be platted and dedicated by the subdivider and in the location and at the width specified.

(1997 Code, § 36-39)

**§ 154.024 CONFLICTING REQUIREMENTS.**

Where the requirements of this chapter conflict with the requirements of other lawfully adopted rules, regulations or ordinances of the town, the more stringent or higher requirements shall govern.  
(1997 Code, § 36-40)

***COMMUNITY DESIGN*****§ 154.035 SUITABILITY OF LAND.**

(A) *Land unsuited for residential use.* Land subject to flooding, improper drainage, erosion or that is for topographical or other reasons unsuitable for residential use shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety or property unless the hazards can be and are corrected.

(B) *Prevention of flood damage.* Lands known to be within a floodplain or any area known to be subject to flooding shall be so identified on the preliminary plat. Appropriate deed restrictions shall be filed for those lands subject to flooding prohibiting their development for dwelling or other uses unless the sites are flood protected as follows:

(1) No structures or fill shall be placed in the floodway that would interfere with the natural watercourse;

(2) Streets and utilities lines and structures may be placed within the floodplain only if their elevation is raised above maximum flood heights or if they are otherwise flood protected;

(3) Dwellings and self-contained sewage disposal units, if used, shall be built at an elevation above maximum flood heights; and

(4) The subdivision drainage system shall be designed to prevent increased flood flows due to newly developed impervious surfaces and other factors.

(C) *Fill areas.* Areas that have been used for disposal of solid waste shall not be subdivided into commercial or residential building sites. This shall include those areas that have been used for the disposal of trash, demolition waste and other waste materials.

(1997 Code, § 36-66)



**§ 154.036 DESIGN OF LOTS AND STREETS.**

(A) The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features, and natural surface and surface drainage. The system of streets and lot layout should also take advantage of the visual qualities of the site and preserve natural features such as tree masses and large individual trees. The design of all lots, structures and utilities shall comply with the applicable areas of environmental concern (AEC) standards in accordance with state guidelines of AECs.

(B) Each subdivision plan shall, where appropriate, allow for the creation of either public or private access roads, which roads shall be designed so as to allow utilization by adjoining properties. Where requested by the town, a subdivider shall provide with his or her subdivision plan a report of a qualified traffic engineer certifying that the design as suggested by the subdivider meets good traffic engineering standards.

(C) Direct access to any major streets and highways shall be limited as follows:

(1) One entrance for each 500 feet of frontage on the major street or highway, or any portion thereof, within any residential subdivision; and

(2) One entrance for each 750 feet of frontage on the major street or highway, or any portion thereof, within any nonresidential subdivision.

(1997 Code, § 36-67)

**§ 154.037 TRAFFIC PATTERNS.**

Circulation shall be provided in accordance with the following design principles:

(A) Each subdivision shall provide for the continuation of all major and minor streets as shown on the town's official street system map.

(B) Minor streets shall be designed to provide access to each parcel of land within residential neighborhoods in a manner which discourages use by through traffic.

(C) Collector streets shall be designed to provide a direct route from other minor streets to major streets.

(D) Ingress to and egress from residential properties shall be provided by minor streets wherever possible.

(1997 Code, § 36-68)

**§ 154.038 DEVELOPMENT STANDARDS.**

Minimum standards for development are contained in Chapter 156, the town's zoning code, the state building code, and this chapter. It is not the intent of the town to condone and encourage minimum standards of development that will lead to a monotonous urban setting, but rather to encourage a subdivision design of quality.

(1997 Code, § 36-69)

**§ 154.039 ALLEYS.**

(A) Alleys shall be provided in commercial districts, except that the Planning Board may waive this requirement where other definite and assured provisions are made for service access, off-street loading and unloading and parking consistent with and adequate for the uses proposed.

(B) Alleys serving commercial areas shall not be less than 30 feet in width.

(C) Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be cut sufficiently to permit safe vehicular movement.

(D) Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning Board.

(E) No alley shall have access from a major road or highway but shall have its access points confined to minor streets.

(F) Alleys are not permitted in residential districts except when the Planning Board determines special conditions warrant a secondary means of access.

(1997 Code, § 36-70)

**§ 154.040 BLOCKS.**

Blocks shall be laid out with special attention given to the type of use contemplated.

(1997 Code, § 36-71)

**§ 154.041 REQUIRED SCREENING AND BUFFER AREAS.**

(A) *Nonresidential property adjoining residential property.* Any person owning real property located in a nonresidential district that adjoins or is contiguous to the boundary line of a residential district shall be required to design, install and maintain a buffer strip along the boundary line of the

property adjoining the residential zone, when the owner either proposes new construction for his or her tract of land, or proposes a substantial change in use. As used herein, residential district shall include the following districts: R-10, R-10M, R-13, R-20 and R-30.

(B) *Multifamily property adjoining single-family property.* Any person owning real property located in an R-10M district adjoining or contiguous to the boundary line of any single-family residential district, and who proposes to construct multifamily units in excess of 4, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the single-family residential district.

(C) *Property in B-20 or B-30 district adjoining B-10 district.* Any person owning real property located in a B-20 or B-30 district that adjoins or is contiguous to the boundary line of any B-10 district, and who proposes new construction for his or her tract of land, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the B-10 zone.

(D) *On main streets.* Any person owning real property that has been or is being subdivided for residential use, and which abuts W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road or N.C. Highway 58, and who proposes new construction for his or her tract, shall be required either to leave bordering the street or roadway, or to design, install and maintain, consistent with the requirements of § 156.024, a buffer strip of green or natural area along such street(s)/roadway(s) at least 20 feet wide, and consisting of shrubs not exceeding 3 feet in height, trees, grass and flowers. Branches of mature trees retained or established in the 20 foot buffer may be trimmed or limbed up to a maximum height of 10 feet, as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area.

(E) *Buildings, structures prohibited.* No building or structure of any kind shall be placed within a buffer area.

(F) *Sidewalks and hike-bike trails.* Sidewalks and hike-bike trails may be placed in the buffer area only when there is insufficient space in the street right-of-way to accommodate the sidewalks and hike-bike trails. The burden shall be on the property owner to demonstrate that there is insufficient space in the right-of-way to meet the requirements of this section. In such case, the owner of the property shall dedicate such portion of the buffer area as is used for sidewalks and hike-bike trails to public use for those purposes in such form as the town may require and shall record such dedication in the County Registry in a form acceptable to the town.

(G) *Types of screening.* The following standards shall be used to protect affected property. The highest elevation of any 2 properties at their common property line shall be used in determining the minimum height of a screening buffer. The degree of effectiveness for opacity shall be judged from the property being screened.

(1) *Planted (living) screen.* The minimum width of a planted screen shall be 10 feet. The minimum height of a planted screen shall be 4 feet at initial planting, and at least 10 feet within 3 years

thereafter. The minimum height of shrubbery in a planted screen shall be at least 3 feet at initial planting. A planted screen shall afford 100% visual opacity at maturity.

(2) *Combination screens (screens using opaque fencing and plants).* The minimum width of a combination screen shall be 15 feet. The planted portion of a combination screen shall be placed on the side of the fence opposite to the improvements on the lot shall be a minimum height of 3 feet at initial planting, and shall afford at least 50% opacity to a minimum height of 10 feet within 3 years after planting. The minimum height of the solid portion of the fence portion of such a screen shall be 8 feet.

(H) *Required amount of screening and buffering width.* The minimum acceptable screening and buffering width required to provide adequate protection to affected properties is variable with the individual site. The amount of screening and buffering width is based on the intensity of the uses allowed within each zoning district and the extent of development, as determined by the total amount of principal building floor space per lot. The minimum acceptable screening and buffering width shall be as follows:

<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<i>Zoning District</i>	<i>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</i>	<i>Minimum Acceptable Screening</i>	<i>Minimum Width</i>
R-10M and B-10	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000	Three-row screen	20 feet
B-20	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet

<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<i>Zoning District</i>	<i>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</i>	<i>Minimum Acceptable Screening</i>	<i>Minimum Width</i>
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)

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**Subdivisions**

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<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<i>Zoning District</i>	<i>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</i>	<i>Minimum Acceptable Screening</i>	<i>Minimum Width</i>
B-30	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet

<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<b>Zoning District</b>	<b>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</b>	<b>Minimum Acceptable Screening</b>	<b>Minimum Width</b>
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)
Public works, public utility facilities, and fire and rescue facilities		Two-row screen	15 feet

(I) *Maintenance.* All planted living screening material shall be maintained by the owner of the property on a continuing basis for the life of the property, or on a continuing basis for the life of the development. Nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. The buffers shall be kept free of litter and advertising.

(J) *Administration and enforcement.*

(1) Prior to the issuance of a building permit for any construction, renovation or alteration of any structure for which a screening buffer must be provided, a plan indicating the type, amount and location of screening buffer and any required landscaped open space, prepared in conformance with the provisions of this section, shall be submitted by the property owner to the Building Inspector.

(2) No certificate of occupancy for any construction or renovation shall be approved by the Building Inspector until the required screening buffer is completed in accordance with the approved plan.

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(3) The Board of Adjustment may modify or waive the requirements of this section, where it can be demonstrated by the property owner that the specific screening buffer and/or landscaped open space is

not needed for the protection of surrounding residential areas because of intervening streets, roadways, drainageways, or other factors such as natural or topographic features, or where there already exists on the same property natural growth of sufficient height and density to serve the same purpose as the required screening buffer.

(1997 Code, § 36-72) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2006-18, passed 10-30-2006; Am. Ord. 2009-11, passed 4-20-2009)

#### **§ 154.042 BUILDING SETBACK LINES.**

Building setback lines shall be in accordance with the district requirements as outlined in Chapter 156, the town's zoning code.

(1997 Code, § 36-73)

#### **§ 154.043 EASEMENTS.**

(A) Where alleys are not provided, easements that are not less than 10 feet wide shall be provided along each rear lot line and a 5-foot easement along side lot lines, where necessary for the use of public and private utilities.

(B) Where a subdivision is traversed by a watercourse, drainageway, channel, stream or subsurface drainage conditions, there shall be provided a 10-foot storm easement or drainage right-of-way conforming substantially with the lines of the watercourse, and further width or construction, or both, as will be adequate for drainage. Parallel streets or parkways may be required in condition therewith.

(1997 Code, § 36-74)

#### **§ 154.044 LOTS.**

(A) Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use and surrounding area.

(B) Every lot shall front or abut a public street.

(C) Residential lot sizes shall conform with the provisions of Chapter 156, the town's zoning code.

(D) Lots are not required for subdivision or commercial use but when provided shall be of appropriate size as set forth in Chapter 156, the town's zoning code, and shall provide arrangements for adequate off-street parking and loading facilities based on intended use.

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(E) Double-frontage and reverse-frontage lots shall not be created except where they are needed to provide for the separation of residential development from traffic arteries or to overcome the specific

disadvantages of topography and orientation. In no case shall a double-frontage lot be created by the combination or recombination of two or more previously platted lots.

(1997 Code, § 36-75) (Ord. 2009-09, passed 4-20-2009)

#### **§ 154.045 PUBLIC AREAS AND OPEN SPACES.**

(A) The town may require dedication of suitable land approved by the Planning Board within subdivisions prior to final plat approval. Land dedicated shall be for community service facilities and open space purposes such as schools, parks, playgrounds, recreation uses, fire, police and utility substations. The site dedicated shall be land capable of supporting the above-mentioned facilities; located in areas not subject to periodic floods, swamps and drainageways; and the terrain shall be appropriate for the intended use. With respect to parks, playgrounds and recreation areas, the site shall be of sufficient size and located to serve the immediate residents of the subdivision. Land dedicated to the town for community service facilities and open space shall become the responsibility of the town for maintaining the site or facility. When considering the recommendation that land be dedicated for community service facilities and open space, the Planning Board shall make its final determination based on the following criteria:

(1) When the dedication of land for the facilities is in accordance with Chapter 156, the town's zoning code, and any other officially adopted plan.

(2) When a subdivision plat of at least 4 lots in the total project is reviewed.

(3) When a subdivision development encroaches upon a scenic or historic site designated as such and in order to protect this feature for the use and enjoyment of all its citizens, it is necessary to reserve the surrounding land area. Regarding historic and scenic sites, the town shall have 9 months beginning on the date of final approval of the subdivision within which to acquire the site. If the town has not purchased the historic or scenic site area within 9 months, the subdivider may proceed to dispose of it in accordance with provisions of this chapter, if not in conflict with other regulations.





(4) If at any future date any person makes any recommendations to the town to designate or redesignate any area as a public recreation area, the town shall take the following actions prior to voting any approval or disapproval thereof or the expenditure of tax dollars on the proposed recommendation:

(a) Determine that the person making the recommendation is in fact a property owner of the property in question or is empowered to represent the property owner;

(b) Notify all the adjacent property owners of the proposal; and

(c) The Board of Commissioners shall hold a special meeting, after proper advertisement as required by this chapter or applicable state statute is provided, to hear the proponents as well as the affected adjacent property owners.

(B) The amount of land required to be dedicated by a subdivider shall be based on the most recent Bureau of the Census figures for an average family size in the town; a minimum park and recreation standard factor of 8 acres per 1,000 persons; a variable density factor; and the total number of dwelling units or lots. The following formula shall be used to determine the amount of land to be dedicated:

$$\begin{array}{l} \text{Total} \\ \text{number of} \\ \text{dwelling} \\ \text{units or lots} \\ \text{on final plat} \end{array} \times \begin{array}{l} \text{Average} \\ \text{family size} \\ (2000-2.51) \end{array} \times \begin{array}{l} 0.008 \text{ per} \\ \text{person} \end{array} \times \begin{array}{l} \text{Variable} \\ \text{Density} \\ \text{Factor} \end{array} = \begin{array}{l} \text{Land to be} \\ \text{dedicated} \end{array}$$

*Variable Density Factor Table*

<i>Acreage Average per Dwelling Unit or Lot</i>	<i>Variable Density Factor</i>
0.0-0.1	1.8
0.1-0.2	1.6
0.2-0.3	1.4
0.3-0.4	1.2
0.4-0.5	1.0
0.5-0.6	0.9
0.6-0.7	0.8

**Cape Carteret - Land Usage**

*Variable Density Factor Table*

<i>Acreage Average per Dwelling Unit or Lot</i>	<i>Variable Density Factor</i>
0.7–0.8	0.7
0.8–0.9	0.6
0.9–over	0.5

(C) Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots. For computation purposes, land dedicated or reserved for other purposes such as streets, alleys and other purposes other than residential shall not be used in determining average acreage. In no case shall a developer be required to dedicate more than 30% of the acreage of a development. Any subdivider of land less than 10 acres and more than 2 acres may be required to provide funds in lieu of land as required in division (D) below.

(D) A developer may provide funds to the town whereby the town may acquire recreation land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than 1 subdivision or development within the immediate area. This may be done in lieu of providing the land requirement if so approved by the Board of Commissioners. All funds received by the town pursuant to this division shall be used only for the acquisition or development of recreation, park or open space sites and/or other public facilities. The funds to be provided under this division (D) shall be based on the value of the land that would be dedicated as required in division (A) above. The value of the land shall be determined by the property tax calculation of the land. A combination or partial payment of funds and partial dedication of land may be allowed when the Board of Commissioners determines that this combination is in the best interests of the citizens of the area to be served.  
(1997 Code, § 36-76) (Am. Ord. 03-11-03, passed 11-17-2003)

**§ 154.046 PUBLIC ACCESS TO WATER.**

All subdivisions adjoining tidal water areas shall provide for access to the water to serve the residents of the neighborhood in which the subdivision is located or in the immediate area of the subdivision. The access shall include a 10 foot easement every 1,320 feet along the shoreline adjacent to the subdivision. The purpose of these facilities shall be approved by the town and shall be directly accessible to a state or town maintained street. Where a public boat dock or launching ramp is provided by the state, county or other public agency within or contiguous to the area to be subdivided, the facility may count toward meeting the requirements of this section. Dedicated streets which run to the mean high water line may also count toward meeting the requirements of this section. Provision of public access to water may count toward meeting requirements of § 154.045 if other conditions of § 154.045 are met.  
(1997 Code, § 36-77)

**§ 154.047 STREETS.**

(A) All streets in subdivisions shall be paved. The arrangement, character, extent, width, grade and location of all streets shall be designed in accordance with the provisions of this section.

(B) Wherever a subdivision abuts or contains an existing or proposed major street, the Planning Board may require reverse-frontage lots with screen planting contained in a non-access reservation along the rear property line, deep lots or other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(C) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(D) Each subdivision plan shall, where appropriate, allow for the creation of either public or private access roads, which roads shall be designed so as to allow utilization by adjoining properties. Where requested by the town, a subdivider shall provide with his or her subdivision plan a report of a qualified traffic engineer certifying that the design, as suggested by the subdivider, meets good traffic engineering standards.

(E) Street right-of-way and pavement widths shall be in accordance with the following:

(1) *Right-of-way width.*

- (a) Major streets and highways, 80 feet.
- (b) Collector streets, 60 feet.
- (c) Minor (residential) streets, 60 feet.
- (d) Marginal access streets, 60 feet.
- (e) Culs-de-sac, 60 feet.
- (f) Street right-of-way outside of any municipal limits, 60 feet.

(2) *Pavement width.*

(a) Where curbs and gutters are provided, the paving width back-to-back of curbs shall be not less than the following:

- 1. Major streets and highways, 45 feet.
- 2. Collector streets, 35 feet.

3. Minor (residential) streets, 28 feet.
4. Marginal access streets, 28 feet.
5. Culs-de-sac, 28 feet.

(b) Where curbs and gutters are not provided, the paving width shall not be less than the following:

1. Collector streets, 24 feet.
2. Minor (residential) streets, 20 feet.
3. Marginal access streets, 22 feet.
4. Culs-de-sac, 20 feet.

(3) *Grades and curves.*

(a) Unless necessitated by exceptional topography and subject to the approval of the Planning Board, the grades shall not be more than 10%, nor less than 0.5% on any street.

1. Grades approaching intersections shall not exceed 5% for a distance of not less than 100 feet from the centerline of the intersection.
2. Street grades shall be established wherever practicable in a manner as to avoid excessive grading or removal of ground cover and tree growth and general leveling of the topography.
3. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major and collector streets, and  $\frac{1}{2}$  this minimum for all other streets.

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

1. Major streets, 300 feet.
2. Collector streets, 200 feet.
3. Minor streets, 100 feet.

(c) A tangent at least 100 feet long shall be provided between reverse curves on all streets.

(4) *Intersections.*

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other streets at an angle of less than 60 degrees.

(b) Street jogs with centerline offsets of less than 125 feet shall be avoided.

(c) Intersections with a major street or highway shall be at least 750 feet apart.

(d) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Planning Board.

(e) Radius of pavement at an intersection shall be a minimum of 30 feet or of a greater radius when required by the Planning Board.

(5) *Culs-de-sac.* Permanent dead-end streets or culs-de-sac shall be no longer than 600 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 70 feet, and a street property line diameter of at least 100 feet.

(6) *Street names.* Street names for all subdivision plats shall be subject to approval of the Planning Board. New street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible.

(F) Unless specifically authorized by a variance duly issued by the Board of Commissioners, all streets and roads in any new subdivision shall be constructed according to the rules, regulations, standards and specifications of the North Carolina Department of Transportation or its successor agency (the Department) as those rules, regulations, standards and specifications presently exist or may hereafter be amended; provided, however, that if any provision of this code is more stringent than the rules, regulations, standards and specifications of the Department, then this code shall apply.

(1997 Code, § 36-78) (Am. Ord. 02-08-01, passed - -; Am. Ord., passed 5-9-2005)

**§ 154.048 CONNECTION TO POTABLE WATER SUPPLY.**

(A) Connection to available potable water supply shall be provided by the subdivider, for use by residents, in the interest of public safety.

(B) Connection to water supply main line shall be a minimum of 6-inch pipe, except where locations will not permit, to allow for the installation of fire hydrants.

(1) Hydrants shall be placed at a distance of 500 feet to 1000 feet apart; starting at the connection to the main water supply pipe and running the length of the subdivision supply pipe(s).

(2) A fire hydrant shall be no more than 500 feet in distance from any property line.

(3) The use of fire hydrants is prohibited except for the purpose of fire emergencies or fire fighter training.

(Ord. 99-04-02, passed 4-19-1999)

#### § 154.049 SIDEWALKS AND HIKE-BIKE TRAILS.

(A) *Installation.* As applicable, within the Town of Cape Carteret, sidewalks and hike-bike trails shall be installed in all subdivisions and on all commercial sites being developed, redeveloped or otherwise improved, upon which the Board of Commissioners has not taken final action as of the date of passage of this amendment.

(B) *Main streets.*

(1) If the property being developed, redeveloped or improved fronts on the southerly side of W.B. McLean Drive (N.C. Highway 24) then the developer shall install sidewalks 5 feet wide. Where topography permits, such sidewalks shall run parallel with the adjacent street, 1 foot inside the right-of-way line on the public right-of-way.

