

**CHAPTER 155: ZONING****TABLE OF CONTENTS**

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## GENERAL PROVISIONS

### § 155.001 AUTHORITY AND ENACTMENT.

In pursuance of authority granted by the State General Assembly in the State General Statutes, specifically Article 2 of Chapter 160D, the town may enforce zoning regulations to promote the public health, safety, morals and general welfare; to promote the orderly development of the community; to lessen congestion on the roads and streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; and to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities, all in accordance with a well-considered comprehensive plan.

### § 155.002 SHORT TITLE.

This chapter shall be known as “The Zoning Ordinance of the Town of East Spencer, North Carolina,” and may be referred to as the ‘zoning ordinance.’ The map which is identified by the title “Official Zoning Map, East Spencer, North Carolina,” shall be known as the “zoning map.”

### § 155.003 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the town and within the territory beyond the corporate limits as shown on the zoning map and/or described in the extraterritorial zoning resolution. The extraterritorial boundary will follow physical features when possible, but at no point will the outside boundary extend more than one mile from the corporate limits in any direction.

### § 155.004 INCORPORATION OF THE ZONING MAP.

The official zoning map of the town, and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this chapter. The zoning map should be maintained consistently with pursuant to G.S. § 160D-105.

- (A) The current zoning map will be authenticated by the Town Clerk and maintained either in digital form or paper copy. The physical copy will be held on file in Town Hall for public inspection along side any state or federal agency maps incorporated into the zoning map in accordance to G.S. § 160D-105. Prior zoning maps will be maintained for public inspection in digital or paper format.
- (B) Copies of the zoning district map reproduced by any method of reproduction that gives legible and permanent copies, when certified by the Town Clerk in accordance with G.S. § 160A-79, shall be admissible in evidence and shall have the same force and effect as would the original map.

- (C) Amendments. The Zoning Administrator shall be responsible for entering amendments to the Official Zoning Map. Entries shall be made within five (5) working days of the date of passage of amendments.
- (a) Each entry of amendments must be authenticated by the Zoning Administrator and shall maintain a record of the nature and date of each amendment entry.
  - (b) Changes to the Official Zoning Map, other than those authorized by duly approved amendments to this Ordinance, shall not be made and shall be considered a violation of this Ordinance.
  - (c) Amendments to the Zoning Ordinance which result in the change in classification of any piece of land shall become effective immediately upon the enactment of such amendment.
  - (d) For amendments to the Official Zoning Map, notice shall be sent to not only immediate neighbors but to properties separated by street, railroad, or other transportation corridor. Notice will be posted between twenty-five (25) to ten (10) days prior to hearing in accordance with G.S. § 160D-601.

#### **§ 155.005      CONFLICTING PROVISIONS.**

It is not intended that these regulations shall in any way repeal, annul or interfere with the existing provisions of any other law or ordinance, except any ordinance which these regulations specifically replace. It is not intended that these regulations interfere with any easements, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building in or land, then the provisions of these regulations shall control.

#### **§155.006      WORD INTERPRETATION.**

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular number include the plural.
- (C) Words used in the singular number include the singular, unless the natural construction of the wording indicates otherwise.
- (D) Words used in the masculine include the feminine.
- (E) The word **PERSON** includes a firm, association, corporation, trust and company, as well as an individual.

- (F) The words **USED FOR** shall include the meaning **DESIGNED FOR**.
- (G) The word **LOT** shall include the words **PLAT, PARCEL, or TRACT**.
- (H) The word **SHALL** is always mandatory and not merely directory.
- (I) The word **MAY** is permissive.
- (J) The word **STRUCTURE** shall include the word **BUILDING**.
- (K) The word **TOWN** shall mean the Town of East Spencer, North Carolina.

### **§155.007 DEFINITIONS.**

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

**ACCESSORY DWELLING UNIT.** A detached building or portion thereof designed to accommodate visitors of a principal dwelling's resident on a temporary basis. The temporary nature of the visit may be extended in cases of accommodating family members or other medical caregivers, on site to provide medical and supervisory care for an ill or elderly family member. In no case shall such unit be constructed or used as rental property. This term shall include garage apartments and guest houses but does not include manufactured home. **ACCESSORY DWELLING UNIT** are permitted in all residential districts as customary accessory uses so long as the following provision are met.