(2) If the property being developed, redeveloped, or improved fronts on the westerly side of Taylor Notion Road, then the developer shall install a hike-bike trail at least 10 feet wide. Where topography permits, such hike-bike trail shall run parallel with the adjacent street, 1 foot inside the right-of-way line on the public right-of-way.

(3) If the property being developed, redeveloped or improved fronts on the northerly side of W.B. McLean Drive (N.C. Highway 24), then the developer shall install a hike-bike trail 10 feet wide.

(C) *Other streets.*

(1) On all streets located within the triangle formed by W.B. McLean Drive, Taylor Notion Road and Highway 58, except as set forth in § 154.049(B)(1) through (3), the developer shall install sidewalks 5 feet wide on both sides of minor and connector streets throughout the development, and along any streets(s) bordering the property being developed.

(2) On all other streets in all subdivisions of 10 or more lots the developer shall be required to install 5 foot sidewalks on all minor and connecting streets.

(D) *Construction standards and regulations.*

(1) Sidewalk and hike-bike trail construction shall conform to current Department of Transportation (DOT) Standards and Specifications.

(2) The developer shall comply with all applicable federal, state and local environmental and construction regulations, and shall obtain all necessary permits; provided, however, that the Board of Commissioners' approval of the final plat or final commercial site plan shall be deemed to be in compliance with the permit requirements of § 96.31 of this code.  
(Ord. 154.049, passed 8-21-2006; Am. Ord. 2008-03, passed 8-18-2008)





***PREPARATION AND APPROVAL PROCEDURE*****§ 154.060 CONFORMANCE WITH REGULATIONS.**

The subdivider shall follow the procedure set forth in this chapter for securing approval of subdivision plats.

(1997 Code, § 36-106)

**§ 154.061 SKETCH PLAT.**

(A) Before an application for approval of the preliminary plat is filed, the subdivider must submit to the Planning Board, at a regular meeting, a sketch design plan of the proposed subdivision.

(B) The sketch plat shall show existing and tentative street layout, other rights-of-way and easements, lot arrangements, existing structures, watercourses, sites dedicated or proposed to be dedicated for parks, schools, churches, hike-bike trails, sidewalks, or other public and semipublic uses. The sketch plat shall also include the proposed name and location of the subdivision and the name and address of the owner and the subdivider. The sketch plat shall contain all information required pursuant to § 156.026.

(C) Data shall be given regarding acreage in total tract, minimum lot size, average lot size, maximum lot size and acreage left in open space or other uses.

(D) A sketch plat showing the relationship between the subdivision and the surrounding area shall be submitted.

(E) At this meeting the subdivider shall discuss his or her ideas and concepts regarding the proposed subdivision. The Planning Board will make suggestions on layout to the subdivider.

(F) Certification of approval by those public officials and agencies which are concerned with new development must accompany the preliminary plat. These shall include but not be limited to the County Board of Health, the Carteret-Craven Electric Membership Corporation, the State Department of Environment, Health and Natural Resources and the Corps of Engineers, if necessary.

(1997 Code, § 36-107) (Am. Ord. 2006-12, passed 8-21-2006; Am. Ord. 2006-13, passed 8-21-2006)

**§ 154.062 RUNOFF PREVENTION POLICY.**

(A) It shall be the policy of the town to limit the runoff from any developed property to the amount of runoff that would naturally occur prior to the development of the property to the extent practicable.

Prior to issuing a permit for any construction or land clearing, the appropriate Permit Officer shall examine the plans to determine whether or not the plans will likely result in stormwater, heat pump, sump pump or other induced runoff in an amount that may negatively impact adjoining properties, streets or rights-of-way or the water quality of receiving waters. If the Permit Officer determines there is reasonable likelihood to believe an adverse impact may occur, the Permit Officer shall require of the permit applicant a written report from a qualified engineer selected and employed by the applicant describing the increase in runoff attributable to the proposed activity and any potential short-term or long-term problems to adjoining properties, streets or rights-of-way or water bodies that might result from the activity. The engineering report shall further list alternatives for the disposition of stormwater to minimize impacts.

(B) Following receipt of the report, a permit for the requested activity shall only be issued if, upon the reasonable opinion of the Permit Officer, the following criteria are met:

(1) The proposed activity or use has been designed in such a way as to minimize any potential adverse impact from runoff; and

(2) To deny the permit would deny the owner of the property unreasonably a right of utilization of the property for uses otherwise allowed under applicable ordinances of the town.  
(1997 Code, § 36-108)

#### **§ 154.063 PRELIMINARY PLAT APPROVAL; DUTIES OF SUBDIVIDER.**

The subdivider shall prepare a preliminary plat for submission to the Planning Board. Five copies of the proposed subdivision plat and any required supplemental material shall be submitted to the Planning Board not less than 15 days prior to the regular Planning Board meeting at which the plat is to be considered. The preliminary plat shall be prepared by a registered surveyor, engineer or landscape architect.  
(1997 Code, § 36-109)

#### **§ 154.064 PRELIMINARY PLAT INFORMATION.**

(A) The preliminary plat shall contain the location of existing and platted property lines, streets, buildings, watercourses, railroads, transmission lines, sewers, bridges, culverts and drainpipes, water mains, city and county lines (if adjoining) and any public utility easements. The plat shall be at a scale of 100 feet to 1 inch or larger and will be drawn on sheet sizes not larger than 21 inches by 30 inches outside measurement nor less than 8½ inches by 11 inches, leaving a 1½-inch left margin for binding and 1/2-inch margins on the other 3 sides. Printed matter shall be 8½ inches by 11 inches with the same margin requirements. All material shall be reproducible.

(B) It shall show the following information:

- (1) Boundaries of tracts shown with bearings, distances and closures;
- (2) Marsh, swamp, floodplain, topography at 5-foot intervals and any other physical conditions affecting the site;
- (3) Existing zoning classification both on the land to be subdivided and on adjacent land;
- (4) Names of adjacent property owners or subdivisions;
- (5) Proposed streets, street names, right-of-way, pavement widths and approximate grades;
- (6) Locations of proposed utility lines (storm and sanitary sewers, water, gas, electricity and telephone) showing connections to existing supply and disposal systems or planned supply and disposal systems where applicable;
- (7) The location, widths and purposes of other proposed right-of-way or easements, including without limitation sidewalks and hike-bike trails;
- (8) Proposed areas for parks, school sites or public open spaces, if any;
- (9) Proposed lot lines, lot and block numbers and lot dimensions;
- (10) Proposed minimum building setback lines;
- (11) Title, date, true north arrows and graphic scale;
- (12) Name of owner and surveyor, engineer or land planner;
- (13) Data shall be given regarding acreage in total tract to be subdivided or developed, acreage in park or other public usage (other than streets or easements), minimum lot size, maximum lot size, average lot size, total number of lots, lineal feet in streets, and lineal feet in other easements;
- (14) A sketch vicinity map showing the relationship between the subdivision and the surrounding area shall also be submitted;
- (15) Boundaries of areas of environmental concern as described in state guidelines for areas of environmental concern; and
- (16) Verification that the plat has been submitted to the public officials and agencies concerned with new development. These might include the County Environmental Health Department, the

Carteret-Craven Electric Membership Corporation, the State Department of Environment, Health and Natural Resources, and the Corps of Engineers.

(1997 Code, § 36-110) (Am. Ord. 2006-13, passed 8-21-2006)

#### **§ 154.065 REVIEW OF PRELIMINARY PLAT BY PLANNING BOARD.**

The Planning Board shall review each preliminary plat within 45 days of the date of the regular meeting at which it was submitted. The Planning Board and/or Board of Commissioners may impose conditions regarding density, layout, circulation and performance of the proposed development and may require that appropriate deed restrictions be filed.

(1997 Code, § 36-111)

#### **§ 154.066 PRELIMINARY PLAT APPROVAL; DUTIES OF PLANNING BOARD.**

(A) The Planning Board shall approve, conditionally approve, disapprove the preliminary plat, or defer action for a period not to exceed 60 days. Failure on the part of the Planning Board to act within 60 days after the preliminary plat is submitted shall be deemed approval.

(B) If approval is granted, the Planning Board shall transmit the preliminary plat to the Board of Commissioners for review and action.

(C) If conditionally approved, the conditions and reasons thereof shall be noted in the minutes, and a revised plat may be required of the subdivider.

(D) If the preliminary plat is conditionally approved and a revised plat is not required, the Planning Board shall transmit the preliminary plat with conditions attached to the Board of Commissioners for review and action.

(E) If the preliminary plat is disapproved, the reasons for the action shall be noted in the minutes and recommendations made on the basis of which the proposed subdivision may be approved. A request for reconsideration may be made by the subdivider.

(1997 Code, § 36-112)

#### **§ 154.067 APPROVAL OF PRELIMINARY PLAT BY BOARD OF COMMISSIONERS.**

(A) *Time restraints.* The Board of Commissioners shall approve or disapprove the preliminary plat within 60 days.

(B) *Construction authorized; extension of approval.*

(1) Approval of the plat constitutes the authorization to proceed with the construction of the required improvements.

(2) Preliminary plat approval shall expire 18 months following the granting of preliminary approval unless final approval has been given in accordance with § 154.70. The preliminary plat may be extended upon request of the owner for successive 12 month periods by the Board of Commissioners, without the necessity of Planning Board recommendation or public hearing, under the following circumstances:

(a) Substantial progress is being made towards completion of improvements;

(b) The development is proceeding substantially according to a development timetable or schedule which was submitted at time of submission of the preliminary plan (such as a development to be completed in phases); or

(c) Facts and circumstances exist which indicate that the delays in construction are reasonable.

(3) It is the intent of the subdivision process to grant preliminary approval only to those developments which are intended for construction in the short term; the Board of Commissioners shall consider this intent in granting extensions.

(C) *Reasons for disapproval.* The disapproval of the plat shall be accompanied by the stated reasons for the action and recommendations made on the basis of which the proposed plat could be approved.

(D) *Expiration of approval.* Preliminary plats which have been approved more than 18 months prior to the effective date of the ordinance from which this chapter derives shall be deemed expired April 1, 1993, unless by the date the improvements have been installed, or substantial progress towards completion of improvements is underway. The Board of Commissioners may extend approval on the same basis as set out in division (B) above.

(1997 Code § 36-113)

**§ 154.068 FINAL PLAT.**

The final plat will show or be accompanied by the following information:

(A) The lines of all streets and roads and street names, and the location and dimensions of all sidewalks and all hike-bike trails installed pursuant to § 154.049;

(B) Lot lines, lot numbers and lot sizes;

(C) Minimum building setback lines;

(D) Reservations, easements, alleys and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations;

(E) Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including true north point, and graphic scale. This should include the radius, center angle, and tangent distance for the centerline of curved streets and curved streets and curved property lines that are not the boundary of curved streets;

(F) All dimensions should be to the nearest tenth of a foot and angles to the nearest minute;

(G) Accurate location and description of all monuments and markers;

(H) The proposed utility systems where applicable:

(1) Water;

(2) Gas;

(3) Sewers;

(4) Storm drainage;

(5) Electric lines; and

(6) Telephone lines.

(I) The names and locations of adjoining subdivisions, and streets, and the location and ownership of adjoining unsubdivided property;

(J) Title, date, name and location of subdivision;

(K) Name of owner, registered surveyor or registered engineer;

(L) Sketch vicinity map showing relationship between subdivision and surrounding area;

(M) Reference to any separate instruments filed in the register of deeds office that directly affect the land being subdivided;

(N) The following notarized certificates on each copy of the final plat:

(1) Certificate of approval by the Planning Board.

I, \_\_\_\_\_, Chairman of the Cape Carteret Planning Board, do hereby certify that the Board fully approved the final plat of the subdivision entitled \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Chairman

(2) Certificate of ownership and dedication.

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines and dedicate all streets, alleys, walks, parks, and other sites to public or private use as noted. Further, I (we) certify the land as shown hereon is within the planning jurisdiction of the Town of Cape Carteret, North Carolina.

\_\_\_\_\_  
Date      \_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

(3) Letter from District Health Officer indicating suitability of the land to support.

(4) Certification of approval of the installation and construction of streets, utilities and other required improvements.

I do hereby certify (i) that streets, utilities and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the subdivision entitled \_\_\_\_\_; OR (ii) that a written guarantee of the installations of the required streets, utilities and other required improvements secured by bond or in such other manner as has been approved by the Board of Commissioners of the Town of Cape Carteret in the amount of \$ \_\_\_\_\_ has been received.

\_\_\_\_\_  
Date      \_\_\_\_\_  
Mayor



Cape Carteret - Land Usage

Code Enforcement Officer\*

\* (Or such other officer as the Board of Commissioners may from time to time designate. If some other officer, then his or her title follows:

\_\_\_\_\_.

(5) Certificate of approval by the Town Council.

I, \_\_\_\_\_, Mayor of the Town of Cape Carteret, do hereby certify that the Town Board of the Town of Cape Carteret fully approved the final plat of the subdivision entitled \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Mayor

(6) Certificate of accuracy.

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made under my supervision) (deed description recorded in book \_\_\_\_\_, page \_\_\_\_\_, book \_\_\_\_\_, page \_\_\_\_\_, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in book \_\_\_\_\_, page \_\_\_\_\_; that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Registered Surveyor or Engineer

(O) Boundaries of areas of environmental concern as described in state guidelines for areas of environmental concern.

(P) Location of marshes and swamps; floodplain information containing flood zone, community number, panel number, and date of Flood Insurance Rate Map (FIRM). (1997 Code, § 36-114) (Am. Ord. 12-16-2002, passed 12-16-2002; Am. Ord. passed 5-9-2005; Am. Ord. 2006-13, passed 8-21-2006)

**§ 154.069 PLANNING BOARD ACTION ON FINAL PLAT.**

(A) The final plat shall be reviewed by the Planning Board with the advice and assistance, if necessary, of those public officials and agencies that are concerned with new development, including the County Environmental Health Department, Carteret-Craven Electric Membership Corporation, Building Inspector, District Engineer, State Department of Transportation, County Board of Education, the State Department of Environment, Health and Natural Resources, the Department of Housing and Urban Development under Interstate Land Sales Act Provisions, being U.S.C. §§ 1701 *et seq.*, and the Corps of Engineers. The Planning Board may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the cost to the subdivider if the plat is found to be seriously in error.

(B) If the final plat is in compliance with this chapter and the Planning Board approves the changes made from the approved preliminary plat, the secretary of the Planning Board shall transmit the final plat together with the Planning Board's recommendations to the Board of Commissioners for final action.

(C) If the final plat is not in compliance with this chapter, or the Planning Board does not approve the changes from the approved preliminary plat, the subdivider shall be given an opportunity to submit a revised final plat. If a revised final plat is not submitted, the secretary of the Planning Board shall transmit the final plat together with the Planning Board's recommendations to the Board of Commissioners for final action. The recommendations shall specify how the final plat is not in compliance with this chapter and any unapproved changes from the approved preliminary plat.

(D) The Planning Board shall review and take final action on each final plat within 45 days of the date of the regular meeting at which it was submitted.

(1997 Code, § 36-115)

**§ 154.070 ACTION BY BOARD OF COMMISSIONERS ON FINAL PLAT.**

(A) The final plat and the recommendations of the Planning Board shall be reviewed by the Board of Commissioners. The Board of Commissioners shall approve or disapprove the final plat.

(B) Approval of the final plat is authorization for the subdivider to file the plat with the register of deeds within 60 days.



(C) If the Board of Commissioners should disapprove the final plat, the reasons for the action shall be noted and recommendations made on the basis of which the proposed subdivision would be approved.

(D) The action of the Board of Commissioners shall be noted on 3 copies of the final plat. Two copies shall be returned to the subdivider; 1 of these (on pages no larger than 21 inches by 30 inches outside measurement nor less than 8½ inches by 11 inches, leaving 1½-inch left margin for binding and ½ margins on the other 3 sides) to go to the register of deeds, to be filed within 30 days, and the other retained for the permanent files of the Planning Board.

(E) No final plat shall be approved until all required improvements are installed, the inspection fee has been paid, and the certificates required by this chapter to appear on the final plat have been properly filled out, signed and notarized.

(1997 Code, § 36-116)

**§ 154.071 FINAL PLAT EXAMINATION AND APPROVAL FEES.**

(A) Rezone and subdivision plats must be accompanied by a filing fee of \$150.

(B) Special use permits must be accompanied by a filing fee of \$200.

(1997 Code, § 36-117) (Am. Ord. passed 7-21-2003)

**§ 154.072 RESUBDIVISION PROCEDURES.**

(A) If no lots in an approved subdivision have been sold, the land can be resubdivided by following the same procedure, rules and regulations as prescribed herein for an original subdivision. If lots have been sold, the land may be resubdivided provided that:

(1) No lot or tract of land shall be created or sold that is smaller than the minimum size shown on the approved plan;

(2) Drainage easements and rights-of-way shall not be changed;

(3) Street alignment and block sizes shall not be changed; and

(4) The character of the area shall be maintained.

(B) If in the opinion of the Planning Board any variance from the approved plan offers a substantial improvement over the approved plan and will not be detrimental in any way to the previous lot purchasers in the subdivision, the Planning Board may waive the stipulations set out in division (A) above.

(1997 Code, § 36-118)

***IMPROVEMENTS*****§ 154.085 CONFORMANCE WITH SPECIFICATIONS.**

Final plats for all subdivisions shall not be approved until all required improvements have been installed or the subdivider has guaranteed to the satisfaction of the Board of Commissioners that the improvements will be installed as provided in § 154.086. All improvements shall be made in conformity with the requirements and standards set forth in this chapter and other specifications and policies of the town. All improvements shall be inspected and approved by the Town Engineer and/or Building Inspector as conforming to the requirements of the town. All improvement specifications of the town are on file in the office of the Town Clerk.

(1997 Code, § 36-146)

**§ 154.086 GUARANTEE OF IMPROVEMENTS.**

Where the required improvements have not been completed prior to the submission of the plat for final approval, the approval of the plat shall be subject to the subdivider's guaranteeing the installation of the improvements in 1 of the following methods:

(A) Cash or certified check (escrow: Town Clerk);

(B) Performance or surety bond executed by a company duly licensed to do business in the state;

(C) Savings account with any properly insured financial institution (escrow: Town Clerk); or

(D) Letter of credit or line of credit from a lending institution (bank, savings and loan) that specifies a limit of credit that will be extended to a developer upon request. This amount may not be used for purposes other than the improvements specified for the subdivision being approved. The lending institution shall agree to provide assurance to the Board of Commissioners that a notice of advances on the specified line of credit will be forwarded by the lending institution to the office of the Mayor.

(1997 Code, § 36-147)

**§ 154.087 SPECIFIC IMPROVEMENTS.**

(A) *Curb and gutter, street paving.* The subdivider shall be responsible for the cost and installation of the road foundation and paving of all streets on the approved final plat in accordance with specifications of the town.

(B) *Grading.* The subdivider of any subdivision designed to be used for residential, commercial or other purposes shall clear and grade proposed streets to their full right-of-way width so as to provide adequate shoulders and pedestrian walkways.

(C) *Markers.* All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, all angle points and points of curve in each street shall be marked with an iron pipe not less than 3/4 inch in diameter and 30 inches long, driven so as to be 2 inches above the finished grade.

(D) *Monuments.* Permanent concrete monuments 4 inches in diameter or square, 3 feet long, shall be placed at not less than 2 corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal top, or metal plate to identify properly the location of the point. All monuments shall be shown on the final plat.

(E) *Property corner tie.* At least 1 corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coastal and Geodetic Station or state grid system coordinated monument, then this corner shall be accurately tied to this station or monument by computed X and Y coordinates which shall appear on the map with a statement identifying this station or monument or to an accuracy of 1:15,000. When a monument or station is not available, the tie shall be a landmark or identifiable point, physical object or structure.

(F) *Street name markers.* Street name markers shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the town. The placement and construction of the signs shall conform to specifications of the town.

(G) *Surface water drainage.* Where a storm drainage system is not accessible, before a subdivision is approved and accepted by the town, the subdivider shall do all grading and provide all drainage structures necessary to properly carry the water to locations which are acceptable to the town.

(H) *Utilities; electric, telephone.* All electric, telephone and telegraph utilities' layout plans shall appear on the preliminary and final plats as utility easements. Location of utility easements shall be approved by the Planning Board at the time of final plat approval. In addition, all developers are encouraged to install utility service lines underground where feasible for the protection and safety of the subdivision residents.

(1997 Code, § 36-148)

**§ 154.999 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$25 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.  
(1997 Code, § 36-8) (Am. Ord. 00-12-10, passed 12-18-2000)

## CHAPTER 155: WATERWAYS

### Section

#### *Boat Docks and Boat Ramps*

- 155.01 Purpose
- 155.02 Definitions
- 155.03 Permits and fees
- 155.04 Permitted boat docks and boat ramps and limitations thereon
- 155.05 Permitted zoning districts
- 155.06 Nonconforming development

#### *Boats*

- 155.20 Purpose
  - 155.21 Definitions
  - 155.22 Anchoring
  - 155.23 Speed
  - 155.24 Discharging and dumping
  - 155.25 Living aboard
  - 155.26 Investigation
  - 155.27 Notice of violation
  - 155.28 Owner may request hearing
  - 155.29 Abatement by town
  - 155.30 Appeal to Town Board
  - 155.31 Cost of removal by owner; lien
- 
- 155.99 Penalty



***BOAT DOCKS AND BOAT RAMPS*****§ 155.01 PURPOSE.**

(A) The purpose of this subchapter is to provide increased opportunities for access to the waters of Bogue Sound for recreational purposes. This chapter provides regulations for permitting by strictly limited marinas, boat docks and boat ramps in designated zoning districts.

(B) Most waterfront properties within the town are within residential zoning districts. As a result, while increasing opportunities for Bogue Sound access, the town is strictly limiting marina and related facilities so as to minimize the burden on surrounding residential areas in terms of increased traffic, noise, pollution and aesthetics.

(C) Further, it is the goal of the town to preserve the water quality of Bogue Sound and its adjacent waters.

(1997 Code, § 42-31) (Ord. 2008-02, passed 4-21-2008)

**§ 155.02 DEFINITIONS.**

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***BOAT DOCK.*** A group of piers, docks, pilings and other structures providing for the docking or mooring of 1 to 10 small boats that is designed to serve more than 1 residential lot, or the use of which is in exchange for value.

***BOATDOCK, INDIVIDUAL.*** A docking and/or ramp facility consisting of not more than 4 boat slips to serve an individual residential lot in accordance with the standards of 15 N.C.A.C. 7H, the use of which is not in exchange for value.

***BOAT RAMP.*** A facility, usually consisting of an inclined ramp from the shoreline extending into the water, used for launching boats from boat trailers into a body of water and subsequent recovering of boats for land transportation on boat trailers. ***BOAT RAMP*** includes piers, docks and pilings used in connection with the launching and retrieving of boats and the land, facilities and services required by this chapter to be adjacent thereto. Docking or mooring facilities for any activity other than the temporary control of a boat during launching or recovery are not a part of a ***BOAT RAMP*** and are not permitted except in connection with a boat dock or marina as set forth in this chapter.

***BOATSLIP.*** A structure or combination of structures, including piers, docks, finger piers, pilings and other mooring devices designed for the docking or mooring of 1 small boat. Each 20 feet of

bulkhead, pier, dock, or other structure to which a boat can be moored alongside shall be included in the definition of *BOAT SLIP*.

**MARINA.** Piers, docks, boat slips, pilings, seawalls, bulkheads, and other structures providing for the docking or mooring of more than 10 but no more than 25 small boats and the land, facilities and services required by this chapter to be adjacent thereto.

**MARINA PERMIT.** A zoning permit issued by the town for the construction of a marina.

**SMALL BOAT.** A boat or other watercraft not exceeding 25 feet in overall length.

**WATER FACILITY PERMIT.** A zoning permit issued by the town official charged with administering the Waterways Ordinance (this subchapter) for the construction of a boat dock or boat ramp. (1997 Code, § 42-32) (Ord. 2008-02, passed 4-21-2008)

### § 155.03 PERMITS AND FEES.

(A) No boat dock or boat ramp shall be erected or operated except in zoning districts where they are permitted uses and then in strict compliance with this subchapter upon the issuance of a water facility permit and a building permit.

(B) The owner of a boat dock or boat ramp shall apply for a water facility permit. The application shall be filed with the town official charged with administering this subchapter.

(C) Each application for a water facility permit shall be accompanied with the following:

(1) Plans drawn to scale that shall indicate the proposed site of the boat dock or boat ramp by identifying the owner by name, address and telephone number, and if applicable, the lessee by name, address and telephone number;

(2) Plans drawn to scale that shall show the location of the boat dock or boat ramp in relation to property lines, zoning district boundaries, right-of-way lines, utility and drainage easements and lines and all structures, including houses, piers, docks, pilings, bulkheads, seawall, and the like, within 50 feet of the proposed boat dock or boat ramp;

(3) A certification under oath that no other marina, boat dock or boat ramp is located within 500 feet of the proposed marina, boat dock or boat ramp;

(4) Plans drawn to scale that shall show the location of all improvements the applicant wishes to construct, including docks, piers, seawalls, bulkheads, pilings, boat slips, ramps, parking areas and

landscaping, the elevations of all structures the applicant seeks to construct, a description of the construction materials for the proposed improvements, and a copy of a valid CAMA permit for the proposed construction.

(D) The applicant for a water facility permit shall pay to the town an application fee as shown in the town's approved fee schedule in addition to the customary charges for building and other permits.

(E) Individual boat docks are not required to obtain a water facility permit; however, a residential zoning permit and a building permit must be obtained in addition to a CAMA permit prior to the start of any construction.

(1997 Code, § 42-33) (Ord. 2008-02, passed 4-21-2008)

#### **§ 155.04 PERMITTED BOAT DOCKS AND BOAT RAMPS AND LIMITATIONS THEREON.**

(A) *Generally.* Boat docks and boat ramps described in this section are permitted within the town in the zoning districts where they are permitted uses. The provisions of this section are applicable to boat docks and boat ramps as specified.

(B) *Limit on docking facilities.* Boat docks shall provide docking or mooring space for a maximum of 10 small boats. Boat ramps shall not provide for the docking or mooring of any boat or watercraft, except for the temporary use necessary for the loading/unloading of boats.

(C) *Land requirement for boat docks.* For each boat slip, and for each 20 lineal feet of dock, pier, seawall or bulkhead not divided into boat slips, but capable of mooring a boat, each boat dock shall contain at least 2,000 square feet of contiguous land.

(D) *Land requirement for boat ramps.* Each boat ramp shall contain a minimum of 10,000 square feet of contiguous land plus additional square footage as is necessary to satisfy the setback and buffer requirements of this subchapter.

(E) *Maximum length of boats.* Boat slips and mooring facilities will be designed and constructed so that the maximum length of a boat docking at the facility will be 25 feet. No boats exceeding 25 feet will be permitted to dock or moor at a marina, boat dock or boat ramp within the town unless larger boats are approved by the town for a specific docking facility. If the town official charged with administering this subchapter determines that a docking facility contains slips large enough to accommodate larger boats, then the maximum boat size permitted will be specified in writing for the slip. This event constitutes "town approval." In the event that a boat is found to be too large for a permitted boat slip, then "town approval" may be revoked.

(F) *Sanitary facilities.* No shower or bath facilities will be permitted in connection with a boat dock. Covered containers for garbage, trash and refuse will be provided at convenient locations, and regular pickup and disposal of garbage, trash and refuse will be provided by the boat dock owner.

(G) *Utilities on docking and mooring facilities.* Each boat slip at a boat dock may be provided one 120-volt electrical outlet. Each boat dock may provide an area and 1 fresh water faucet for purposes of washing down boats moored at the facility and each boat ramp, including a boat ramp incorporated in a boat dock, for purposes of washing down boats using the facility. No other utilities, including but not being limited to sewage lines and services, water lines, electric lines, telephone lines and gas lines, are permitted on the docking facilities.

(H) *Fuel prohibition.* No fueling facilities, including storage tanks or lines, either permanent or temporary, shall be located within 500 feet of navigable water. Transfer of fuels from tank trucks or vehicles to boats is prohibited.

(I) *Commercial activity prohibited.* Activities that are commercial in nature are not permitted in connection with any boat dock or boat ramp. However, the renting or leasing of boat slips and the collection of fees for the launching or recovering of boats is permitted.

(J) *Dry storage prohibited.* No facilities for storing boats or other watercraft out of the water shall be permitted, and no boat or other watercraft may be kept out of the water at any boat dock or boat ramp for more than 1 hour.

(K) *Residential prohibition.* No person shall be allowed to reside on any boat docked within the zoning jurisdiction of the town. As used in this chapter, reside means to inhabit a boat for more than 72 hours within a 2 week period.

(L) *Parking.* For each boat dock, a minimum of 1 parking space on the land contiguous to the docking facilities shall be provided for each boat slip.

(M) *Setbacks.* Piers, docks, boat slips, pilings, boat ramps, parking areas, and any other structure or improvement in connection with a boat dock or boat ramp (except seawalls or bulkheads and fences required by this chapter) shall be set back at least 50 feet from adjoining residential properties as measured along with water line. The setback of these boat dock or boat ramp facilities and improvements from other property lines, such as streets and parks, shall be 20 feet. Setbacks can be reduced to zero feet when there is common ownership with the adjoining owners in the boat dock or boat ramp.

(N) *Buffer.* The land appurtenant to each boat dock or boat ramp shall be buffered along any common border with residential properties a minimum of 10 feet of vegetation and the height of screening within the buffer shall not exceed 4 feet.

(O) *Lighting limitation.* Area lights, including streetlights and floodlights, shall be directed or focused away from residential areas and shall not constitute a nuisance to adjoining residential areas.

(P) *Limit on floating homes.* No houseboat or floating home shall be moored at any boat dock for more than 72 hours.

(1997 Code, § 42-34) (Ord. 2008-02, passed 4-21-2008; Am. Ord. 2010-01, passed 2-8-2010)

#### **§ 155.05 PERMITTED ZONING DISTRICTS.**

Boat docks or boat ramps are permitted uses in zoning districts R-10, R-10M, R-13, R-20, and R-30 subject to all of the requirements of this chapter.

(1997 Code, § 42-36) (Ord. 2008-02, passed 4-21-08; Ord. 2009-11, passed 4-20-2009)

#### **§ 155.06 NONCONFORMING DEVELOPMENT.**

Boat docks and boat ramps that were permitted prior to the adoption of this subchapter may be repaired or rebuilt only to the extent that they were damaged or removed. Any development greater than what was originally permitted requires the entire site to be brought to current standards.

(Ord. 2008-02, passed 4-21-2008)

***BOATS*****§ 155.20 PURPOSE.**

The purpose of this subchapter is to regulate the activities of boats or other watercraft in the navigable waterways of Bogue Sound. Furthermore, it is the goal of the town to preserve the water quality of Bogue Sound in ensuring access to those navigable waterways.

(Ord. 00-08-05, passed --)

**§ 155.21 DEFINITIONS.**

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***BOAT.*** A boat or other watercraft, whether powered by engine or wind.

***NAVIGABLE WATERWAY.*** Any body of water, channel or boat basin located within the corporate limits of the town which may be utilized by boat traffic.

(Ord. 00-08-05, passed --)

**§ 155.22 ANCHORING.**

No boat, watercraft, or other vessel, other than those engaged in waterway maintenance or repair, shall be permitted to remain at anchor in any navigable waterway for any period of time in excess of 8 hours, or be secured to any bridge piling, directional sign, and the like, except in emergency situations, or as safety dictates under adverse weather conditions.

(Ord. 00-08-05, passed --) Penalty, see § 155.99

**§ 155.23 SPEED.**

Boats shall be operated in a safe manner at all times, with due regard for the safety of persons and property.

(Ord. 00-08-05, passed --) Penalty, see § 155.99

**§ 155.24 DISCHARGING AND DUMPING.**

No solid, vegetable, or organic material of any kind, including material discharged from a boat head and including water used for laundering purposes or chemically polluted water, shall be deposited, discharged, or dumped in any waters of the town, except for the remains of fish or shellfish, but not to include the shells.

(Ord. 00-08-05, passed --) Penalty, see § 155.99

**§ 155.25 LIVING ABOARD.**

It shall be unlawful for any person or persons to live aboard any boat, watercraft, or other floating structure in any navigable waterway, public trust area, or estuarine waters within the town.

(Ord. 00-08-05, passed --) Penalty, see § 155.99

**§ 155.26 INVESTIGATION.**

The Chief of Police, upon notice from any person or upon the Police Chief's own investigation, shall determine whether, in fact a violation of §§ 155.22 through 155.25 has occurred or is occurring.

(Ord. 00-08-05, passed --)

**§ 155.27 NOTICE OF VIOLATION.**

Upon a determination that a violation has occurred or is occurring, the Chief of Police shall notify, by certified mail, the owner, occupant or person in possession of the boat in question, of the nature of the violation and shall order the prompt abatement thereof within 10 days from the receipt of written notice.

(Ord. 00-08-05, passed --)

**§ 155.28 OWNER MAY REQUEST HEARING.**

(A) Within 7 days from receipt of the notice provided for in § 155.27, the owner, occupant or person in possession of the boat may request a hearing before the Chief of Police. The Chief of Police, upon receipt of the hearing request, shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order.

(B) Upon completion of the hearing, the Chief of Police shall:

- (1) Affirm the original order of abatement;
- (2) Modify the original abatement order; or

(3) Revoke the initial abatement order.

(Ord. 00-08-05, passed --)

### **§ 155.29 ABATEMENT BY TOWN.**

(A) Upon the occurrence of either of the following conditions, the Chief of Police shall cause the condition to be removed or otherwise remedied by having employees or agents of the town remove the boat under the Police Chief's supervision:

(1) A hearing is requested and held under § 155.28, resulting in either an affirmation of the original order of abatement or modification of the order, and either the order is not complied with;

(2) Having considered an appeal from the order of the Chief of Police, the Town Board of Commissioners, pursuant to § 155.30 has affirmed the original order, or modified the same, but the abatement order has not been complied with; or

(3) No hearing has been requested or, the owner, occupant or person in possession of the boat having requested the hearing fails to attend, and the person having been ordered to abate a violation fails, neglects, or refuses to abate or remove the violation within 10 days from the receipt of the order.

(B) Any person who has been finally ordered to abate a violation may, within the time allowed by this section, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request. However, the town is not obligated to remove the condition, even if requested by the person subject to the abatement order, and the person requesting removal of the condition by the town is not relieved of his or her obligation to act by requesting town action.

(Ord. 00-08-05, passed --)

### **§ 155.30 APPEAL TO TOWN BOARD.**

(A) Within 7 days from the receipt of the decision of the Chief of Police the person ordered to abate a violation may request in writing, filed with the Town Clerk, a hearing before the Town Board of Commissioners. An appeal pursuant to § 155.28 is a prerequisite to a request for a hearing under this section.

(B) The Town Clerk will forward a copy of the request to the Mayor who shall fix a time for the hearing.

(C) The abatement order issued by the Chief of Police shall remain in full force and effect unless temporarily suspended by the Mayor pending the Town Board hearing.



(D) At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Board shall:

- (1) Affirm the abatement order;
- (2) Modify the abatement order; or
- (3) Revoke the abatement order.

(Ord. 00-08-05, passed --)

### **§ 155.31 COST OF REMOVAL BY OWNER; LIEN.**

(A) The actual cost incurred by the town in towing, storing or otherwise remedying a violation shall be charged to the owner of the boat. It shall be the duty of the Chief of Police to mail a statement of the charges to the owner or other person in possession of the boat with instructions that the charges are due and payable within 30 days from receipt thereon.

(B) In the event charges for the removal or abatement of a violation are not paid within 30 days after receipt of a statement of charges, the charges shall become a lien upon the boat.  
(Ord. 00-08-05, passed --)

### **§ 155.99 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$25 per day. A citation for the civil penalty shall be issued by the Police Department. Each citation for a civil penalty must be paid within 72 hours of issuance. Each day that the violator continues in violation shall be a separate and distinct offense.

(B) The procedure set forth in division (A) above shall be in addition to any other remedies that may now or hereafter exist under state law or this chapter and this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter as provided in G.S. § 14-4.  
(Ord. 00-08-05, passed --)

## CHAPTER 156: ZONING

### Section

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***GENERAL PROVISIONS***

**§ 156.001 AUTHORITY AND ENACTMENT.**

The Board of Commissioners, in pursuance of the authority granted by G.S. §§ 160A-360 *et seq.*, hereby ordains and enacts into law the following sections as set forth in this chapter.  
(1997 Code, § 44-1)

**§ 156.002 SHORT TITLE.**

This chapter shall be known and may be cited as the zoning code of the town.  
(1997 Code, § 44-2)

**§ 156.003 JURISDICTION.**

(A) *Generally.* This chapter shall apply to all land within the corporate limits of the town and within any present or future extraterritorial area of the town.

(B) *Bona fide farms exempt.* This chapter shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses; except that any use of property for non-farm purposes shall be subject to regulation.  
(1997 Code, § 44-3)

**§ 156.004 DEFINITIONS.**

***ACCESSORY STRUCTURE.*** A structure, which is 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. Detached garages, carports and storage sheds are common accessory structures.

***BASEMENT.*** The space between the lowest floor level and the average level of the ground thereunder, if more than 5 feet, shall be considered a basement.

***BUFFER.*** A defined area of land and screening intended to separate different uses of property, or uses of property from public streets, which strip shall contain no building or other structure, no parking area, and no road or drive except as may be required to cross a buffer strip. A ***BUFFER*** strip shall either remain in its natural state, or be otherwise used for plantings or other materials designed to provide a visual and sound barrier; provided, however, that all buffers shall meet the applicable standards of this code.

***BUFFER SCREEN WIDTHS.*** A 1-row screen shall be a minimum of 10 feet in width. A 2-row screen shall be a minimum of 15 feet in width. A 3-row screen shall be a minimum of 20 feet in width.

***BUILDING.*** Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, which has enclosing walls for 50% or more of its perimeter. The term ***BUILDING*** shall be construed as if followed by the words or parts thereof and shall include porches, decks, carports, garages, sheds, roof extensions and overhangs, and any other projections. For the purpose of this chapter, a manufactured home or mobile business shall not be considered a ***BUILDING***.

***BUILDING, ACCESSORY.*** A subordinate building, the use of which is incidental to that of a principal building or use on the same lot.

***BUILDING HEIGHT.*** See Appendix A.

***BUILDING INSPECTOR.*** The official charged with the enforcement of this chapter.

***BUILDING, PRINCIPAL.*** A building in which is conducted the principal use of the lot on which the building is situated.

***BUILDING SETBACK LINE.*** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, steps, gutters and similar fixtures and the right-of-way line of any street or any lot line when measured perpendicular thereto.

***DWELLING.*** Any building or portion thereof constructed in accordance with the provisions of Volume 113 of the State Residential Building Code, which building is intended for use for residential purposes, excluding hotels and motels.

***DWELLING, MULTIFAMILY.*** Any building or portion thereof constructed in accordance with the provisions of volume 1 of the State Building Code, which building is intended for use for residential purposes, excluding hotels and motels.

***DWELLING, SINGLE-FAMILY.*** A dwelling designed to be occupied by 1 family.



**DWELLING, TWO-FAMILY or DUPLEX.** A dwelling designed to be occupied by 2 families, with separate kitchen facilities for each.

**HOME CENTER.** A business selling retail products for home improvements, maintenance, decorating, home care, recreational, leisure and related needs.

**HOME CHILD DAYCARE.** A North Carolina state regulated daycare that does not violate any of the restrictions contained within the definition of **HOME OCCUPATION** as defined in this section, and in addition, the following restrictions apply:

(1) There is a limit of 1 state licensed adult supervisor who is a resident of the home where daycare is provided;

(2) There are to be no more than 8 children at any 1 time, including the adult supervisor's children, within the home;

(3) There will be only 1 **HOME CHILD DAYCARE** within a 1-mile radius of an existing **HOME CHILD DAYCARE** facility;

(4) Parking for loading and unloading of children will be off main streets;

(5) The permitted hours of operation will be from 6:00 a.m. until 7:00 p.m.;

(6) Proof of liability insurance must be current at the time of application for the privilege license;

(7) Proof of a background investigation must be presented at the time of application for the privilege license if the adult supervisor was state approved on or before 1996, and if the adult supervisor was approved after 1996, the adult supervisor must present proof of the daycare license issued by the state;

(8) The outside play area shall be limited to that area commonly referred to as the backyard of the facility;

(9) Playground equipment shall be located as far away as practical from adjoining properties; and

(10) Adjoining properties shall be protected by a nonhazardous, environmentally safe screen which must be aesthetically comparable to those on adjoining properties. A natural, vegetative screen is most desirable.



***HOME OCCUPATION.***

(1) A commercial or professional business conducted from a dwelling that does not violate any of the following restrictions:

(a) No person receives compensation for engaging in the business, except a member or members of the family residing within the dwelling;

(b) The use occupies not more than 250 square feet of the total heated and unheated space of the residential dwellings, including porches, garages, out buildings, and decks:

(c) There is no on-premises sale of merchandise from inventory stored or displayed within the dwelling;

(d) There is no display of merchandise visible from any street right-of-way or from any adjoining lot;

(e) There are no personal services rendered which require that customers be present on the premises except for children that are cared for under the provisions for ***HOME CHILD DAYCARE.***

(f) No advertising sign or display is visible from any street right-of-way or any adjoining lot;

(g) No special parking area is provided or required;

(h) No equipment or process is employed that will cause noise, vibration, odor, glare or electrical or communications interference detectable to normal senses off the lot;

(i) The activity is legal, and does not constitute a nuisance; and

(j) Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth in §§ 116.15 *et seq.*

(2) Any activity which is entered into for profit or which might result in a monetary profit shall be deemed prima facie evidence of conducting a business.