- (1) A unit can only be located on the same parcel occupied by its principal single-family dwelling, and shall clearly be incidental and subordinate to the principal building.
- (2) Only one unit is allowed per lot, located in accordance with §155.046.
- (3) The unit cannot exceed 50% of the gross floor area of the principal dwelling or 1,000 square feet, whichever is less.
- (4) If new construction, the unit must be compatible with the single-family dwelling in terms of appearance, roof pitch, etc.
- (5) No unit can be subdivided from the property of the single-family dwelling, and shall be owned by the same owner of the single-family dwelling.
- (6) A unit shall only be served by the same driveway that serves the single-family dwelling, unless the unit is accessed from a different roadway than the single-family dwelling.
- (7) No unit may be used for a customary home occupation.

**ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

**APARTMENT.** A dwelling unit within an apartment building consisting of a room or rooms intended, designed or used as a residence.

**APARTMENT HOUSE.** A building or portion thereof used or designed as a residence and consisting of three or more dwelling units including apartment hotels, apartment houses, and group housing projects.

**APPRAISED VALUE.** An estimate or opinion of the value of real or personal property or an interest or estate in that property, as determined by a qualified appraiser.

**ASSESSED VALUE.** The market value which has been last determined by the county for ad valorem tax purposes.

**BASEMENT.** That portion of any structure located partly or entirely below the average adjoining lot grade.

**BED AND BREAKFAST.** An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.

**BOARD OF ADJUSTMENT.** The Town Zoning Board of Adjustment.

**BOARDING HOUSE.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement or compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

**BUFFER.** A horizontal distance from the property line which may only be occupied by screening, utilities, access ways and landscaping materials.

**BUILDING.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. The connection of two or more buildings by means of an open porch, breezeway, passageway, carport or other open structure, with or without a roof, shall be deemed to make them one building. This term does not apply to camping trailers, motorized homes, pickup campers, travel trailers or self-contained travel trailers.

(1) **ACCESSORY BUILDING.** A use or structure customarily incidental and subordinate to the main or principal building and located on the same lot therewith.

(2) **PRINCIPAL BUILDING.** See **STRUCTURE, PRINCIPAL.**

**BUILDING HEIGHT.** The vertical distance from the mean elevation of the finished grade along the front of a building to the highest point of a flat roof, or to the deck line of a mansard roof or the mean height level between eaves and ridge for gable, hip, gambrel and pitch roofs.

**BUILDING LINE.** A line fixed parallel to a lot line beyond which a building cannot extend under the terms of this chapter. Included are front, side and rear building lines.

**CAMPGROUNDS.** Land used or intended to be used for the renting of space for temporary

occupancy by recreational vehicles used as temporary living quarters for outdoor recreational purposes. These properly licensed campgrounds must be designed and operated in accordance with all applicable provisions of town ordinances. This definition shall not include recreational vehicle sales lots on which unoccupied recreational vehicles are parked for purpose of inspection and sale.

**CARPORT.** A roofed structure open on at least one side and used for the storage of private or pleasure-type vehicles.

**CERTIFICATE OF ZONING COMPLIANCE.** A statement, signed by the Zoning Enforcement Officer, stating that the plan for a building structure, or use of land complies with this chapter.

**CLEAR VISION AREA.** The triangular area formed by joining points, using straight lines, of the centerlines of intersecting streets 60 feet from their intersection/interception.

**CHAMPION TREE.** A tree with a larger diameter than 18 inches, measured at breast height.

**CLUB OR LODGE, PRIVATE.** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities operated on a nonprofit basis for the benefit of its members.

**COMMON OPEN SPACE.** An area of land and/or water within a site designed and reserved for the use and enjoyment of the residents. This does not include streets or off-street parking areas. Common open space shall be substantially free of structures but may contain improvements that are in the plan as finally approved and which are appropriate for the benefit of residents of the development.