***INDUSTRIAL CENTER.*** This term is synonymous with ***PLANNED INDUSTRIAL CENTER.*** A group of light industrial businesses planned, developed, owned or managed as a unit, with off street parking provided on the property; provided, that an ***INDUSTRIAL CENTER*** shall be developed on a tract of land containing not less than 10 acres.

**LOT.** A parcel of land occupied or intended for occupancy by a principal building(s), together with any accessory building(s), including the open space required under this chapter.

**LOT, CORNER.** A lot which occupies the interior angle at the intersection of 2 street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot for purposes of the front yard setback specified in Appendix A of this chapter. The street line forming the most frontage shall be deemed the side of the lot for purposes of side yard setback according to Appendix A of this chapter. In any residential district the side yard requirements for **CORNER LOTS** along the side street line shall have the side yard setback as specified in Appendix A of this chapter plus an additional 10 feet. Where 2 street lines are equal in subdivisions platted without front and side yard setbacks noted on the plat, the owner is required to specify to the Building Inspector which street line will be the front of the lot and which street line will be the side when requesting a building permit. Accessory buildings shall observe setback requirements. The designation **FRONT OF THE LOT, FRONT YARD SETBACK, SIDE OF THE LOT, SIDE YARD, or SIDE YARD SETBACK** shall not restrict the orientation of the front of buildings or other structures as long as the setback requirements are met.

**LOT DEPTH.** The distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the rear lot line.

**LOT, DOUBLE-FRONTAGE.** A lot which runs through a block from street to street or which has 2 nonintersecting sides abutting on 2 or more streets. A **DOUBLE-FRONTAGE LOT** requires front building setbacks on both streets. Residential **DOUBLE-FRONTAGE LOTS** should be avoided.

**LOT FRONTAGE.** That dimension of a lot or portion of a lot abutting a street, excluding the side dimension of a corner lot.

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

**LOT LINES.** The lines bounding a lot as defined hereinafter:

(1) **LOT LINE, FRONT.** In the case of an interior lot, means the lot boundary separating the lot from the street. In the case of a double-frontage lot, the line separating the lot from that street which is designated as the front street in the request for building permit.

(2) **LOT LINE, REAR.** The lot boundary opposite and most distant from the front lot line.

(3) **LOT LINE, SIDE.** Any lot boundary not a front lot line or rear lot line.

**LOT OF RECORD.** A lot which is a part of a subdivision, a plat of which has been recorded in the county courthouse, or a lot described by metes and bounds, the description of which has been so recorded.

**LOT WIDTH.** The distance between side lot lines measured at the setback line.

**MAP, ZONING MAP or CAPE CARTERET ZONING MAP.** The Official Zoning Map of Cape Carteret, North Carolina.

**MANUFACTURED HOME.** A dwelling, not constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A, designed for transportation after fabrication on streets or highways on its own wheels or on flatbeds or other trailers and arriving on the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, whether or not placed on a permanent foundation. Travel trailers are not to be considered **MANUFACTURED HOMES**.

**MANUFACTURED HOME, CLASS A.** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and satisfied the following additional criteria:

- (1) The manufactured home has a length not exceeding 4 times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (3) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood or hardboard, comparable in composition, appearance or durability to the exterior siding commonly used in standard residential construction;
- (4) A continuous required ventilation and access is installed under the manufactured home; and
- (5) The tongue, axles, transporting lights and removable towing apparatus are removed subsequent to final placement.

**MANUFACTURED HOME, CLASS B.** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy 1 or more of the criteria necessary to qualify the unit as a class A manufactured home.

**MICRO-PIGMENTATION.** Also known as permanent makeup, permanent cosmetics, derma-pigmentation, derma-graphics and/or cosmetic tattooing. Micro-pigmentation is a cosmetic technique which employs tattoos, or permanent pigmentation of the dermis, as a means of permanent enhancing colors to the skin of the face, lips and eyelids. Permanent makeup may also be used to produce artificial eyebrows.

**MOBILE BUSINESS.** A building not constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A, designed for transportation after fabrication on streets or highways on its own wheels or on flatbeds or other trailers and arriving on the site where it is to be occupied as a business complete and ready for occupancy except for minor and incidental unpacking and assembly operations whether or not placed on a permanent foundation. Travel trailers are not to be considered a **MOBILE BUSINESS**.

**MODULAR HOME.** A dwelling constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**NONCONFORMING USE.** Synonymous with **NONCONFORMING SITUATION** and is a use of land, improved or not, or a building or other structure which use, building or structure existed legally prior to the adoption of the ordinance from which this chapter derives or any amendment thereto, but which does not conform to the requirements of this chapter, either at the effective date of this chapter or as a result of subsequent amendments thereto.

**OFFICE CENTER** or **PLANNED OFFICE CENTER.** A group of business and professional offices, planned, developed, owned or managed as a unit, with off-street parking provided on the property; provided, that an **OFFICE CENTER** shall be developed on a tract of land containing not less than 3 acres.

**PARKING SPACE.** A marked area, not less than 200 square feet in size, designed for utilization as parking space for a single vehicle, and located outside the boundary of any street right-of-way.

**PUMPHOUSE.** A building not to exceed 36 square feet of floor space or 7 feet 6 inches in height for the purpose of housing equipment to pump and treat water for use on the same lot on which the **PUMPHOUSE** is located. A **PUMPHOUSE** is not considered an accessory building and shall be exempt from normal setback requirements.

**SHOPPING CENTER** or **PLANNED SHOPPING CENTER.** A group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the property. A **SHOPPING CENTER** shall be developed on a tract of land containing not less than 5 acres.

**SIGN.** Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names or combination thereof, by which anything is made known, such as the designation of an individual firm, corporation, profession, business, commodity or product and which is designed to attract attention and/or convey a message.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it.

**STREET.** An area designed for vehicular traffic offered for public or private dedication for the intended use, whether or not the offer of dedication has been accepted.

**STREET LINE.** The dividing line between a street or right-of-way and the contiguous property.

**STRUCTURAL ADDITION.** Any roofed, canopied, enclosed porch and/or structure or room which is used in connection with a dwelling. A concrete slab porch with no roof shall not be considered a structural addition.

**TRAVEL TRAILER.** A wheeled vehicle portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes. This is also intended to include structures mounted on auto or truck bodies, commonly referred to as **CAMPERS**.

**TV DISH ANTENNAE.** Dish-shaped structures located so as to receive electromagnetic signals from space satellites. This term includes **EARTH SATELLITE RECEIVING STATIONS, DISH, AND TV DISH**.

**USED or OCCUPIED.** As applied to any land or building, shall be construed to include the words intended, arranged or designed to be used or occupied.

**YARD, FRONT.** An open space between the front line of the principal building (exclusive of steps) and the front line of the lot and extending the full width of the lot.

**YARD, REAR.** An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot.

**YARD, SIDE.** An open unoccupied space on the same lot with a principal building between the side line of the building (exclusive of steps) and the side line of the lot and extending from the front yard line to the rear yard line.

**ZONING ENFORCEMENT OFFICER.** Designated by the Board of Commissioners, authorized to enforce this chapter. (1997 Code, § 44-4) (Am. Ord. 98-09-44, passed 9-21-1998; Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 00-04-01, passed --; Am. Ord. 2006-9, passed 6-19-2006; Am. Ord. 2006-14, passed 10-30-2006; Am. Ord. 2009-12, passed 5-11-2009; Am. Ord. 2010-11-05, passed 11-15-2010; Am. Ord. 2010-12-06, passed 12-13-2010)

***DISTRICT USES AND BOUNDARIES*****§ 156.015 USE DISTRICTS ESTABLISHED.**

For the purpose of this chapter, the town is hereby divided into 8 districts as follows:

- (A) R-10 single-family residential district;
- (B) R-10M multifamily residential district;
- (C) R-13 single family residential district;
- (D) R-20 single-family residential district;
- (E) R-30 single-family residential district;
- (F) B-10 business and professional offices;
- (G) B-20 retail sales and shopping centers; and
- (H) B-30 light industrial.

(1997 Code, § 44-31) (Ord. 2009-11, passed 4-20-2009)

**§ 156.016 ZONING MAP.**

The boundaries of the zoning districts are hereby established as shown on a map entitled Official Zoning Map of the Town of Cape Carteret, North Carolina, adopted by the Board of Commissioners. The map and all explanatory matter thereon accompanies and is hereby made part of this chapter. The map shall be retained in the office of the Town Clerk.

(1997 Code, § 44-32)

**§ 156.017 INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any zoning districts as shown on the zoning map, the following rules shall apply:

- (A) Where district boundaries are indicated as approximately following the centerline of streets or highways, or natural waterways or the shoreline, the centerlines or shorelines shall be construed to be the boundaries.

(B) Where district boundaries are indicated as approximately following lot lines, those lot lines shall be construed to be the boundaries.

(1997 Code, § 44-33)

#### **§ 156.018 INTERPRETATION OF DISTRICT REGULATIONS.**

Regulations set forth by this chapter shall be minimum regulations. If the district requirements set forth in this section are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

(1997 Code, § 44-34)

#### **§ 156.019 USE.**

No building or land, residential or commercial, shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except with a valid zoning permit, in conformity with the regulations of this chapter, or amendments thereof, for the district in which it is located.

(1997 Code, § 44-35)

#### **§ 156.020 HEIGHT OR DENSITY.**

No building shall hereafter be erected or altered so as to exceed the height or density regulations of this chapter for the district in which it is located.

(1997 Code, § 44-36)

#### **§ 156.021 LOT SIZE.**

No lot may have its size changed unless the change complies with the provisions of Chapter 154 and the lot, once altered, meets all minimum lot size requirements of this chapter.

(1997 Code, § 44-37)

#### **§ 156.022 YARD USE LIMITATIONS.**

No portion of any lot may be used simultaneously to comply with any requirements of this chapter as it relates to more than 1 principal building.

(1997 Code, § 44-38)

**§ 156.023 ONE PRINCIPAL BUILDING ON ANY LOT.**

Only 1 principal building and its customary accessory buildings may hereafter be erected on any residential lot; no buildings shall be erected on any lot which does not have access to a street. (1997 Code, § 44-39)

**§ 156.024 REQUIRED SCREENING AND BUFFER ZONE.**

(A) *Between residential and nonresidential districts.* Any person owning real property located in a nonresidential district adjoining or contiguous to the boundary line of a residential district shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the residential zone, when the owner either proposes new construction for his or her tract of land, or proposes a substantial change in use. As used herein, residential district shall include the following districts: R-10, R-10M, R-13, R-20 and R-30.

(B) *Between R-10M and single-family residential districts.* Any person owning real property located in an R-10M district adjoining or contiguous to the boundary line of any single-family residential district, and who proposes to construct multifamily units in excess of 4, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the single-family residential district.

(C) *Between B-20 or B-30 district and B-10 district.* Any person owning real property located in a B-20 or B-30 district that adjoins or is contiguous to the boundary line of any B-10 district, and who proposes new construction for his or her tract of land, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the B-10 zone.

(D) *On town main streets.* Any person owning commercial real property abutting W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road, or N.C. Highway 58, and who proposes new construction for his or her tract of land, shall be required to either leave or plant a buffer strip along the street (roadway) a minimum of a 20 foot wide strip of green or natural area, consisting of shrubs not exceeding 3 feet in height, grass, flowers, and trees. Branches of mature trees retained or established in the 20 foot buffer may be trimmed or limbed up to a maximum of 10 feet, as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area.

(E) *Buildings prohibited in buffer areas.* No building or structure of any kind shall be placed within a buffer area.

(F) *Sidewalks and hike-bike trails.* Sidewalks and hike-bike trails may be placed in the buffer area only when there is insufficient space in the street right-of-way to accommodate these pedestrian and bike paths. The burden shall be on the property owner to demonstrate that there is insufficient space in the right-of-way to meet the requirements of this section. In such case, the owner of the property shall



dedicate such portion of the buffer area as is used for sidewalks and hike-bike trails to public use for those purposes, in such form as the town may require and shall record such dedication in the County Registry in a form acceptable to the town.

(G) *Types of screening.* The following standards shall be used to protect affected property. The highest elevation of any 2 properties at their common property line shall be used in determining the minimum height of a screening buffer. The degree of effectiveness for opacity shall be judged from the property being screened.

(1) *Planted (living) screen.* The minimum width of a planted screen shall be 10 feet. The minimum height of a planted screen shall be 4 feet at initial planting, and at least 10 feet within 3 years thereafter. The minimum height of shrubbery in a planted screen shall be at least 3 feet at initial planting. A planted screen shall afford 100% visual opacity at maturity.

(2) *Combination screens (screens using opaque fencing and plants).* The minimum width of a combination screen shall be 15 feet. The planted portion of a combination screen shall be placed on the side of the fence opposite to the improvements on the lot, shall be a minimum height of 3 feet at initial planting, and shall afford at least 50% opacity to a minimum height of 10 feet within 3 years after planting. The minimum height of the solid portion of the fence portion of such a screen shall be 8 feet.

(H) *Required amount of screening and buffering width.* The minimum acceptable screening and buffering width required to provide adequate protection to affected properties is variable with the individual site. The amount of screening and buffering width is based on the intensity of the uses allowed within each zoning district and the extent of development, as determined by the total amount of principal building floor space per lot. The minimum acceptable screening and buffering width shall be as follows:

<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<i>Zoning District</i>	<i>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</i>	<i>Minimum Acceptable Screening</i>	<i>Minimum Width</i>
R-10M and B-10	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000	Three-row screen	20 feet
B-20	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet

<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<i>Zoning District</i>	<i>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</i>	<i>Minimum Acceptable Screening</i>	<i>Minimum Width</i>
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)

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<i>Intensity</i>	<i>Extent</i>	<i>Amount</i>	<i>Buffers</i>
<b>Zoning District</b>	<b>Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)</b>	<b>Minimum Acceptable Screening</b>	<b>Minimum Width</b>
B-30	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)
Public works, public utility facilities, and fire and rescue facilities		Two-row screen	15 feet

(I) *Maintenance.* All planted living screening material shall be maintained by the owner of the property on a continuing basis for the life of the property, or on a continuing basis for the life of the development. Nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. The buffers shall be kept free of litter and advertising.

(J) *Administration and enforcement.*

(1) Prior to the issuance of a building permit for any construction, renovation or alteration of any structure for which a screening buffer must be provided, a plan indicating the type, amount and location of screening buffer and any required landscaped open space, prepared in conformance with the provisions of this section, shall be submitted by the property owner to the Building Inspector.

(2) No certificate of occupancy for any construction or renovation shall be approved by the

Building Inspector until the required screening buffer is completed in accordance with the approved plan.

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(3) The Board of Adjustment may modify or waive the requirements of this section, where it can be demonstrated by the property owner that the specific screening buffer and/or landscaped open space is not needed for the protection of surrounding residential areas because of intervening streets, roadways, drainageways, or other factors such as natural or topographic features, or where there already exists on the same property natural growth of sufficient height and density to serve the same purpose as the required screening buffer.

(1997 Code, § 44-40) (Am. Ord. 2006-16, passed 10-30-2006; Am. Ord. 2009-11, passed 4-20-2009)

#### § 156.025 TV DISH ANTENNAE.

(A) *Satellite TV dishes in residential districts R-10, R-10M, R-13, R-20, R-30 and business districts B-10, B-20 and B-30.* Satellite dishes for TV reception, less than 20 inches in diameter, may be installed on any structure in any residential or business district. Installations which are not structure mounted should comply with the setback requirements contained in Appendix A of the chapter. Satellite TV dishes larger than 20 inches are prohibited.

(1) Lots with existing larger diameter dishes (greater than 20 inches) installed prior to approval of this section may continue to be used provided that they are effectively screened to the height of the unit with a fence, wall or hedge. Hedges selected for screening should be large enough to reach the height of the unit in 3 years.

(2) Dishes may be installed only for non-commercial service in residential districts.

(B) *Data dishes in business districts B-10, B-20, B-30.*

(1) Data satellite dishes larger than 20 inches may be installed on business structures. Before installation of a dish, a permit shall be obtained from the town for a fee of \$10. The permit must be reviewed by the Planning Board prior to installation.

(2) Structures are limited to 1 dish larger than 20 inches for each separate business located with the structure.

(3) Dishes may be installed in side and back yards and rooftops. Dishes installed in side and back yards shall conform to the setback requirements of Appendix A of this chapter.

(4) Dishes installed on rooftops shall be located 20 feet back from the front (street) side unless a facade is used to screen the unit from street view.

(5) Roof mounted units shall be inspected mechanically and structurally as required by the Building Inspector pursuant to § 150.03.

(1997 Code, § 44-41) (Am. Ord. 00-07-04, passed 7-17-2000; Am. Ord. 2009-11, passed 4-20-2009)

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**§ 156.026 OFF-STREET PARKING.**

(A) *When required.* There shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, permanent off-street parking as specified hereinafter, with the exception that this section shall not be applicable to any single-family dwelling.

(B) *General provisions.*

(1) Each parking space shall have a minimum width of 10 feet and a minimum depth of 20 feet.

(2) Handicap parking shall be provided as required in the handicapped section of the State Building Code.

(3) All off-street parking lots subject to this section, and all driveways and all planted areas that are elements thereof, shall be curbed, which shall be integrated with the curbing (or the lack thereof) on adjacent streets and developments.

(C) *Planted areas.*

(1) *Purpose and intent.* The objective of this section is to protect and promote the public health, safety and general welfare by requiring the landscaping of parking lots, which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to act as a natural drainage system and thereby reduce stormwater drainage problems; to reduce the level of carbon dioxide; to provide shade; to conserve and stabilize property values; and to otherwise facilitate the creation and continuation of a convenient, attractive and harmonious community through relief of the blighted appearance of parking lots by preserving a healthful and pleasant environment through the community.

(2) *Landscape and parking lot plan.* All sketch plans submitted pursuant to this chapter shall be drawn to scale and clearly delineate the existing and/or proposed parking spaces, access aisles, driveways, curbs and the location and description of landscape areas and materials.

(3) *Interior planting requirements.* Not less than 6% of the interior of a parking facility shall be reserved for planting deciduous trees and shrubbery. The reserve planting areas shall be reasonably dispersed throughout the parking facility. Trees and shrubbery shall be planted in the proper manner, according to the sketch plan submitted pursuant to this section, prior to the parking facility being ready for use. Trees and shrubs shall be maintained and replaced as required as long as the parking facility continues in use.

(4) *Peripheral planting requirements.* A peripheral planting strip with a minimum width of 10 feet shall be located along any side of a parking facility that abuts adjoining property that is not a right-of-way. One evergreen tree for each 15 feet, or fraction thereof, and appropriate shrubbery shall



be properly planted within the peripheral planting strip. Trees and shrubbery shall be planted in a proper manner prior to the parking facility being ready for use. Trees and shrubs shall be maintained and replaced as required as long as the parking facility continues in use.

(5) *Street planting requirements.* A street planting buffer strip shall be located along any side of a parking facility that abuts a street, roadway or any other right-of-way. The buffer strip shall be at least 20 feet wide abutting W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road or N.C. Highway 58, and a minimum width of 10 feet along other town streets, roadways or any other rights-of-way. This green or natural area shall be designed, installed and maintained consistent with the requirements of § 156.024, with shrubs not exceeding 3 feet in height, grass, flowers and trees. Vegetation may be left bordering the street (roadway) and/or planted in order to provide the required buffer. Branches of mature trees retained or established in the buffer may be trimmed or limbed up to a maximum of 10 feet as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area. Trees and shrubbery shall be planted in a proper manner prior to the parking facility being ready for use. Trees and shrubs shall be replaced as required as long as the parking facility exists.

(D) *Parking space required.* Parking spaces shall be provided in all zoning districts as required in Appendix B of this chapter.

(E) *Sketch plan required.* No off-street parking facility, parking lot, traffic aisle or traffic drive consisting of 10 or more spaces and/or at least 2,500 square feet shall be constructed, reconstructed or enlarged until a sketch plan for that facility has been reviewed and approved by the Planning Board for compliance with this section.

(1997 Code, § 44-42) (Am. Ord. 2006-17, passed 10-30-2006)

### § 156.027 NONCONFORMING USE.

(A) Any building, structure or use of land legally existing at the time of the enactment of the ordinance from which this chapter derives, or any amendment thereto, may be continued subject to the following provisions.

(B) The uses shall not be:

- (1) Changed to another nonconforming use;
- (2) Enlarged or extended except in conformity with this chapter;

(3) Reestablished after the discontinuance of the use for a period of 180 days or more unless the discontinuance is caused by damage for which reconstruction is allowed in accordance with division (B)(4) below, if the reconstruction is commenced within a reasonable time after the damage, and proceeds at a reasonable commercial rate to completion; and

(4) Rebuilt, altered or repaired after damage exceeding 60% of its fair market value immediately prior to damage.

(1997 Code, § 44-43)

#### **§ 156.028 WATER RUNOFF CONDITIONS.**

No person shall cause or allow the discharge of any water onto any public street right-of-way so as to cause damage to the street or right-of-way, or adjoining property, so as to cause traffic hazards or unsafe conditions or so as to cause water quality degradation to receiving waters from the drainage from the street or right-of-way. Any person found by the Building Inspector to be in violation of this section shall be given written notice of the violation by the Building Inspector. The party receiving the notice shall have 30 days to discontinue the utilization of the property resulting in the practice if the notice given specifies that a traffic or safety hazard is being created; otherwise, the party receiving the notice shall have 6 months from the date of the notice to correct the condition creating the runoff.

(1997 Code, § 44-44)

#### **§ 156.029 DRIVEWAY REGULATIONS.**

(A) *General provisions.*

(1) Any person owning real property located in a residential district shall be required to design, install and maintain a driveway in conformity with the regulations contained herein.

(2) All driveways proposed to connect to roads maintained by the State of North Carolina shall be governed by regulations as promulgated by the North Carolina Department of Transportation in addition to the requirements contained herein.

(3) All driveways shall be so located as to avoid undue interference with or restriction of the free movement of normal traffic on town roads. In accordance with this principal, driveways should be constructed where the road alignment and profile are favorable, i.e., where there are no sharp curves or steep grades and where sight distance is adequate for safety.

(B) *Driveway width.* The minimum driveway width shall be 10 feet flared to a minimum width of between 1.5 to 2.0 times the driveway width at its intersection with the town road. A cleared area of at least 2 feet shall be provided on each side of the driveway within the town's right of way to provide adequate clearance for delivery trucks.

(C) *Driveway angle.* Driveways shall be constructed as near to 90 degrees to the town road as sight conditions will permit; with a normal minimum of 60 degrees.

(D) *Driveway profile contours.*

(1) Vertical curves on driveways should be flat enough to prevent the dragging of a vehicle's undercarriage.

(2) Every driveway connected to a town road shall be level to or as near level as possible to the town road.

(E) *Driveway cross sections.* The cross section of a driveway shall be graded so as to insure that water runoff from the driveway is directed to the edges of the driveway to minimize the amount of runoff entering town roads from driveways.

(F) *Drainage.*

(1) Drainage at the edge of the shoulder area shall not be interrupted. The condition and size of existing ditches shall be preserved when constructing a driveway which connects to a town road. The use of a swale or a pipe underdrain for proper drainage is required.

(2) If a culvert is required, the owner of a lot who constructs a driveway therein which connects to a town road shall be responsible for installing and maintaining a culvert of suitable size to prevent any accumulation of runoff or erosion on the town road.

(3) Where a ditch or swale exists at the point where the driveway meets the road, and a pipe is required, the minimum pipe underdrain shall be 12 inches or as specified by the Town Public Works Supervisor.

(Ord. 00-07-02, passed 7-17-2000; Am. Ord. passed 11-18-2002)

### **§ 156.030 SIDEWALK REGULATIONS.**

(A) *Residential subdivisions.* Any person who subdivides any property otherwise than as excepted by § 154.007 shall install sidewalks in accordance with § 154.049 and other applicable sections of this code.

(B) *Commercial development.* Any person who develops or performs any other construction, reconstruction, addition, or otherwise constructs any substantial improvements on any commercial property, shall install sidewalks in accordance with § 154.049 and other applicable sections of this code.

(Ord. 2006-13, passed 8-21-2006)

**§ 156.031 STORMWATER MANAGEMENT.**

All new commercial development and/or redevelopment shall install stormwater measures as specified in this section.

(A) *Definitions.*

(1) **BUILT-UPON AREA.** That portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel surfaces 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.

(2) **DEVELOPMENT.** Any increase in the amount of impervious surface or combination of impervious surface and permeable pavement greater than 1,000 square feet.

(3) **PERMEABLE PAVEMENT.** Paving material that absorbs water or allows water to infiltrate through the paving material. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics. Compacted gravel shall not be considered permeable pavement.

(4) **REDEVELOPMENT.** Any replacement of a building (or portion thereof), parking surface, or other impervious surface or combination of impervious surface and permeable pavement greater than 1,000 square feet. This excludes maintenance work, the resurfacing of paved surfaces and the addition of gravel to currently graveled areas, but does include the replacement of surfaces, including like type replacements.

(B) *Retention Standard.* The applicant is required to demonstrate that sufficient area is reserved to provide at least 16.67 cubic feet of storage capacity for every 100 sq. ft. of new or replaced impervious surface proposed. All features intended to receive stormwater runoff from the proposed impervious surfaces on site shall be described and their location identified on the site plan. The design of such features shall meet the criteria specified in division (D).

(C) *Other Permits.* When a development, or redevelopment project is required to obtain a stormwater permit by the North Carolina Department of Environmental and Natural Resources, the applicant shall provide a copy of the approved permit and plans to the town. These plans should indicate a minimum of 2 inches of stormwater retention capacity.

(D) *Stormwater Design.* The design of stormwater features must be prepared by a North Carolina registered design professional and shall indicate compliance with North Carolina Department of Environmental and Natural Resources design standards. Residential projects are not required to employ a design professional where the applicant can provide plans indicating compliance with division (B) above.

(E) *Compliance.* When plans have been prepared by a design professional, a letter sealed by the design professional shall be submitted indicating compliance with the approved stormwater plans prior to the issuance of a certificate of occupancy. Residential projects will have all stormwater features installed prior to issuance of a certificate of occupancy.

(F) *Exception.* When the applicant can demonstrate that an alternative system would provide equal or better protection than the requirements of this section to receiving waters in terms of water quality, including but not limited to reductions in water velocity, nutrient loading, and bacterial content, as well as increased sediment removal, a plan and detailed letter sealed by a North Carolina registered design professional may be accepted in lieu of compliance with the retention standard referenced in division (B) above.

(Ord. 2009-07, passed 4-20-2009; Am. Ord. 2010-04, passed 6-21-2010)

### **§ 156.032 ELEVATED STRUCTURES.**

All structures located on pilings, or otherwise elevated, shall have all ductwork, plumbing supply and drain lines, and insulation, concealed so that they are not visible from the right-of-way or adjoining properties.

(Ord. 2009-08, passed 4-20-2009)

### **§ 156.033 WATER CONNECTION.**

All new construction shall be required to connect to the public water supply for potable water.

(Ord. 2009-10, passed 4-20-2009)

## ***SPECIFIC DISTRICT REQUIREMENTS***

### **§ 156.040 RESIDENTIAL DISTRICT R-10.**

(A) Within the residential district R-10, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) A manufactured home shall be allowed only on a lot that contains 15,000 square feet or more.

(b) The minimum lot size for a church shall be 5 acres.

(c) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(d) No school engaged in commercial or industrial trade education shall be permitted.

(e) All recreational facilities must be operated on a nonprofit basis.

(f) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;

2. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;

3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

4. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;

5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and

6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 5 feet from any side or rear property line.

(g) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

(a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.

(b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(c) All accessory structures shall adhere to a 10-foot rear yard setback.

(3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Appendix B of this chapter.  
(1997 Code, § 44-61) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004)

#### **§ 156.041 RESIDENTIAL DISTRICT R-10M.**

(A) Within the residential district R-10M, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) The minimum lot size for a church shall be 5 acres.

(b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(c) No school engaged in commercial or industrial trade education shall be permitted.

(d) All recreational facilities must be operated on a nonprofit basis or by a governmental entity.

(e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;
2. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
4. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and
6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 5 feet from any side or rear property line.

(f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

(a) Accessory buildings or structures shall be located 10 feet or more from the front line of the principal building and 5 feet from the side property line.

(b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(c) All accessory structures shall adhere to a 10-foot rear yard setback.

(3) *Off street parking requirements.* Two and ½ spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Appendix B of this chapter.

(4) *Buffer strip required.*

(a) There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines adjacent to any single-family residential district or single-family lot.

(b) Area used by buffer strips shall not be used as open land in density calculations, but shall be in addition to the required minimum lot size.

(5) *Water and sewer requirements.* Each R-10M development must provide a state approved water system and sewage treatment facility. Connection to an existing system having excess capacity would satisfy this requirement if approved by the state.

(1997 Code, § 44-62) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004)

**§ 156.042 RESIDENTIAL DISTRICT R-13.**

(A) Within the Residential District R-13, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) The minimum lot size for a church shall be 5 acres.

(b) All swimming pools, spas and tennis courts shall meet those requirements set forth in § 150.04 and § 150.05 respectively.



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(c) No school engaged in commercial or industrial trade education shall be permitted.

(d) All recreation facilities must be operated on a nonprofit basis or by a government entity.

(e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;
2. The site is not used for storage of vehicles or materials and contains no office except for a fire station office;
3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
4. All dangerous apparatus or equipment shall be enclosed by a chain link fence at least 8 feet in height;
5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and
6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 5 feet from any side or rear property line.

(f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

(a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.

(b) For the purpose of this chapter, eaves, steps and open porches shall be considered a part of the building.

(c) All accessory structures shall adhere to a 10-foot rear yard setback.

(3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Appendix B of this chapter.  
(Ord. 2009-11, passed 4-20-2009)

**§ 156.043 RESIDENTIAL DISTRICT R-20.**

(A) Within the residential district R-20, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) The minimum lot size for a church shall be 5 acres.

(b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(c) No school engaged in commercial or industrial trade education shall be permitted.

(d) All recreation facilities must be operated on a nonprofit basis or by a governmental entity.

(e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;

2. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;

3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

4. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;

5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and

6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 5 feet from any side or rear property line.

(f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

(a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.

(b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(c) All accessory structures shall adhere to a 10-foot rear yard setback.

(3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Appendix B of this chapter.

(4) *Satellite parking requirements.* Satellite parking (parking on premises not contiguous with the principal use) is permitted in residential district R-20 provided all of the following conditions are met.

(a) The satellite parking lot shall be located within 200 feet of the church or governmental principal use property.

(b) The satellite parking lot shall have a 10-foot planted (living) screen buffer as defined in § 154.041(E)(1), provided that the buffers are not required on property lines that abut a public street or right-of-way. Notwithstanding the language contained in § 154.041 concerning non-residential districts, the screening required in this division shall comply with all of the provisions of § 154.041 applicable to planted (living) screen(s).

(c) There shall be no lighting in the satellite parking lot except security lighting placed on bollards or similar supporting structures, but in any event, there shall be no light fixture nor any part thereof at a height of more than 4 feet above grade at the location of the light.

(d) There shall be no overnight parking allowed in any satellite parking lot.

(e) The satellite parking lot shall be used for no other purpose than parking for persons attending meetings or other legitimate functions at the site of the principal use to which the satellite parking lot is appurtenant.

(f) The owner/operator of the principal use to which the satellite parking lot is appurtenant shall provide to the Code Enforcement Officer of the town a written statement with the notarized signatures of all adjacent property owners or their duly authorized agents clearly evidencing their consent to the use requested by the owner/operator of the principal use.

(g) The owner/operator of the principal use to which the satellite parking lot is appurtenant shall ensure through the use of permeable surface materials, use of on-premises storm water catch

basin(s) and/or other methods satisfactory to the Town's Code Enforcement Officer that all storm water runoff will be retained on the site of the satellite parking lot.

(1997 Code § 44-63) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004; Am. Ord. passed 4-18-2005)

#### **§ 156.044 RESIDENTIAL DISTRICT R-30.**

(A) Within the residential district R-30, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) The minimum lot size for a church shall be 5 acres.

(b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(c) No school engaged in commercial or industrial trade education shall be permitted.

(d) Except for full-length golf courses and facilities and activities associated with them, including a clubhouse, all recreation facilities must be operated on a nonprofit basis or by a governmental entity.

(e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;
2. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
4. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way, and

6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 5 feet from any side or rear property line.

(f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

(a) Accessory buildings or structures shall be located 20 feet or more behind the front building line of the principal building and ten feet from the side property line.

(b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(c) All accessory structures shall adhere to a 10 foot rear yard setback.

(3) *Off-street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Appendix B of this chapter.

(1997 Code § 44-64) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004)

**§ 156.045 BUSINESS DISTRICT B-10 BUSINESS AND PROFESSIONAL OFFICES.**

Within the business district B-10, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter, and the following provisions shall apply to those uses:

(A) *Restrictions.*

(1) The minimum lot size for a church shall be 3 acres.

(2) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(3) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

(a) The facilities are essential to the service of the immediate area;

(b) The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;

(c) All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

(d) All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;

(e) There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and

(f) All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 6 feet from any side or rear property line.

(4) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(B) *Accessory uses, buildings or structures.*

(1) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.

(2) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(C) *Off-street parking requirements.*

(1) Permanent off-street parking shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter; except that this section shall not be applicable to any single-family dwelling.

(2) The number of off-street parking spaces shall be provided as required in Appendix B of this chapter.

(D) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines adjacent to a residential district.

(E) *Mobile accommodations.*

(1) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent structure and removal of the temporary accommodation must be presented.

(2) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit.

(1997 Code, § 44-65) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. 2007-01, passed 2-12-2007)

**§ 156.046 BUSINESS DISTRICT B-20 RETAIL SALES AND SHOPPING CENTERS.**

Within the business district B-20, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter, and the following provisions shall apply to those uses:

(A) *Restrictions.*

(1) The minimum lot size for a church shall be 3 acres.

(2) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(3) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

(a) The facilities are essential to the service of the immediate area;

(b) The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;

(c) All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

(d) All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;

(e) There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and

(f) All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 6 feet from any side or rear property line.

(4) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(B) *Accessory uses, buildings or structures.*

(1) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.

(2) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(C) *Off-street parking requirements.*

(1) Permanent off-street parking shall be constructed and provided at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter, except that this section shall not be applicable to any single-family dwelling.

(2) The number of off street parking spaces shall be provided as required in Appendix B of this chapter.

(D) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines adjacent to a residential district or to a B-10 district.

(E) *Mobile accommodations.*

(1) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent structure and removal of the temporary accommodation must be presented.

(2) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit.

(F) *Development requirements.*

(1) The site must be adjacent to a major or minor thoroughfare.

(2) The street and highway system serving the area shall be adequate to handle expected traffic generated by the development, without creating undue hazards to safety or unreasonable impediments to the flow of other traffic.

(3) The site shall not extend across any major highway.

(4) Total ground area occupied by all buildings shall not exceed 40% of the gross land area.

(5) Utilities must be adequate to serve the development.

(G) *Sexually oriented businesses.* Sexually oriented businesses, only those businesses defined and provided for in this section and the Town of Cape Carteret code of ordinances, and provided the following conditions are met:

(1) Sexually oriented businesses shall not be located in a building or on a premises where alcohol or alcoholic beverages are sold or in a building or on a premises that allows alcohol or alcoholic beverages to be consumed.



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(2) No sexually oriented businesses shall be permitted in any building which is:

(a) Located within 1,000 feet in any direction from a building used as a dwelling in the B-20 Zoning District.

(b) Located within 1,000 feet in any direction from a residential zoning district.

(c) Located within 1,000 feet in any direction from a building in which a sexually oriented business is located.

(d) Located within 1,000 feet in any direction from a building in which a religious complex is located.

(e) Located within 1,000 feet in any direction from a building in which a library, school, or a state licensed child day care center is located.

(f) Located within 1,000 feet in any direction from any lot or parcel on which a public playground, public swimming pool, public ocean or estuarine access, or public park is located.

(3) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.

(4) Signs are allowed, as permitted by this chapter, but may not include promotional displays, flashing lights, or photographs, silhouettes, drawings, or pictorial representations of any manner depicting sexual activity, themes or nudity.

(5) That the applicant(s) obtain a license in accordance with the Town of Cape Carteret code of ordinances.

(1997 Code, § 44-66) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 11-18-2002)

(H) *Home center.*

(1) A Home Center's inventory shall be generally maintained within the building and any fenced area attached to the building; however, seasonal inventory such as gas and/or charcoal grill, lawn and garden equipment, plants, and the like may be displayed outside the building and its fenced area, and inventory which is too large to be displayed practicably within the building, including by way of illustration and not by way of limitation, outdoor storage sheds (or models thereof), dog pens, utility trailers and the like, may also be displayed outside the building and the attached, fenced area. If such inventory is displayed outside the building and fenced area, the operator of the business shall ensure that it is so displayed as not to interfere with vehicular traffic flow and not to render unusable any required parking spaces, fire lanes, vehicular travel lanes and the like.

(2) The attached, fenced area, if any, shall be entirely surrounded by fencing at least 20 feet tall. (Ord. 2007-01, passed 2-12-2007)

**§ 156.047 BUSINESS DISTRICT B-30 LIGHT INDUSTRIAL.**

(A) Within the business district B-30, the only uses permitted shall be those uses denoted as permitted in Appendix B of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

(a) The minimum lot size for a church shall be 3 acres.

(b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 150.04 and 150.05 respectively.

(c) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

1. The facilities are essential to the service of the immediate area;
2. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
3. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
4. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
5. There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines other than those adjacent to a public street right-of-way; and
6. All accessory buildings or structures must be located at least 50 feet from any public street right-of-way and 6 feet from any side or rear property line.

(d) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines abutting residential districts.

(2) *Accessory uses, buildings or structures.*

(a) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.

(b) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.

(3) *Off street parking requirements.*

(a) Permanent off street parking shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter; except that this section shall not be applicable to any single-family dwelling.

(b) The number of off street parking spaces shall be provided as required in Appendix B of this chapter.

(4) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § 156.024, along all property lines adjacent to a residential district or to a B-10 district.

(5) *Mobile accommodations.*

(a) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent structure and removal of the temporary accommodation must be presented.

(b) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit. (1997 Code, § 44-66) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. 2007-01, passed 2-12-2007)

### **§ 156.048 PLANNED RESIDENTIAL DEVELOPMENT.**

(A) Within designated zoning districts within the town, planned residential developments are allowed as shown in Appendix B to this chapter. Planned residential developments (PRDs) shall be affixed, in accordance with the provisions and procedures set out hereinafter, to specific tracts of land upon application submitted by the owner of the tract. PRD designation shall be approved by the town only for properties meeting the specific requirements as more fully set out hereafter, and only when a decision is made by the town that the designation would provide, because of the flexible design criteria, development of benefit to the town.

(B) There shall be no requirement that any property be designated as a PRD, the designation being available only upon voluntary request by the owner of the property, and approval of the designation in accordance with the procedures more fully set out in this chapter.

(1) *Restrictions.*

(a) The property for which the request for PRD is submitted, whether owned by 1 or more individuals, shall be of a minimum size of 6 acres.

(b) No structure constructed within a PRD shall exceed 50 feet in height.

(c) Uses shall be limited to residential uses and noncommercial recreational uses, except that no more than 15% in total land area of the PRD may be utilized for uses allowed in the B-10 and B-20 zone.

(d) There shall be no more than 8 living units allowed per residential acre within the PRD. Residential acre shall mean the total PRD acreage less that portion of the acreage approved for uses other than residential and recreational.

(e) Each residential unit shall contain a minimum of 900 square feet of heated living space, and the average living unit within the PRD shall contain 1,100 square feet of heated living space.

(f) Prior to construction of any improvements within an approved PRD, state approval of the water and sewage facilities for the development must be provided to the town. Each PRD must have established for its benefit a homeowners' association or other entity with the binding legal obligation to maintain all streets, roads and common areas within the PRD, and the association must have the right to assess the ultimate owners or users of structures within the PRD moneys for the maintenance and upkeep.

(2) *Signs.* Within the area designated for uses other than residential and recreational, the only signs permitted are signs allowed in the B-10 district for equivalent uses. Within the rest of the PRD, signs are permitted as allowed in the R-10 district for equivalent uses.

(3) *Accessory uses, buildings or structures.* Accessory uses, buildings or structures shall be allowed to the extent reasonably necessary to service the other allowed uses within the PRD.

(4) *Parking.* Two off street parking spaces shall be required for each dwelling unit, and guest or overflow parking facilities shall be required on the basis of 1 space for every 5 living units. Parking for allowed recreation and commercial uses shall be as specified in Appendix B.

(5) *Open spaces.* A minimum of 25% of the total land area shall be utilized for open spaces or outdoor recreational uses, excluding streets or roads, and excluding land restricted in use to the owners of particular, designated structures.

(6) *Application and review process.*

(a) *Application.* An application to establish a PRD must be submitted, with 10 copies, to the Town Clerk for submission to the Chairperson of the Planning Board for review at its next regularly scheduled meeting occurring 10 days or more following the submission of the completed application to the Chairperson of the Planning Board. A request for a PRD will only be considered if application is made by the owner of the property or his authorized agent. The application must include the following information and supporting data:

1. A boundary survey showing the total acreage, present zoning classification, date and north arrow;
2. The name of each owner, with their address, and the tax parcel numbers of all abutting properties as shown on the tax records of the county;
3. All known and existing easements, reservations and rights-of-way encumbering the tract;
4. A narrative description of the proposed use of the land and structures, including the total number of proposed living units and the approximate square footage of all other proposed structures;
5. A plan showing the approximate location of all living units and other structures, including traffic, parking and circulation plans, and the interconnection of all streets and roads to those adjoining;
6. The approximate height of each structure;
7. The proposed method of provision of all required utility services to the tract;
8. The proposed building materials; and
9. The proposed phasing, if any, and approximate completion time of each phase of the project.