**CONDITIONAL USE PERMIT.** A permit issued for a use or development that would not be generally appropriate within the zoning district without added restriction to safeguard the health, safety, morals, general welfare, order, comfort, convenience, appearance or prosperity of the neighborhood.

**CONDITIONAL ZONING.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**CONDOMINIUM.** A building or group of buildings in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

**CUSTOMARY HOME OCCUPATION.** Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no display from outside the principal structure, nor commodity sold upon the premises except as may be produced by the occupants, provided that not more than 25% of the total floor area of the dwelling, including the basement, may be devoted to the occupation and that no person, other than a resident of the premises, shall be employed in connection with the home occupation. Standard business hours shall be adhered to.

**DAY CARE FACILITY.** Any day care center or child care arrangement that provides day care for five or more children unrelated to the operator and for which a payment, fee or grant is received. This definition shall not include foster homes, public or private schools which provide a course of grade school instruction to children of public school age, summer, day or residence camps or Bible school.

**DEPARTMENT STORE.** An establishment selling or offering for sale a variety of merchandise categorized into sections of similar items.

**DEVELOPMENTALLY DISABLED PERSON.** A person who has a severe or chronic disability attributed to mental or physical impairment or a combination thereof, resulting in substantial functional limitations in life activities. Such limitations may affect the person's ability to self care, utilize receptive and expressive language, learn, be mobile, self-direct, live independently or be economically self-sufficient. Such persons may require a combination or sequence of special, interdisciplinary, or genetic care, treatment or other services which are lifelong, or extended duration and are individually planned and coordinated.

**DISTRICT.** Any section of the town and its zoning jurisdiction, within which regulations are uniform.

**DWELLING.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Chapter 160D, Article 12 of the General Statute the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**DWELLING UNIT.** A habitable house, apartment, manufactured home, group of rooms or a single room that is occupied as a separate living quarters, and has direct access from outside the building or through a common hall.

- (1) **DUPLEX.** A building arranged or designed to contain two dwelling units.
- (2) **MULTI-FAMILY DWELLING.** A building or portion thereof, designed to contain more than two units. See **APARTMENT HOUSE, CONDOMINIUM** and **TOWNHOUSE.**
- (3) **SINGLE-FAMILY DWELLING.** A detached building designed to contain one dwelling unit.

**EASEMENT.** A grant by a property owner for a specified purpose and use by the public, a corporation or individuals.

**EXTRATERRITORIAL JURISDICTION.** That land lying up to one mile in all directions of the corporate limits and not located in any other town.

**FAMILY CARE UNIT.** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six



resident handicapped persons. Application for permit shall be accompanied by a map showing the nearest existing family care units, with certification that the proposed home will be located no closer to them than one-half mile.

**FENCE.** An outdoor structure placed around a parcel of land and constructed of either masonry, metal or wood which provides either a physical barrier or visual screen between properties.

**FRONTAGE.** The distance between the two side lot lines as measured along the front building line, also called **LOT WIDTH**.

**GAME ROOM.** Any place of business that operates four or more mechanical games or pay devices (excluding vending machines and photo laminating machines) for which charge is made, either directly or indirectly.

**GARAGE, PRIVATE.** A building or a portion of a building in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

**GROSS FLOOR AREA.** The total floor area of a building including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts, and excluding separate service facilities outside the main building such as boiler rooms, and maintenance shops.

**GROUP HOME.** A facility providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including family care homes as provided for in G.S. §168-20 through 168-23. Group homes may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. All applications for permit shall be accompanied by a map showing the nearest existing group homes, with certification that the proposed group home will be located no closer to them than one mile.

**GROUP HOUSING DEVELOPMENT.** One or more residential structures designed for multi-family usage on a single plot, a townhouse residential development, or a unity ownership residential development. Also called a **PLANNED UNIT DEVELOPMENT**.

**GROUP NONRESIDENTIAL DEVELOPMENT.** A group of two or more principal structures built on a single lot, tract, or parcel of land designed for occupancy by separated firms, businesses or other nonresidential enterprises.