(b) *Review and approval.*

1. In considering an application for the establishment of a PRD, the town may attach reasonable and appropriate conditions to the location, nature and extent of the proposed use and the proposed structures. All conditions shall relate to the relationship of the proposed uses and structures to surrounding property and the interrelation among the proposed uses and structures within the tract. Approval, if given, shall specify the conditions attached, and the approval relates only to the proposed uses and structures as approved. Any substantial modification of the uses or structures, or any substantial

deviation from the phasing or timing of construction, shall only be permitted after review by the Board of Commissioners and the Planning Board. Other, minor modifications shall not require review by the Planning Board as a whole unless the Board of Commissioners and the Planning Board Chairman believe that the proposed change alters the fundamental character of the approved PRD, in which event the request for modification shall be submitted by the Board of Commissioners for review by the Planning Board.

2. The Planning Board shall submit a recommendation to the Board of Commissioners within 35 days following the date it first reviews an application. A copy of the recommendation shall be provided to the applicant. The Board of Commissioners shall consider the proposed application at its next meeting following receipt of the recommendation of the Planning Board, and shall either approve or disapprove, or approve with conditions, the application. If approval is made with conditions, the conditions shall be submitted to the applicant; and the applicant shall have 30 days in which to respond, in writing, to the approval. The applicant may either accept the approval with the attached conditions, or the applicant may reject the PRD, in which event the PRD shall not attach to the tract, or the petitioner may request modification of the proposed conditions. If modifications are requested, the Board of Commissioners shall consider the modifications at its next meeting following receipt of the requested modifications; if no changes are made in the requested conditions, the applicant shall have 10 days following the meeting to elect, in writing, to accept the PRD with the attached conditions, or to reject the same. If any applicant fails or refuses to respond within the time allowed, it shall be deemed that the conditions have been rejected and the PRD zone shall not attach. The town shall cause notice of its actions, and the required time for response by the applicant, to be given in writing to the applicant at his or her address as shown on the application within 3 working days following any action taken by the Board of Commissioners.

(c) *Effect of approval.*

1. If an application is approved, the PRD is established and all conditions which have been attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The intent of this zone is to provide an alternative procedure for specific development proposals. It is intended that all property be zoned PRD only in accordance with firm plans to develop. It is also intended that PRD be an elective zone established only upon request of the owner of property, and that the zone be established only with conditions approved by the owner of a tract. However, once approved, the zoning shall be binding on the tract, and all subsequent owners thereof, until the time as the approval shall expire.

2. The PRD shall expire and the property designated PRD shall revert to its previously existing zone unless the development of the parcel is proceeding substantially in accordance with the approved phasing schedule submitted at time of approval of the PRD or unless the Board of Commissioners (without necessity of review by the Planning Board) extends for an additional period of time the approval, which extension shall only be granted upon review and approval of a revised phasing and construction schedule as submitted by the applicant. The applicant shall submit a schedule within 30 days following request to do so by the town.

(7) *Setbacks.* There shall be no required setbacks relating to structures within the PRD, or from private streets within the PRD. Private streets, roads and driveways are specifically permitted. Setbacks from adjoining properties shall be based upon the proposed use of that portion of the property proximate to each neighboring tract and shall be based upon the setback that would be required within that zoning district most equivalent to the proximate use, as determined by the Board of Commissioners.

(8) *Minimum lot size.* There shall be no minimum lot size.

(9) *Documentation.* Project documentation creating the homeowners' association or other management entity must be submitted for review by the town and its legal counsel prior to the issuance of any building permit for any portion of the property. The applicant shall reimburse to the town the moneys expended by the town in causing the documents to be reviewed and commented by town legal counsel. (1997 Code, § 44-68)

#### **§ 156.049 CONDITIONAL USE DISTRICT.**

(A) *Purpose.*

(1) This section contains regulations which establish zoning districts and assign land uses to 1 or more of those districts. The section also provides standards for development which regulate lot size, yards, parking and open space. There are, however, certain circumstances which occasionally arise when a general zoning district designation would not be appropriate for a certain property, but a specific use permitted under the district would be consistent with the objectives of this section. In order to accommodate this situation, this section establishes the conditional use zone and describes the rezoning process relating to the conditional use zone.

(2) The conditional use district is established to address those situations involving a rezoning when a particular use may be acceptable, but the general classification which would allow that use would not be acceptable. It allows the Board of Commissioners to approve a rezoning proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties and with the land use plan. Any use permitted in a conditional use zone must be a permitted use in a general zoning district of the town. At a minimum, the land use restrictions in the general zoning classification allowing the proposed use must be complied with in all particulars prior to approval of a conditional use zone. Where the use is allowed in more than 1 general zoning district, the most restrictive provisions shall apply.

(3) This proceeding is a voluntary proceeding which may only be instituted at the request of a property owner. It is not intended to be utilized except where specific development criteria have been established for a particular piece of property by its owner, and the owner is prepared to commence construction within 6 months following approval of the conditional use application.

(B) *Application and review process.*

(1) *Application.* Rezoning petitions to establish a conditional use district must be submitted to the Planning Board and will be processed in accordance with the procedure for processing zoning amendments to the extent not in conflict with the provisions of this section. A conditional use district classification will be considered only if the application is made by the owner of the property or his or her agent or any person holding a contract to purchase the land contingent upon approval of the application. All applications must include a schematic plan drawn to scale and any supporting text for the ordinance amendment. The application should include at least the items listed below:

(a) A boundary survey showing the total acreage, present zoning classification, date and north arrow;

(b) The owners' names, addresses and the tax parcel numbers of all abutting properties as shown on the tax records of the county;

(c) All existing easements, reservations and rights-of-way and all yards required for the zoning district applicable;

(d) Proposed use of land and structures.

1. For residential uses, this should include the number of units and an outline of the area where the structures will be located.

2. For nonresidential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located.

(e) Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets.

(2) *Additional requirements.*

(a) It may be necessary to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board and/or Board of Commissioners may request additional information as they deem necessary. This information may include but is not limited to the items listed below:

1. Proposed screening, including walls, fences or planting areas, as well as treatment of any existing natural features;

2. Proposed architectural design of structures;

3. Delineation of areas within the regulatory flood zone as shown on the official FEMA flood zone maps for the county;



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4. Existing and proposed topography at 2-foot contour intervals or less;
5. Generalized information on the number, height, size and the location of structures;
6. Proposed number, size and location of signs; and
7. Proposed phasing, if any, and approximate completion time of the project.

(b) The application for a conditional use district must contain information and/or site plans which indicate all of the principal accessory uses which are proposed to be developed on the site. Subsequent to the approval of a conditional use district, only those principal and accessory uses indicated on the approved plan may be constructed on the site. Any substantial modifications to an approved plan, including any changes in the permitted principal or accessory uses, must comply with the provisions of division (B)(2)(a)(5).

(3) *Review and approval.*

(a) In evaluating an application for the establishment of a conditional use district, the Board of Commissioners shall consider the following:

1. The policies and objectives of the land use plan;
2. The potential impacts on surrounding property values and utilization;
3. Traffic impacts;
4. Environmental impacts;
5. The conditions of other properties owned by the applicant; and
6. Any other factors deemed reasonably relevant by the Board of Commissioners.

(b) The Board of Commissioners may attach reasonable conditions to any approval relating in any way to the location, appearance or utilization of the proposed use. Those conditions may include reasonable mechanics for determining compliance with the conditions after issuance of the permit, and may include a procedure for revoking a permit if any conditions are not met after reasonable notice and opportunity to comply.

(c) The approval, with attached specific conditions, shall be given to the applicant in writing within 30 days following the vote by the Board of Commissioners approving the conditional use zone. The applicant shall have 30 days after the notice of approval with conditions has been forwarded to him or her, postage prepaid, return receipt requested, to consent to all conditions. Failure to consent in writing to all conditions shall render the approval null and void.

(4) *Documentation and effect of approval.*

(a) Following approval of an application and acceptance of conditions by the applicant, the applicant shall cause to be prepared restrictive covenants incorporating all agreed restrictions, which covenants shall name the town as a beneficiary of the covenants, with full right of enforcement of the conditions, with all cost of enforcement to be borne by the applicant or his or her successors and assigns. A draft of restrictive covenants shall be provided to the town for review by its legal counsel. Following approval of the covenants, these covenants shall be recorded in the office of the Register of Deeds of the county and a copy of the recorded covenants shall be provided to the town. At the time as a copy of the recorded restrictive covenants are provided to the town, a conditional use permit may be issued upon a request of the applicant. The conditional use district and conditions attached thereto shall be binding on the property and all subsequent owners of the property.

(b) The Building Inspector of the town shall inspect the property 1 year from date of issuance of the conditional use permit. If satisfactory progress has not been made towards construction of the permitted improvements, the Building Inspector shall provide to the Board of Commissioners a written report specifying the status of progress, and the owner's stated intent towards completion of the project. The Board of Commissioners shall review the report, gather any additional information it deems relevant, and may, after giving notice to the owner and an opportunity for the owner to speak before the Board of Commissioners, terminate the conditional use district designation if reasonable progress has not been made towards completion. Upon the termination, the property shall revert to its zoning classification as it existed immediately prior to the approval of the conditional use zone.

(5) *Alterations to an approved conditional use district.* Changes to approved plans and conditions of development will be processed the same as changes to the zoning map and will be processed as an amendment. However, minor changes in the detail of the approved plan that will not alter the basic relationship of the proposed development to adjacent property, that will not alter the uses permitted or increase the density or intensity of development, and that will not decrease the off street parking ratio or reduce the yards provided at the boundary of the site may be reviewed by the Planning Board and approved by the Board of Commissioners without going through the amendment process.

(6) *Issuance of a conditional use permit.* A conditional use permit shall be issued by the Building Inspector of the town, which permit shall specify the conditions imposed upon approval of the conditional use district, at the request of the owner of the property assigned the conditional use zone in accordance with the procedures contained herein.

(C) *Zoning map designations.* Following Board of Commissioners approval of a conditional use district, the property so zoned will be identified on the zoning maps by the appropriate parallel conditional use district designation. This designation is the general zoning district designation plus the letters CU. (1997 Code, § 44-69)

***MANUFACTURED HOMES*****§ 156.060 MINIMUM SIZE AND MAXIMUM AGE REQUIREMENTS.**

(A) The minimum size of a manufactured home permitted within the town shall be 600 square feet of heated area.

(B) As many older manufactured homes have not been constructed in accordance with standards that ensure their safety, or have been allowed to deteriorate so that they are not compatible aesthetically or structurally with other buildings and manufactured homes within the town, no manufactured home whose certificate of title was issued more than 10 years prior to the permit application date shall be moved into the town or relocated within the town.

(1997 Code, § 44-86)

**§ 156.061 MANUFACTURED HOME AS A PRINCIPAL USE.**

In no case shall a manufactured home be allowed on a lot occupied by another manufactured home, another dwelling or another principal use.

(1997 Code, § 44-87)

**§ 156.062 LABEL OF COMPLIANCE.**

Because manufactured homes are completed units prior to delivery to the town, and thus cannot be locally inspected to be certain that all applicable building codes have been complied with, all manufactured homes hereafter located within the town shall bear a label of compliance that ensures that the manufactured home was constructed in compliance with State Home Standard A119.1.

(1997 Code, § 44-88)

**§ 156.063 FOUNDATIONS FOR MANUFACTURED HOMES.**

Foundations for manufactured homes shall be in compliance with State Home Standard A119.1.

(1997 Code, § 44-89)

**§ 156.064 UNDERPINNING AND/OR SKIRTING.**

All manufactured homes shall be underpinned or skirted with concrete blocks, bricks or other durable material manufactured for this purpose within a period of 90 days after being placed on the property. Underpinning must be acceptable workmanship and be aesthetically compatible with the home. Ventilation shall be in accordance with the state building code.

(1997 Code, § 44-90)

**§ 156.065 STRUCTURAL ADDITIONS.**

All structural additions will require a building permit and must be constructed in accordance with the state building code.

(1997 Code, § 44-91)

**§ 156.066 PARKING OF MANUFACTURED HOME.**

A manufactured home shall not be parked on a lot for a period that exceeds 7 days without complying with the requirements of this chapter.

(1997 Code, § 44-92)

**§ 156.067 PERMIT REQUIRED.**

(A) Whenever an owner desires to place a manufactured home within the town, he or she shall apply to the Building Inspector for an individual manufactured home permit. The permit shall state the following:

- (1) The name of the owner, his or her address, and the proposed location of the manufactured home;
- (2) The size of the manufactured home;
- (3) The manufacturer of the manufactured home;
- (4) The serial number of the label of compliance;
- (5) The year of manufacture;
- (6) The type of water and sewer system to be used; and
- (7) The size of the lot on which the manufactured home is to be placed.

(B) The issuance of a permit does not in itself guarantee approval of the manufactured home.

(C) If the Building Inspector finds that the owner will be in compliance with this section and with all other applicable laws when the manufactured home is ready for occupancy, he or she shall issue a manufactured home permit, which shall authorize the placement of the manufactured home in the town. The Building Inspector shall charge a fee, the amount to be set by the Board of Commissioners, for issuance of the permit.

(D) Thereafter the owner, when the manufactured home is ready for occupancy, shall notify the Building Inspector, who shall make a final inspection of the foundations, tie downs and other inspections which he or she deems necessary. He or she shall use state regulations on manufactured homes to guide him or her in his or her inspection. If the owner is found to be in compliance with this section, all state and federal regulations and all other ordinances of the town, the Building Inspector shall issue an occupancy permit, which shall authorize occupancy of the manufactured home. No electrical power shall be applied to the manufactured home until the occupancy permit has been issued, and the manufactured home shall not be used for its intended purpose, temporary or permanent, until the occupancy permit is issued.  
(1997 Code, § 44-93)

### *CONDITIONAL USES*

#### **§ 156.070 RESTRICTIONS AND CONDITIONS FOR CONDITIONAL USES.**

Permission may be granted for the establishment of uses listed as conditional uses if the Board of Commissioners finds from the evidence, maps and documents filed or produced after a study of the complete records and following a hearing regarding the application for a conditional use permit:

(A) That the proposed use will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved.

(B) That the use meets all conditions and specifications required by this chapter and other applicable town, county, state and federal laws and regulations.

(C) That the proposed use will not substantially injure the value of abutting or adjoining property, or that the use is a public necessity.

(D) That 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 land use plan as updated and amended for the town.

(E) The Board of Commissioners may impose or require such additional restrictions and standards as may be necessary to protect the health, safety and welfare of workers and residents of the community, and to protect the value, use and enjoyment of property in the general neighborhood.

(F) All conditional use permits, if granted by the Board of Commissioners, must be reduced to writing and state any and all conditions regarding the conditional use permit. All conditional use permits issued by the Board of Commissioners must be signed by the applicant, tenant, developer, and/or owners, and shall be binding on those executing the conditional use permit and their successors and assigns during the period of time that the conditional use permit is in effect.

(G) All conditional use permits granted by the Board of Commissioners must be exercised within 18 months from the date of the Board of Commissioner's approval, or the conditional use permit will be automatically rescinded without further action of the Board of Commissioners. However, any conditional use permit shall become invalid upon the cessation of the conditional use for 6 months.

(Ord. 2008-04, passed 9-15-2008)

#### **§ 156.071 CONDITIONAL USE PERMITS; PROCEDURE; REVOCATION.**

(A) All applicants for a conditional use permit shall submit an application for a conditional use permit in writing to the Planning Board on one or more forms provided by the Building Inspector.

(B) The application for a conditional use permit shall contain the following information and be accompanied by the following documents:

(1) Name and address of applicant;

(2) Address of property;

(3) Name and address of owner, developer and all proposed tenants of the property which is the subject of the conditional use permit application;

(4) Legal description of the property which may include a copy of the deed or other document vesting ownership of the property in the present owner;

(5) A detailed statement of all proposed uses of the property;

(6) A site plan meeting the guidelines as set forth in § 156.124(K). Additionally, the site plan shall show and locate exterior lighting, wattage, direction of illumination and method shielding the adjacent property owners from such lighting.

(C) The Planning Board shall consider the application for a conditional use permit and shall make its recommendation to the Board of Commissioners to include one or more additional restrictions which the Planning Board deems appropriate for the proposed conditional use permit.

(D) Once the Planning Board has made its recommendations in writing to the Board of Commissioners, the Board of Commissioners may consider the application and the evidence and documents submitted in support of the application. Additionally, the Board of Commissioners may require that the applicant submit such other information, data and documents as the Board of Adjustment deems necessary in order to pass upon the applicant's request for a conditional use permit.

(E) The Board of Commissioners will hold a public hearing regarding the application for a conditional use permit. A notice of public hearing is to be published in a local newspaper once a week for 2 successive weeks. The notice must be published for the first time not less than 10 days nor more than 25 days before the date of the hearing. In addition, a sign will be placed on the property for which the conditional use permit is being applied for at least 2 weeks prior to the public hearing notifying the public of the hearing. Also, a notification statement signed by the applicant will be mailed first class to every property owner within 500 feet of the boundary lines of the applicant's property proposed for the conditional use.

(F) All applications for conditional use permits shall be accompanied by a fee in such amount as may be established, from time to time, by resolution of the Board of Commissioners. If the Board of Commissioners finds that the application for a conditional use permit meets the requirements of this chapter, in addition to the additional requirements imposed by the Board of Commissioners in order to protect the health, safety and welfare of the community and the neighborhood where the conditional use is proposed, then the Board of Commissioners may, but is not required to, issue a conditional use permit. If the Board of Commissioners votes by a majority vote to issue a conditional use permit, then the same shall be reduced to writing and shall contain all of the terms and conditions of the conditional use permit including the period of time that the conditional use permit shall be in effect.

(G) The Board of Commissioners may revoke any conditional use permit following notification to the conditional permit use holder that one or more of the conditions of the conditional use permit are believed to have been violated and following a hearing in which the Board of Commissioners finds that 1 or more of the conditions have been violated and that the conditional use permit should be revoked.  
(Ord. 2008-04, passed 9-15-2008)

#### **§ 156.072 (RESERVED).**

#### **§ 156.073 CONDITIONAL USE MARINAS.**

(A) The following items must be shown on the submitted plat:

- (1) Identify and describe the types and construction materials of the slips.
- (2) The location and extent of utilities proposed including: electricity, water, phone, and cable.

- (3) Identify and describe any proposed sewage “pump out” stations.
  - (4) Identify and describe any proposed restroom and/or shower facilities.
  - (5) Identify and describe vehicle parking facilities for slips and visitors.
  - (6) Identify and describe the availability of all handicap accessible features.
  - (7) Identify and describe in detail all proposed buffers including but not limited to their location, width, height, material or species, and purpose.
  - (8) Identify and describe any proposed fueling facilities.
  - (9) Identify and describe any other structures proposed on the property including their size, purpose, and occupancy.
  - (10) Identify and describe any proposed emergency equipment such as 911 phones, throwable life rings, etc.
  - (11) Describe to what extent of force the project has been engineered to withstand in the event of a major flood or hurricane.
- (B) Slips must be open on all sides and shall not be roofed over.
- (C) Emergency services including fire services, emergency medical services, and police services shall have 24 hour access to the property.
- (D) Marinas shall be kept in a neat, clean, and professional manner.
- (E) A copy of the rules/regulations/restrictions/covenants shall be filed with the town at the time of application and shall include, but not be limited to the following:
- (1) The hours of operation/access.
  - (2) The rules, and plans for their enforcement, for parties or large gatherings.
  - (3) To whom access and use of the facility and its features are granted.
  - (4) That due to water quality concerns, only environmentally friendly products may be used on site.



(5) The extent of boat maintenance allowed on site.

(6) There shall be no storage of empty trailers on the premises or boats on the facility grounds.  
(Ord. 2008-05, passed 9-15-2008)

**§ 156.074 (RESERVED).**

**§ 156.075 (RESERVED).**

**§ 156.076 (RESERVED).**

**§ 156.077 CONDITIONAL USE RV/BOAT STORAGE FACILITIES.**

(A) The following items must be shown on the submitted plat:

(1) Identify and describe all proposed utilities including their layout and availability.

(2) Identify all required state and federal permit requirements and their agencies.

(3) Identify and dimension the number and size of all boat and/or RV parking spaces, vehicle parking spaces, access aisles, driveways, etc.

(4) Demonstrate the ability to properly and safely maneuver within the facility.

(5) Identify and describe the availability of all handicap accessible features.

(6) Identify and describe any proposed sewage disposal systems.

(7) Identify and describe any proposed washing areas.

(8) Identify and describe all safety and security features.

(9) Identify all other boat and/or RV storage facilities within a 3 mile radius of proposed location.

(10) Identify and describe any proposed emergency equipment such as 911 phones, fire extinguishers, etc.

(11) Identify and describe in detail all proposed buffers including but not limited to their location, width, height, material or species, camouflaging, and purpose.

(B) There shall be no multi-level storage of any type.

(C) All boats must display a current registration and be located on trailers displaying a current registration.

(D) All campers, RV's, trailers must display a current registration.

(E) Mobile homes, including park models are not permitted on the property.

(F) A fire hydrant must be located within 300 feet of every parking space.

(G) Emergency services including fire services, emergency medical services, and police services shall have 24 hour access to the property.

(H) All fuel shall be stored in DOT approved containers.

(I) There shall be no on site refueling.

(J) Boat and/or RV storage facilities shall be kept in a neat, clean, and professional manner.

(K) There shall be no covered storage.

(L) A copy of the rules/regulations/restrictions/covenants shall be filed with the town at the time of application and shall include, but not be limited to the following:

(1) The hours of operation/ access;

(2) To whom access and use of the facility and it's features are granted;

(3) The extent of boat and/or RV maintenance allowed and when maintenance can be performed on the site;

(4) A statement that parties or large gatherings are prohibited.

(Ord. 2008-06, passed 9-15-2008)

***EXCEPTIONS AND MODIFICATIONS*****§ 156.080 LOTS OF RECORD.**

(A) Where the owner, or his or her successor in title thereto, of a lot consisting of 1 or more lots of official record in any district on July 15, 1974, the time of adoption of this chapter, or if later, the date the lot became subject to the zoning jurisdiction of the town, does not own sufficient adjoining land to enable him or her to conform to the minimum lot size requirements imposed by this chapter, the lot may be used as a building site, provided the other requirements of the district are complied with or a variance is obtained from the Zoning Board of Adjustment.

(B) The Zoning Enforcement Officer, upon receipt of an application for construction on a lot not conforming to the minimum lot size requirements, shall ascertain the ownership of the lot and adjoining lots on the dates specified in division (A) above. He or she shall not issue a building permit if at any time during the intervening period the lot of record and the adjoining property have had the same owner, unless the adjoining property is combined with the lot of record.

(1997 Code, § 44-121)

**§ 156.081 VISIBILITY OF INTERSECTIONS.**

On a corner lot in any residential district, no planting, structure, fence, wall or obstruction to vision more than 3 feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on the street lines, each of which is 25 feet distance from the point of intersection.

(1997 Code, § 44-122)

**§ 156.082 ADMINISTRATIVE VARIANCE FOR SETBACKS.**

(A) If the enforcement officer finds that any dimensional requirement in Appendix A has not been specifically adhered to, but that such deviation was the result of a good faith error and that said error would not adversely impact an adjoining property, he may permit a dimension deviation up to and including 1 foot on the front setback and 4 inches on side or rear setback with a fee as specified in the Town of Cape Carteret Fee Schedule.

(B) Only 1 dimension deviation per building may be allowed. A request for approval must be made on an application form provided by the town and be accompanied by an application fee in the amount specified in the Town of Cape Carteret Fee Schedule.

(Ord. 2009-06, passed 4-20-2009)

**ZONING BOARD OF ADJUSTMENT****§ 156.095 ESTABLISHMENT.**

(A) *Generally.* Pursuant to G.S. §§ 160A-358 and 160A-362, there is hereby established a Zoning Board of Adjustment of the town to perform the functions and duties prescribed in this section.

(B) *Membership.*

(1) The Zoning Board of Adjustment shall have 5 regular members. In addition to regular members, the Board of Commissioners shall appoint 2 alternate members. The senior alternate member, while attending any regular or special meeting of the Zoning Board of Adjustment, in the absence of a regular member, shall have and may exercise all the powers and duties of the regular member. If 2 regular members are absent, the second alternate member shall serve in the same fashion as the senior alternate, the senior alternate member being the prior appointee.

(2) Regular members and alternate members shall be residents of the town and shall be appointed to the Zoning Board of Adjustment by the Board of Commissioners. Additionally, the Zoning Board of Adjustment shall have 2 members and 1 alternate member who reside outside the town, but within the area specified by an extraterritorial boundary ordinance adopted pursuant to G.S. § 160A-360b. The Board of Commissioners shall recommend extraterritorial member candidates for appointment by the County Board of Commissioners. Should the County Board of Commissioners fail to appoint the requested members from the town's extraterritorial jurisdiction within 90 days after receiving a request for action, the Board of Commissioners may appoint residents of the extraterritorial jurisdiction areas to serve on the Zoning Board of Adjustment.

(C) *Terms.* Regular members, extraterritorial members and any alternate members, of the Zoning Board of Adjustment shall serve for terms of 3 years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Zoning Board of Adjustment. No members of the Planning Board or officials of the town shall be appointed to the Zoning Board of Adjustment.

(D) *Vacancies.* Notwithstanding the provisions of the division (C) above, the Board of Commissioners may declare that a vacancy exists in the Board of Adjustment membership when any individual regular or alternate member has missed more than 3 meetings in a row (whether regular, special or called meetings) without having been excused by the chairman of the Board of Adjustment. The Board of Commissioners shall appoint a new member to complete the unserved portion of the term wherein the vacancy exists.

(1997 Code, § 44-151) (Am. Ord. passed 11-18-2002)

**§ 156.096 ORGANIZATION AND PROCEEDINGS.**

(A) The Zoning Board of Adjustment shall elect a Chairperson and Vice-Chairperson from among its regular members. The Chairperson and Vice-Chairperson shall serve terms of 1 year beginning on January 1 or until they are reelected or their successors are elected. The Board shall appoint a secretary, who may be a member of the Board or an employee of the town.

(B) The Board shall adopt rules and procedures in accordance with the provisions of this chapter. The Board shall meet monthly and at other times as the Board may determine. The Chairperson, or in his or her absence the Vice-Chairperson, may administer oaths. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing important facts pertaining to matters acted upon and a record of votes of each member on each question, including the names of those not voting or absent.

(C) Regular members may vote on all matters before the Board. Extraterritorial area members shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the extraterritorial area. Alternate members shall have equal rights, privileges and duties of the members they represent.

(1997 Code, § 44-152)

**§ 156.097 POWERS AND DUTIES.**

The Zoning Board of Adjustment shall have the following powers and duties:

(A) *Administrative review.* The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of this chapter.

(B) *Variances.*

(1) The Board shall authorize upon appeal in specific cases variances from the terms of this chapter as will not be contrary to the public interest, where a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship. The spirit of this chapter shall be

preserved, public safety and welfare secured, and substantial justice done. The existence of nonconforming uses in the same or other districts shall not constitute a reason for granting the requested variance.

(2) The variance may be granted in individual cases of unnecessary hardship upon a finding by the Board that the following conditions exist, or if the variance is in accordance with provisions specifically authorized by this chapter:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.

(e) The special circumstances are not the result of the actions of the applicants.

(f) The variance requested is the minimum variance that will make possible the legal use of land, building or structure.

(g) The variance is not a request to permit a use of land, building or structure that is not permitted by right in the district involved.

(3) In granting a variance, the Board may attach thereto the conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purposes of this chapter. Unless otherwise specified, any order or decision of the Board granting a variance shall expire if the applicant fails to commence action authorized within 6 months from the date of the decision. An extra period of 6 months may be granted to property owners by the Board provided the property owner has submitted a written request for such prior to the expiration date and provided the request includes a valid reason for the extension.

(C) *Zoning maps, lot lines.* The Board may interpret zoning maps and pass upon disputed questions of lot lines, district boundary lines and similar questions as they arise in the administration of this chapter.

(D) *Other matters.* In addition to zoning matters, the Board shall hear and decide matters referred to it upon which it is required to act by other ordinances of the town.  
(1997 Code, § 44-153)

**§ 156.098 DECISIONS OF ZONING BOARD OF ADJUSTMENT.**

The concurring vote of 4/5 of the Zoning Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant for a variance from the terms of this chapter. On all other matters brought before the Board, a majority vote of those present shall constitute the decision of the Board. On all appeals and applications brought before the Board, the Board shall inform in writing all parties involved of its decisions and the reasons therefor. (1997 Code, § 44-154)

**§ 156.099 APPEALS SUBMITTED TO ZONING BOARD OF ADJUSTMENT.**

(A) Appeals under § 156.097(A) may be brought by filing the required written notice of appeal by any person aggrieved by any appealable decision, or by the town. Any appeal must be filed within 30 days following the communication to the effective party of the decision that is the subject of the appeal. All papers constituting the record upon which the action appealed was taken shall forthwith be transmitted to the Zoning Board of Adjustment by the officer from whom the appeal is taken.

(B) An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Board or by a court of record upon issuance of notice to the officer from whom the appeal is taken and upon due cause shown.

(C) Applications for a variance from the terms of this chapter shall be filed with the Board on forms provided by the Board. Applications shall be signed by the owner of the property or a lawful agent.

(D) The Zoning Board of Adjustment shall hear appeals or other matters within 45 days following the matter being referred to it, and give due notice thereof to the parties in interest and decide the same within 30 days following the hearing. Upon a hearing, any party may appeal in person or by agent or by attorney.

(E) The Board shall give public notice of the hearing of an appeal in a newspaper of general circulation in the town, by mail to the parties to the action under appeal, and by posting on the town bulletin board.

(1997 Code, § 44-155) (Am. Ord. 2005-11-16, passed 11-21-2005)

**§ 156.100 APPEALS FROM THE ZONING BOARD OF ADJUSTMENT.**

Any person aggrieved by any decision of the Zoning Board of Adjustment may, within 30 days after the filing of the decision in the office of the Board, but not thereafter, present to the court of competent jurisdiction a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the ground of illegality, whereupon the decision of the Board shall be subject to review by certiorari as provided by law.

(1997 Code, § 44-156)

**§ 156.101 FEES FOR VARIANCES OR APPEALS.**

(A) Applicants for a variance or appeal shall pay a fee to the town to cover administrative costs and advertising.

(B) The fee shall be as determined by the Board of Commissioners from time to time and included in the schedule of fees maintained on file in the town hall.

(C) Schedule of fees for the Board of Adjustment for a variance/appeal/text change is \$200.  
(1997 Code, § 44-157) (Am. Ord. passed 7-21-2003)

***ADMINISTRATION AND ENFORCEMENT*****§ 156.115 ENFORCEMENT OFFICER.**

(A) The Building Inspector is hereby authorized, and it shall be his or her duty to enforce and administer the provisions of this chapter.

(B) The Board of Commissioners shall from time to time appoint 1 or more Zoning Enforcement Officers to enforce and administer the provisions of this chapter relating to zoning and land use regulation. Additionally, the Building Inspector is authorized to enforce and administer the provisions of this chapter.  
(1997 Code, § 44-186) (Am. Ord. 00-12-09, passed 12-18-2000)

**§ 156.116 ZONING AND BUILDING PERMITS REQUIRED.**

(A) No residential or commercial use lasting more than 72 hours, nor shall any construction, nor the location of any structure, building or manufactured home, be allowed on any lot, nor shall a well or septic tank be installed on any lot, until the town has issued a zoning permit. The Building Inspector shall



issue a zoning permit upon application of the lot owner or his or her agent if the Building Inspector determines that the proposed use is in compliance with the provisions of this chapter. The application for a zoning permit shall be on a form approved by the town and shall include information as may be necessary to enable the Building Inspector to determine that the proposed activity is in compliance with this chapter.

(B) Building, plumbing, electrical, heating, air conditioning and refrigeration permits and any other permit required by the regulatory codes adopted in this chapter or any permits required by state law shall be obtained from the Building Inspector prior to beginning any construction, repair or alteration regulated by codes or state law.

(C) A building permit or a zoning permit issued pursuant to this chapter shall expire 6 months after the date of issuance if 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 permit that has expired shall thereafter be performed until a new permit has been obtained.

(1997 Code, § 44-187)

#### **§ 156.117 APPLICATION FOR BUILDING PERMIT.**

(A) A building permit must be issued by the Building Inspector prior to any structural addition or alteration to any building; prior to any construction, including earth moving; or where any work involves plumbing, electrical, heating, air conditioning, insulation, or refrigeration permits as may be required by the state building code.

(B) (1) Each application to the Building Inspector for a building permit shall be accompanied by a county health department permit when required, and plot plans in duplicate showing:

- (a) The actual dimensions of the lot to be built upon;
- (b) The size of the manufactured home;
- (c) The size of the building to be erected;
- (d) The location of the building on the lot;
- (e) The location of existing structure on the lot, if any;
- (f) The number of dwelling units the building is designed to accommodate; and

(g) Other information as may be essential for determining whether the provisions of this chapter are being observed.

(2) Each application for a building permit shall include information as to the location of applicable areas of environmental concern. Prior to the issuance of a building permit, the Building Inspector shall certify that the proposed structure or facility is in accordance with the state guidelines for areas of environmental concern.

(C) One copy of the plans shall be returned to the applicant by the Building Inspector after he or she shall have marked the copy either as approved or disapproved and attested to same by his or her signature on the copy. The second copy of the plans, similarly marked, shall be retained by the Building Inspector. If the plans are disapproved, the copy returned shall specify the reason for the disapproval.

(D) In addition to the requirement of a plot plan as specified in division (B) above, any proposed structure requiring a building permit and having a permanent foundation shall be conditioned upon the building permit applicant submitting to the town official charged with administering the Zoning Ordinance, a survey or plat certified by registered engineer or surveyor showing the location of foundations or pilings in relation to the flood zone and the applicable setback requirements. If the survey or plat, showing the foundation or pilings is not submitted immediately after construction of the foundation or pilings and before construction proceeds on the balance of the structure, then the building permit is subject to revocation.

Exceptions to the requirements of § 156.117(D):

(1) Decks supported by posts not larger than 6" x6" normal size.

(2) Accessory structures identified on the approved site plan as being 10' or more inside the applicable setback lines.

(1997 Code, § 44-188) (Am. Ord. 00-07-03, passed - - ; Am. Ord. 2008-01, passed 4-21-2008)

### **§ 156.118 RUNOFF PREVENTION POLICY.**

(A) It shall be the policy of the town to limit the runoff from any developed property to the amount of runoff that would naturally occur prior to the development of the property to the extent practicable.

(B) Prior to issuing a permit for any construction or land clearing, the appropriate Permit Officer shall examine the plans to determine whether or not the plans will likely result in stormwater, heat pump, sump pump or other induced runoff in an amount that may negatively impact adjoining properties, streets or rights-of-way or the water quality of receiving waters. If the Permit Officer determines there is reasonable likelihood to believe the adverse impact may occur, the Permit Officer shall require of the permit applicant a written report from a qualified engineer selected and employed by the applicant describing the increase in runoff attributable to the proposed activity and any potential short-term or long-term problems to adjoining properties, streets or rights-of-way, or water bodies that might result from the activity. The engineering report shall further list alternatives for the disposition of stormwater to minimize impacts. Following receipt of the report, a permit for the requested activity shall be issued only if, upon the reasonable opinion of the Permit Officer, the following criteria are met:

(1) The proposed activity or use has been designed in a way as to minimize any potential adverse impact from runoff; and

(2) To deny the permit would deny the owner of the property unreasonably a right of utilization of the property for uses otherwise allowed under applicable ordinances of the town.  
(1997 Code, § 44-189)

#### **§ 156.119 FEES.**

When making application for a building permit, a fee shall be paid for investigation and compliance in accordance with the fee schedule in effect.  
(1997 Code § 44-190) (Am. Ord. passed 7-21-2003)

#### **§ 156.120 CERTIFICATE OF OCCUPANCY REQUIRED.**

A certificate of occupancy shall be applied for when construction is completed, and all provisions of this chapter and the state building code have been complied with. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal. A record of all certificates shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.  
(1997 Code, § 44-191)

#### **§ 156.121 AMENDMENTS.**

(A) This chapter, including the zoning map, may be amended from time to time; but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Board for review and recommendation. The application for a zoning change shall be on an application form approved by the Town Board. The Planning Board shall have 45 days within which to submit its report. If the Planning Board fails to submit a report within the 45-day period, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the Board of Commissioners before adoption of any proposed amendment to this chapter. A notice of the public hearing shall be given once a week for 2 successive calendar weeks in a newspaper of general circulation in the town, or by posting notice of the public hearing at 3 public places in the town, the notice to be published or posted for the first time not less than 10 days prior to the date established for the public hearing.

(B) In the case of a protest against an amendment, supplement, change, modification or repeal signed by the owners of 20% or more, either of the area of the lots included in the proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of 3/4 of all members of the Board of Commissioners.  
(1997 Code, § 44-192) (Am. Ord. 2005-11-15, passed 11-21-2005)

**§ 156.122 REMEDIES.**

In case any structure, building or manufactured home or business is placed, erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the Building Inspector or any other appropriate authority, or any persons who would be damaged by the violation, in addition to other remedies, may institute injunctive mandamus or other appropriate action and proceeding to prevent the violation.

(1997 Code, § 44-193)

**§ 156.123 BUILDING SIZE LIMITATION.**

No building with more than 50,000 square feet of floor space shall be permitted.

(1997 Code, § 44-46) (Ord. 2006-2, passed 3-20-2006)

**§ 156.124 COMMERCIAL BUILDINGS AND OTHER PERMITTED USES.**

(A) *Site plan required.* Prior to any ground-disturbing activity on any lot, tract or other parcel of land, the owner and/or general contractor shall submit, for review by the Planning Board and approval by the Board of Commissioners, a site plan in accordance with the terms of this section; provided, however, that this section shall not apply to development of residential property with one single-family dwelling, or one primary building containing not more than two single-family dwelling units.

(B) *Fire hydrants.*

(1) The applicant shall provide for the installation of at least one fire hydrant located within 300 feet of the principal structure, unless such a fire hydrant already exists.

(2) If no fire hydrant exists within 300 feet of the principal structure, the applicant shall cause such hydrant to be installed.

(3) In addition, if the subject property is of sufficient size, the applicant shall cause the installation of 2 additional hydrants located within 1,000 feet of the principal structure per the requirements and/or specifications described herein.

(4) Fire hydrants shall be subject to the approval of the Western Carteret Fire Department or any other or successor agency that now has or hereafter acquires authority over the area containing the subject property.

(5) Except in cases of hardship as certified by the Town Zoning Enforcement Officer, all new water lines shall be at least 8 inches in diameter, and configured in a closed loop design.

(C) *Proposed sewage treatment and disposal facilities.* Before any proposed site plan may be approved, the applicant shall demonstrate to the Planning Board tentative approval of the proposed sewage treatment and disposal facilities by the Carteret County Department of Environmental Health or the North Carolina Department of Environment and Natural Resources, as applicable.

(D) *Dredging and filling permits.* Before any proposed site plan may be approved, the applicant shall demonstrate to the Planning Board tentative approval of any dredging and filling permits required by law.

(E) *Inspections.* Inspections of sites involving public rights-of-way and inspections of any on-site construction shall be made by the town, in addition to any other appropriate governmental and/or other regulatory agency having jurisdiction.

(F) *Parking and loading.*

(1) No required off-street parking space, including adjacent parking access lanes or maneuvering space, shall be located within the existing or proposed right-of-way of the road, including sidewalk areas.

(2) Off-street parking areas shall be designed with sufficient distance separating parking spaces and access lanes, such that vehicles can be maneuvered into and out of parking spaces without impeding traffic in such access lanes.

(a) As used in this section, **ACCESS LANE** means a street or other right-of-way, or portion thereof, designed primarily to connect parking lanes to one another or to streets or other general rights-of-way.

(b) As used in this section, **PARKING LANE** shall mean a lane designed primarily to provide vehicular access from an access lane to parking spaces.

(c) All off-street parking shall be designed in such a manner as to eliminate the need for vehicular traffic to back into any adjacent street or right-of-way except a parking lane.

(3) No provision of this section may be construed to reduce the number of off-street truck loading/unloading spaces required under any provision of the code.

(4) No part of any off-street truck loading or unloading space may be located within any street or road right-of-way, or within any other easement unless such other easement specifically permits such loading and unloading in the document granting such easement.

(5) Off-street truck loading and unloading spaces shall be located and designed such that any turning, backing or other maneuvering required for such trucks to move into such loading or unloading space can occur on the subject property, and not on any portion of a street or road.

(G) *Right-of-way improvements and restrictions.*

(1) In addition to all other requirements of this section or any other portion of the code, the town may, as a condition of site plan approval, require the installation of specific directional, regulatory or advisory signs or pavement markings at designated locations on the site.

(2) Any site plan that provides temporary stopping space or maneuvering space for vehicles of customers or patrons seeking service at a roadside business establishment shall be located so that the stopping or maneuvering space is off the existing right-of-way or road.

(3) No part of the right-of-way of a street or road may be used for the conduct of private business. For purposes of this section, **PRIVATE BUSINESS** includes, without limitation, any building, sales or merchandise displays, signs, vegetation, parking areas, service equipment or any other appurtenance of any such business.