**HOTEL (MOTEL).** A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of the guests and which may have dining facilities in the same building.

**JUNK.** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

**JUNKYARD.** any area, lot, land, parcel, building or structure or part thereof used for the storage,

collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials or machinery or two or more unregistered, in operable motor vehicles or other type of junk.

**JUVENILE ADJUDICATED AS DELINQUENT.** A minor, less than 18 years of age, who has, through the criminal justice system, been determined to have committed offenses or violations of law. Such persons may be subject to, or court ordered to participate in, varying degrees of therapy, treatment, or behavior modification, including specialized living situation and/or incarceration.

**LOADING AREA.** A completely off-street space or berth on the same lot as a business or industry for the loading or unloading of freight carriers with ingress and egress to a public street.

**LOT.** A parcel or lot of land occupied or intended for occupancy by a structure or group of structures together with any accessory structures or uses including the open space required under this chapter.

- (1) **CORNER LOT.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is front when requesting a zoning compliance permit.
- (2) **DOUBLE-FRONTAGE LOT.** A lot of the same depth as the width of a block containing two tiers of lots and which is accessible from both of the streets upon which it fronts.
- (3) **INTERIOR LOT.** A lot other than a corner lot
- (4) **LOT DEPTH.** The mean distance between the front and rear lot lines.
- (5) **LOT LINE.** A line dividing one parcel of property from another parcel of property or from a street right-of-way.
  - (A) **FRONT LOT LINE.** The street right-of-way boundary at the front of the lot. That is, the line which separates the lot from the street right-of-way at the front of the lot.
  - (B) **REAR LOT LINE.** That line of a lot which is opposite and farthest on average from the front line. Where a lot abuts a street along the rear of the lot, the rear lot line shall be deemed to coincide with the street right-of-way boundary.
  - (C) **SIDE LOT LINE.** Any lot line which meets an end of a front line. Where a lot abuts a street along the side of a lot, the side lot line shall be deemed to coincide with the street right-of-way boundary.

**LOT OF RECORD.** A lot which is part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, 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 front building line.

**MANUFACTURED HOME.** A dwelling unit that is not constructed in accordance with the standards of the State Uniform Residential Code for One-Family and Two-Family Dwellings, is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site in its *own* chassis, and exceeds 40 feet in length and 8 feet in width.

**(1) CLASS A MANUFACTURED HOME.** 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 that satisfies the following additional criteria:

- a) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- b) The manufactured home has a minimum of 1,000 square feet of enclosed heated living area.
- c) The pitch of the roof of the manufactured home 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.
- d) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
- e) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding, whose reflectivity does not exceed that of gloss white paint, wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential constructions.
- f) The manufactured home is set up in accordance with the standards set by the State Department of Insurance.
- g) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the State Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.
- h) The moving hitch, wheels and axles and transporting lights have been removed.
- i) It is the intent of these criteria to ensure that a **CLASS A MANUFACTURED HOME**, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

**(2) CLASS B MANUFACTURED HOME.** 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 which does not meet the definition of a class A manufactured home. The following criteria must also be satisfied:

- a) The manufactured home is set up in accordance with the standards set by the State Department of Insurance.
- b) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the

standards set by the State Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.

- c) The moving hitch, wheels and axles, and transporting lights have been removed.

**MANUFACTURED HOME PARK.** Land used or intended to be used for occupancy by manufactured homes used as living quarters designed and operated in accordance with the applicable provisions of this chapter. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for purpose of inspection and sale.

**MANUFACTURED HOME SALES.** A properly licensed business engaged in the sale of a manufactured home.

**MANUFACTURED HOME SPACE.** Any parcel of ground within a manufactured home park designed for the exclusive use of one manufactured home.

**MARQUEE.** Any permanent roof-like structures projecting beyond a building or extending along and projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**MODULAR HOME.** A dwelling unit constructed in accordance with the construction standards of the State Uniform Residential Building Code for One- and Two-Family Dwelling, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation.