(4) Right-of-way improvements shall be made in accordance with the standards and specifications of this code or the North Carolina Department of Transportation.

(H) *Connection permits.* With its application for site plan approval pursuant to the terms of this section, the applicant shall submit true copies or other evidence satisfactory to the Planning Board that the applicant has obtained all connection permits required by the North Carolina Department of Transportation (DOT), and all other permits required by DOT or any other agency for improvements and/or connections to any public street, highway or other public right-of-way.

(I) *Lighting and markers.*

(1) Appropriate lighting shall be provided.

(2) Appropriate markers shall be shown and installed at all property corners, points of tangents, and any angle point along a given course of the property. The applicant shall ensure that the person installing such markers shall use the most permanent type of marker practicable under the circumstances.

(J) *Advertising sign restrictions.*

(1) No advertising sign, device or marking may be designed to be erected on or overhanging any public street, road or right-of-way.

(2) Advertising signs that move, flash, give the illusion of movement or resemble official traffic control devices are prohibited within 25 feet of any street or road right-of-way, or any other location where they may reasonably be expected to have an adverse effect on the safety of vehicular or pedestrian traffic.

(K) *Site plan requirements.*

(1) Six copies of the site plan shall be submitted to the Town Clerk no later than 15 days prior to the Planning Board meeting date at which the plan is to be reviewed.

(2) All site plans submitted pursuant to this section shall contain the information described herein, and shall be subject to the limitations set out herein.

(a) Any site plan submitted to the Planning Board shall be drawn at a scale not smaller than 1 inch equals 50 feet, and not larger than 1 inch equals 10 feet

(b) Any site plan submitted pursuant to this section shall be prepared, signed and sealed by a licensed professional engineer, registered land surveyor or other appropriate professional licensed to practice in the State of North Carolina, and shall include the name and address of the applicant and the owner, and the name, address and title of the person preparing the plan, maps and accompanying data.

(c) Property and ownership information to be included:

1. Present record owner(s), lot, block and section number and map book and page reference of the subject property, per any recorded plat(s) or map(s) thereof. If there is not a recorded plat or map of the property, then the book and page number of all deeds or other instruments through which the present record owner(s) claim(s) any interest in the subject property shall be provided, along with a legible photocopy of such deeds or other instruments, including the recording information thereon.

2. Present record owners, lot, block and section numbers and map book and page reference of each adjacent parcel, per any recorded plat(s) or map(s) thereof. If there are not such recorded plat(s) or map(s) of the adjacent parcels, then the book and page number of all deeds or other instruments through which the adjacent record owner(s) acquired any interest in the subject property shall be provided, along with a legible photocopy of such deeds or other instruments, including the recording information thereon.

3. The name/proposed name of the development, date of plan preparation or revision, true north arrow, and a graphic representation of the scale used in the plan.

4. A sketch vicinity map showing the entire site development and its relationship to the surrounding area.

5. The designation of the zoning district in which the subject property is located, as well as the zoning designation of all tracts abutting the subject property.

6. The acreage of the site to be developed to the nearest tenth of an acre.

7. Boundary survey of the subject property, with courses and distances of each boundary segment/arc illustrated on the plan, along with the courses and distances of each segment of all streets and other easements and rights-of-way within the subject property, as well as the courses and distances of all segments of streets, other easements and rights-of-way abutting the subject property.

8. The nature of all existing and proposed streets, easements and other rights-of-way.

(d) Evidence satisfactory to the Planning Board that the applicant has complied with the requirements of this section concerning the installation of fire hydrants on and/or serving the subject property.

(e) Existing and proposed features information to be included:

1. The locations, names, pavement and right-of-way width of all existing and proposed streets, and all easements, curbs, curb cuts, hike-bike trails and sidewalks abutting the property or properties in question, and within 200 feet thereof.

2. Topographic contours at 5 foot intervals, and any physical conditions or features reasonably likely to have any significant effect on the site.

3. The location of all existing and proposed setback dimensions, landscaped areas and fencing.

4. The location of proposed utilities and facilities, including (without limitation) fire hydrants and fuel storage tanks, showing connections to existing supply and disposal systems, where applicable.

5. The location of all existing and proposed signs, traffic control devices, lighting standards and utility poles on or abutting the subject property.

6. Flood zone(s) boundaries as determined by the latest FEMA flood insurance rate map, and the notation "Flood zones subject to change by FEMA."

7. Location of areas subject to U.S. Army Corps of Engineers 404 wetlands protection.

8. Delineation of any and all Areas of Environmental Concern (AEC) as defined by the Coastal Area Management Act (CAMA), G.S. Ch. 113A, Art. 7.

9. All watercourses, wetlands or estuarine waters within the subject site and within 600 feet in any direction from the property.

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(f) Site improvements to be included:



1. The location of existing and proposed principal building(s) or structure(s) and all accessory buildings or structures, if any, and finished grade elevations at all corners of such buildings, along with an indication of whether those existing building(s) and/or structure(s) will be retained or removed.
2. The proposed building type (e.g., brick, concrete or frame), number of floors and dimensions.
3. Finished grades for the entire site.
4. The size and location of all water mains and connections to existing water supply system.
5. Existing and proposed sanitary sewerage facilities serving the site, including the location, size and slope of all sanitary sewer lines, pumping stations, connections to existing facilities, location of any proposed sanitary sewerage treatment plants and septic treatment facilities.
6. Storm drainage systems, including the following: all existing or proposed storm sewer lines within or adjacent to the site, and the location of each catch basin, inlet and manhole; the location and extent of any proposed dry well, ground water recharge basins, retention and infiltration basins or other water conservation devices.
7. The location, type, capacity and size of all existing and proposed inlets, catch basins, storm drainage facilities, and utilities, plus all required design data supporting the adequacy of the existing and/or proposed facility to handle future storm flows.
8. When a brook or stream is proposed for alteration, improvement or relocation, or when a structure or fill is proposed over, under, in or along a stream, evidence of submission of an application for the proposed work to the North Carolina Department of Environment and Natural Resources (DENR) shall accompany the site plan, or evidence that such an application is not required.
9. When ditches, streams, brooks or water courses are to be altered, improved or relocated, the method of stabilizing slopes and measures to control erosion and siltation, as well as typical ditch sections and profiles, shall be shown on the site plan.
10. The location, type and size of all existing and proposed curbs, curb cuts, sidewalks, driveways, fences, retaining walls, signs, parking space areas, and the layouts thereof, and all off-street loading areas, together with the dimensions of all the foregoing on the site in question; including without limitation all information required pursuant to § 156.026.

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11. A tabulation of the total number of dwelling units of each type in the project (e.g., 25 single-family dwelling units, 12 duplex dwelling structures [24 units], and 3 condominium dwelling

structures with 5 units each [15 units]), and the overall project density in dwelling units per acre.

(L) *Determination of completeness/written notification.*

(1) (a) An application for development shall not be determined to be formally submitted until the required number of plans, application forms, plan details and all other information required by this section have been submitted to the Planning Board.

(b) The time period for its approval, approval with conditions, or denial of such application shall not commence until such time as the Planning Board has accepted the application as a being complete.

(2) Within 21 days after the first regularly scheduled meeting of the Planning Board after the filing of an application, and after the filing of additional or supplemental information requested by the Planning Board to complete an incomplete application as described below, the Planning Board shall notify the applicant and the municipal approval authority, in writing, whether the application is complete or incomplete, and the date of such determination.

(a) Such notifications may be given in any manner reasonably calculated to come to the attention of the applicant and the municipal approval authority.

(b) First class mail addressed to the applicant at the address provided in the application shall be conclusively presumed to be a manner reasonably calculated to come to the attention of the applicant.

(c) The applicant's receipt of such notification shall be deemed to have occurred on the earliest of the following dates:

1. The date the applicant is notified in person; or

2. Five days after mailing by first class mail to any address within the state; or

3. Ten days after mailing by first class mail to any out-of-state address within the United States of America.

(3) If the Planning Board finds the application to be incomplete, its notification of that fact to the applicant and the municipal approval authority shall include a list of all information required to complete the applicant's application.

(a) The applicant may then either abandon the application or provide the additional information requested by the Planning Board.

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(b) If the applicant chooses to provide such additional/supplemental information, then the procedure described in this section shall apply to the Planning Board's determination of whether the application is complete or not.

(M) *Board of Commissioners action.*

(1) The following procedures shall apply after such time as the Planning Board finds the application to be complete; provided, however, the Planning Board's certification that the application is complete shall not be construed to prohibit its requiring the submission of additional information in support of the application, regardless of whether or not such additional information is required with an original application.

(2) (a) Within 60 days from the date the Planning Board certifies that the applicant's application is complete, the Planning Board shall complete its review of the application and, shall notify the governmental approval authority of its recommendations on the application.

(b) The Planning Board may recommend to the governmental approval authority either approval, conditional approval (with all recommended conditions being specifically set out in the Planning Board's recommendation), or rejection (with all reasons for its recommendation of rejection being specifically set out in the Planning Board's recommendation) of any proposed site plan.

(3) (a) The Board of Commissioners may approve, approve with specific conditions, or disapprove any site plan within 60 days after its receipt of the notice from the Planning Board, as described in division (2)(b) above.

(b) A rejected site plan may be resubmitted in accordance with this section, when revised to meet the specifications of this chapter, and upon payment of a site plan review fee as required in the most recently adopted fee schedule.

(N) *Changes after approval.*

(1) When approval is granted, no changes or alterations shall be made in any portion of the plan without approval of such changes or alterations by the Board of Commissioners after review and recommendation by the Planning Board; or

(2) After approval of a site plan by the Board of Commissioners, minor changes in the plan may be approved in writing by the Planning Board; provided that the changes do not prevent the spirit and intent of a condition of approval from being met, or a provision or requirement of an ordinance from being executed, except as provided in § 156.137.

(O) *Successor agencies.* Where this section refers to any agency of federal, state or local government or any other governmental entity, such reference shall be deemed to also apply to any successor agency thereof.

(Ord. 2006-1, passed 2-20-2006; Am. Ord. 2006-12, passed 8-21-2006; Am. Ord. 2006-13, passed 8-21-2006)

***VESTED RIGHTS***

**§ 156.135 PURPOSE.**

The purpose of this chapter is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site-specific development plan. (1997 Code, § 44-121)

**§ 156.136 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***APPROVAL AUTHORITY.*** The Board of Commissioners, Board of Adjustment or other Board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

***SITE-SPECIFIC DEVELOPMENT PLAN.***

(1) A plan of land development submitted to the town for purposes of obtaining 1 of the following zoning or land use permits or approvals:

(a) Approval of a preliminary subdivision plan by the Board of Commissioners of the town as required by § 154.067; and

(b) Site plan approvals granted by the Board of Commissioners in conditional use zones in accordance with this code of ordinances.

(2) Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.

**ZONING VESTED RIGHT.** A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

(1997 Code, § 44-222)

### § 156.137 ESTABLISHMENT OF A ZONING VESTED RIGHT.

(A) A zoning vested right shall be deemed established upon the valid approval or conditional approval by the Board of Commissioners or Board of Adjustment, as applicable, of a site-specific development plan, following notice and public hearing.

(B) The approving authority may approve a site-specific development plan upon the terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(C) Notwithstanding divisions (A) and (B) above, approval of a site-specific development with the condition that a variance be obtained shall not confer a zoning vested right unless the necessary variance is obtained.

(D) A site-specific development plan shall be deemed approved upon the effective date of the approval authority's action relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including but not limited to building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this chapter

(F) A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise the right while applicable.

(1997 Code § 44-223)

**§ 156.138 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.**

(A) Except as otherwise provided in this section, an application for site-specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions in this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a Board, committee or administrative official other than the Board of Commissioners, Board of Adjustment, or other Planning Agency designated to perform any or all of the duties of the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners, following notice and a public hearing as provided in G.S. § 160A-364.

(C) In order for a zoning vested right to be established upon approval of a site-specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(D) Each map, plat, site plan or other document evidencing a site-specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until\_\_\_\_\_."

(E) Following approval or conditional approval of a site-specific development plan, nothing in this chapter shall exempt a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval provided that the reviews and approval are not inconsistent with the original approval.

(F) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.  
(1997 Code, § 44-224)

**§ 156.139 DURATION.**

(A) A zoning right that has been vested as provided in this chapter shall remain vested for a period of 2 years unless specifically and unambiguously provided otherwise pursuant to division (B) below. This vesting shall not be extended by any amendments or modifications to a site-specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(B) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. (1997 Code, § 44-225)

#### **§ 156.140 TERMINATION.**

A zoning right that has been vested as provided in this chapter shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(B) With the written consent of the affected landowner;

(C) Upon findings by the Board of Commissioners, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific development plan;

(D) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid; compensation shall not include any diminution in the value of the property which is caused by the action;

(E) Upon findings by the Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentation that made a difference in the approval by the approval authority of the site-specific development plan; or

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

(1997 Code, § 44-226)

#### **§ 156.141 VOLUNTARY ANNEXATION.**

A petition for annexation filed with the town under G.S. §§ 160-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under G.S. §§ 160A-385.1 or 153A-344.1. A statement that declares that

no zoning vested right has been established under G.S. §§ 160A-385.1 or 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner; and any zoning vested right shall be terminated.  
(1997 Code, § 44-227)

**§ 156.142 LIMITATIONS.**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.  
(1997 Code, § 44-228)

**§ 156.143 REPEALER.**

If G.S. § 160A-385.1 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.  
(1997 Code, § 44-229)

**§ 156.999 PENALTY.**

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$25 per day. A citation for the civil penalty shall be issued by the Police Department or the Town Building Inspector. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) The Zoning Enforcement Officer is one designated by the Board of Commissioners.  
(1997 Code, § 44-5) (Am. Ord. 00-12-10, passed 12-18-2000)





**APPENDIX A: CHART OF DIMENSIONAL REQUIREMENTS**

**AREA, YARD AND HEIGHT REQUIREMENTS**

<i>District</i>	<i>Minimum Lot Size Area in Sq. Ft.</i>	<i>Lot Width in Feet</i>	<i>Front Yard Setback in Feet</i>	<i>Side Yard in Feet</i>	<i>Rear Yard in Feet</i>	<i>Maximum Height in Feet (m), (n)</i>	<i>Minimum and Maximum Unit Area in Sq. Ft.</i>	<i>Easement Requirement</i>
R-10	15,000		35	10 (e), (j)	10 (k)	40 (a)	600(d) min.	5 rear feet
R-10M	217,000 (5 acres) 7,920 per multi-family unit – 15,000 per single-family dwelling unit		40	30 (e),(c), (j), (o)	30 (c), (k)	40 (h)	not more than 50%; 900. Others 1200(d) min.	
R-13	13,500	70(b)	35	10 (e), (j)	30 (k)	35	1,200(d)	10 feet rear
R-20	20,000	70(b)	35	10 (e), (j)	10 (k)	40	1,200(d) min.	10 feet rear
R-30	20,000	70(b)	40	10 (f), (j)	40 (k)	40	1,200(d) min.	10 feet rear
B-10	20,000	70(b)	40	(c), (g)	25 (c)	40	max. (l)	20 feet rear
B-20	20,000	70(b)	40	(c), (g)	25 (c)	40	max. (l)	20 feet rear
B-30	40,000	100	40	(c), (g)	25 (c)	40	max. (l)	20 feet rear

(A) Maximum height on 50-foot wide lot, 40 feet.

(B) At minimum setback lines.

(C) Must meet minimum buffer strip requirements in § 156.024.

(D) Heated living area.

(E) A side yard of 5 feet required for a garage or other permitted accessory building located 10 feet or more from the front line of the principal building.

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(F) A side yard of 10 feet required for a garage or other permitted accessory building located 20 feet or more from the front line of the principal building.

(G) Zero lot lines.

(H) No dwelling unit shall be located above another dwelling unit.

(I) In order to bring this into compliance with the AEC standards, all lots shall comply with state guidelines for areas of environmental concern.

(J) Lots, corner. An additional 10-foot setback is required on the side street line.

(K) All accessory structures shall adhere to minimum rear yard setback of 10 feet from the rear property line.

(L) No building with more than 50,000 square feet of floor space shall be permitted.

(M) Height, max. The height of any structure, not requiring flood plain elevation, shall be measured vertically from the highest finished grade along the perimeter of the house to the peak of the roof.

(N) Height, max. The height of any structure, not requiring flood plain elevation, shall be measured vertically from the top of the required freeboard elevation to the peak of the roof.

(O) When a single family dwelling is being constructed in an R-10M district, the required side setback for that lot shall be reduced to ten (10) feet.

(1997 Code, Ch. 44, App. A) (Am. Ord. passed 11-18-2002; Am. Ord. passed 5-10-2004; Am. Ord. 2006-2, passed 3-20-2006; Am. Ord. 2006-10, passed 6-19-2006; Am. Ord. 2009-11, passed 4-20-2009; Am. Ord. 2009-12, passed 5-11-2009; Am. Ord. 2009-13, passed 6-15-2009)

**APPENDIX B: TABLE OF PERMITTED USES AND PARKING SPACES REQUIREMENTS**

Use Requirements by Districts

<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
	Accessory uses and buildings incidental to any permitted use which will not create a nuisance or hazard	P*	P*	P*	P*	P*	P*	P*	P*
D	Alcoholic beverage store							P	P
C	Ambulance service								P
C	Animal hospitals, with no outdoor pens or runs within 20 feet from any property line								P
	Antennae, satellite dish	P	P	P	P	P	P	P	P
A	Armories and stadiums								P
C	Automobile and other vehicles sales and service								P
C	Automobile service stations								P
C	Bakeries, retail sales							P	P
C	Banks, savings and loans, mortgage companies and other financial institutions							P	P
	Batting cages							P	
C	Boardinghouses and roominghouses								P
D	Building materials and supplies								P
E	Building trades contractor shops and yards								P
	Bumper boats							P	
C	Bus stations and taxi stands							P	P
C	Business and professional offices, including architect, real estate, legal, engineering firms, accountants						P	P	P

<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
E	Cabinet makers								P
E	Car washes								P

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## Cape Carteret - Land Usage

<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
E	Cartage and express facilities including truck rentals								P
A	Churches, including church cemeteries	P*	P*	P*	P*	P*	P*	P*	P*
A	Clubs and lodges, civic and fraternal						P	P	P
A	Community centers and halls		P				P	P	P
C	Convenience stores (including gasoline sales)							P	P
B	Day care facilities		P				P	P	P
C	Doctors and dentists						P	P	P
	Dog training facility							P	P
	Driving ranges							P	
C	Dry cleaning and laundry, less than 1,000 square feet and self-service							P	P
F	Dwellings, duplexes		P						
F	Dwellings, multifamily		P						
F	Dwellings, single-family	P	P	P	P	P			
D	Farm equipment sales and service								P
E	Farmers produce markets							P	P
C	Feed and seed sales								P
E	Fire and rescue stations	P*	P*	P*	P*	P*	P*	P*	P*
C	Food stores, excluding the killing or dressing of fowl or flesh except for seafood							P	P
C	Funeral homes						P	P	P
	General contracting office							P	
	Go-cart tracks							P	
E	Golf courses and associated facilities	P	P	P	P	P			P

<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
C	Greenhouses and nurseries (commercial)								P
E	Heavy equipment parking and storage, including truck and trailer rigs								P
	Home child daycare			P*	P*	P*			





<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10 M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
	Pumphouses	P*	P*	P*	P*	P*	P*	P*	P*

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<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
C	Tourist homes								P
D	Upholstery shops							P	P

<b>**Parking Category</b>	<b>Permitted Uses</b>	<b>R-10</b>	<b>R-10 M</b>	<b>R-13</b>	<b>R-20</b>	<b>R-30</b>	<b>B-10</b>	<b>B-20</b>	<b>B-30</b>
D	Vehicle and farm equipment, rental and leasing								P
E	Warehouses as an accessory to other allowed uses								P

\*NOTE: Use denoted with a P is a use subject to restrictions stated within this chapter.

\*\*NOTE: Parking category definitions are as follows:

**Parking Category**

**Parking Requirements**

- A 1 space for each 4 seats in the principal place of assembly.
- B 1 space for each room or office plus 1 space for each 3 students over 16 years of age.
- C 1 space for each 200 square feet of gross floor area.
- D 1 space for each 600 square feet of gross floor area
- E Requirement shall be determined on an individual basis based on type of commercial activity.
- F See parking requirements §§ 156.040 through 156.044 for these uses as designated in each of the zoning districts.

\*\*\*NOTE: See § 156.043(B) for applicable conditions.

(1997 Code, Ch. 44, App. B) (Am. Ord. 8-76, passed 12-20-1999; Am. Ord. 00-04-01, passed – -; Am. Ord. passed 4-18-2005; Am. Ord. 2007-02, passed 2-12-2007; Am. Ord. 2011-01, passed 2-21-2011; Am. Ord. 2010-12-06, passed 12-13-2010)