**NONCONFORMANCE.** Any use, structure, lot or sign which does not conform to the regulation of this chapter either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

**NONCONFORMING LOT.** A lot which does not conform to the provisions of this chapter.

**NONCONFORMING SIGN.** A sign which does not conform to the provisions of this chapter.

**NONCONFORMING STRUCTURE.** A structure which does not conform to the height, bulk or setback standards set forth in this chapter or which does not meet the requirements for the type of structure allowed.

**NONCONFORMING USE.** Any use of building or land which does not conform to the used regulations of this chapter for the district in which it is located.

**OBSTRUCTION.** Any structure, fence, shrub, bush, tree, flower, plant, motor vehicle or any other object that obscures, impairs, or prevents view or sight through, over or across the **CLERA VISION AREA** as herein defined.

**OPEN STORAGE.** Any unroofed storage area, whether fenced or not.

**PARKING SPACE.** A space for the parking of a motor vehicle within a public or private parking area.

**PHYSICALLY DISABLED PERSON.** A person with any physical impairment that substantially limits one or more of such person's major life activities. Such impairments may include, but are not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine.

**PICKET STYLE FENCES.** A style of fence that is constructed of vertical slats spaced at regular intervals along horizontal supporting members.

**PLANNING BOARD.** The Planning Board of the Town of East Spencer.

**PRINCIPAL USE.** The primary purpose or function that a lot serves or is intended to serve.

**PRIVATE SWIMMING POOL.** Any structure that contains water over 24 inches in depth and which is used or intended to be used for swimming or recreational bathing in connection with an occupancy in a residential use district and is available only to the family and guests of the householder. This includes in-ground, above-ground swimming pools, hot tubs and spas.

**PROJECT REVIEW COMMITTEE.** A staff review committee consisting of the Town Manager, Town Planner, Zoning Officer, Superintendent of Public Works, Police Chief, Fire Marshal and when necessary, a representative of the County Health Department.

**PUBLIC SERVICE CORPORATION.** Any privately-owned entity which provides electricity, natural gas, telephone service or cable TV to the general public.

**PUBLIC SEWAGE DISPOSAL SYSTEM.** A single system of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public assembly.

**PUBLIC UTILITIES.** Water and sewer production plants and distribution systems owned by a government agency.

**PUBLIC WATER SUPPLY.** Any water system so defined and regulated by the state statutes.

**RECREATIONAL VEHICLE DEALER.** A properly licensed business engaged in the sale of recreational vehicles.

**RESIDENTIAL TREATMENT FACILITY.** A facility that primarily provides 24-hour supervision and Level I, II or III therapeutic treatment as licensed by the North Carolina Department of Health and Human Services for adults and children with behavioral disorders, or juveniles adjudicated in a court of law as delinquent. Residential treatment facilities are allowed by Special Use Permit in residential districts provided the following requirements are met. In addition to satisfying the prescribed requirements and criteria for Special Use Permit, the following documentation must also be shown for the application to be considered complete:

- (1) The proposed facility is located no less than one mile from any existing Residential Treatment Facility.
- (2) Licensure of the applicant. If unlicensed, the applicant shall have the ability

- to obtain documentation showing that he or she is in the process of obtaining, a license from the North Carolina Department of Health and Human Services.
- (3) Empirical data demonstrating a need for the facility.
  - (4) The facility shall house no more than six clients.
  - (5) The status of residents for which the facility is to provide treatment (i.e. "the facility is intended to provide treatment for juveniles adjudicated as delinquent", etc.).
  - (6) Provision for one parking space for each six patient beds, one for each staff or visiting doctor, and one space for each four employees.
  - (7) A Special Use Permit shall be revocable with the loss of state licensure, or if the property is vacated or its use discontinued-regardless of the intent of the owner-for greater than 180 days. The licensee shall apply for a review before the Board of Adjustment at least 30 days prior to any proposed change in the management or operation of the facility. If the Board deems that the change will substantially alter the impact of the treatment facility on surrounding properties, or that any of the original conditions are not met by the proposed management or operation, then the Board shall make such findings in an amendment, repeal or issuance of a new Special Use Permit, as applicable.

**REST HOME.** An establishment that provides housing and general care for the aged or the convalescent.

**RESTAURANT.** A commercial establishment where food is prepared and served for public consumption.

**RESTAURANT, NEIGHBORHOOD, CAFE.** Neighborhood restaurants or cafes are typically small-scale, community-oriented establishments serving food as prepared meals with no alcohol sales. Indoor seating may be limited to counters, booths, or small tables with chairs. Some outdoor dining may be allowed as a condition.

**RETAIL BUSINESS.** An establishment selling commodities to consumers.

**RETAIL SERVICE.** An establishment providing tangible services for immediate use to the consumer.

**ROOMING HOUSE.** A building other than a hotel or restaurant, not occupied by an on-site owner or operator, where meals or lodging are regularly furnished by prearrangement or compensation for four or more persons not members of a family, but not exceeding occupancy of 12 persons at any time and not open to transient customers.

**SCREEN.** A wall, fence or a planted strip composed of deciduous or evergreen trees, or a mixture of trees and dense shrubs.

**SELF-CONTAINED TRAVEL TRAILER.** A travel trailer which may operate independently of connections to electricity, water and sewer for a limited period of time having its own battery or LP gas system or both, to operate lights, refrigerator, stove and heater, and having a water tank

with a pressure system, and having a toilet with a holding tank.

**SERVICE STATION.** A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles, excluding body working, overhauling and painting.

**SETBACK.** The required distance between any structure and the applicable lot lines (front, rear and side) of the lot on which the structure is located.

**SHOPPING CENTER.** A group of commercial establishments which are planned and developed and owned or managed as a unit with off-street parking provided on the premises.

**SIGHT TRIANGLE.** A triangular area abutting two intersecting streets or the intersection of a street and a driveway, where vision shall be unobstructed. The sight triangle is formed by a line connecting the points along the intersecting street lines which represent the distance from the intersection of the unobstructed vision.

**SIGN AREA.** The area measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.

**SIGNS.** Any form of publicity visible from any public street directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks or trade names or other pictorial matter designed to convey the information and displayed by means of bills, panel, posters, paints or other pieces erected on open framework, or attached or otherwise applied to posts, stakes, poles, buildings or other structures or supports.

- (1) **ANIMATED SIGN.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- (2) **ATTACHED SIGN.** Any sign physically attached to the principal or accessory structure on a lot.
- (3) **BANNER SIGN.** Any sign consisting of paper, plastic, fabric or similar nonrigid material intended to be hung with or without frames. National flags or flags of political subdivisions shall not be considered banners for the purpose of this section.
- (4) **BENCH SIGN.** A sign located on any part of the surface of a bench or seat.
- (5) **BILLBOARD.** See **OFF-PREMISES SIGN.**
- (6) **BUSINESS SIGN.** See **ON-PREMISES SIGN.**
- (7) **CANOPY SIGN.** A sign suspended from or attached to the side, front or underside of a canopy or awning.
- (8) **CONSTRUCTION SIGN.** A sign on the lot of a building to be constructed or under construction, alteration or repair, stating, but not limited to the purpose for which the building is intended, the names of the architects, engineers, contractors, developers, financiers or others involved, and the square footage of the structure or other pertinent data.
- (9) **CHANGEABLE COPY SIGN.** A sign designed so that characters, letters, or illustrations can be rearranged without altering the face, surface size or shape of the

- sign.
- (10) **DIRECTORY SIGN.** A sign on which the names and locations of occupants or the use of a building is given.
  - (11) **EMERGENCY/WARNING SIGN.** A sign warning the public of a danger to public health and safety.
  - (12) **FLAG.** A usually rectangular piece of fabric of distinctive design that is used as a symbol of a nation, political subdivision or private charitable, religious or public organization.
  - (13) **FLASHING SIGN.** A sign which displays flashing, blinking, or intermittent light of changing intensity.
  - (14) **FREESTANDING SIGN.** A sign which is supported from the ground, and which is wholly independent of any other structure for support.
  - (15) **GASOLINE PRICE SIGN.** A sign which is displayed at a service station and announces the price of motor fuel or kerosene.
  - (16) **GASOLINE PUMP SIGN.** A sign which is displayed on the pump or pump island and announces the brand, grade of motor fuel or kerosene and/or whether or not the pump or island is self-service or full service.
  - (17) **HOLIDAY DECORATIONS.** Decorations associated with holiday seasons.
  - (18) **HOME OCCUPATION SIGN.** A sign identifying a permitted home occupation conducted on the premises of the dwelling unit occupied by the operator of the home occupation.
  - (19) **ILLUMINATED SIGN.** A sign internally or externally illuminated in any manner by an artificial light source.
  - (20) **INDUSTRIAL DIRECTION SIGN.** A sign giving directions to an industrial or commercial site and which contains only an arrow and the name of the business or industry.
  - (21) **INSTITUTIONAL SIGN.** A sign denoting the name of, and service provided by a public, religious or charitable institution.
  - (22) **INTEGRAL SIGN.** A memorial sign or tablet indicating the name of a building and/or the date of erection and cut into masonry or constructed of bronze, brass, iron or other incombustible materials and mounted on the face of a building.
  - (23) **LOCAL INTEREST SIGN.** A sign of a temporary nature used to advertise or announce a particular event of normally local concern.
  - (24) **NO LOITERING SIGN/NO TRESPASSING SIGN.** A sign which is placed to inform the public of regulations relating to the specific property on which the sign is located.
  - (25) **OCCUPANT/STREET NUMBER SIGN.** A sign bearing only the name of the principal occupant of a residence and/or the street number of a structure.
  - (26) **OFF-PREMISES SIGN.** A sign which advertises or publicizes a product, service or event not available or not occurring on the premises or lot upon which the sign is located.
  - (27) **ON-PREMISES SIGN.** A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is attached.
  - (28) **PAINTED WALL SIGN.** A sign painted directly on the wall of a structure.
  - (29) **PERMANENT SIGN.** A sign erected, located or affixed in a manner enabling continued use of the sign for a relatively long, unspecified period of time.
  - (30) **POLITICAL CAMPAIGN SIGN.** A sign pertaining to a candidate for public office



or to a political party and/or its views and beliefs.

- (31) **PORTABLE SIGN.** A sign mounted on wheels, a trailer, truck bed, A-frame or any other device capable of being readily moved from one location to another.
- (32) **PROFESSIONAL NAMEPLATE.** A sign on a commercial or professional building or structure bearing only the name and/or profession of the occupant.
- (33) **PROJECTING SIGN.** A sign attached perpendicular to a building wall.
- (34) **PUBLIC SERVICE SIGN.** A sign directing the public to a public facility, such as a public telephone, restroom, hospital, school, historic or scenic place.
- (35) **PUBLIC SIGN.** A sign erected by a government agency.
- (36) **REAL ESTATE SIGN.** A sign offering for sale, lease, or rent the property upon which the sign is located.
- (37) **ROOF SIGN.** A sign erected, constructed or displayed in whole or in part upon or over the roof of a building.
- (38) **SIGNBOARD.** A specific background upon which symbols are affixed or the smallest rectangle which would completely enclose all parts of the sign.
- (39) **SPECIAL EVENT SIGN.** A sign erected on the premises of an establishment having a grand opening or special event, including a yard sale.
- (40) **SUBDIVISION OR TRACT NAME SIGN.** A sign located on a subdivision or tract and identifying the name of the subdivision or tract.
- (41) **TEMPORARY SIGN.** A sign intended to be displayed for a short period of time.
- (42) **TIME AND TEMPERATURE SIGN.** An illuminated sign which displays time and/or temperature by means of a light display.
- (43) **TRAFFIC DIRECTIONAL SIGN.** A sign directing vehicular traffic movement within the property on which the sign is located.
- (44) **WALL SIGN.** A sign attached parallel to the face of a building wall and confined within the limits of the wall.
- (45) **WIND ACTIVATED SIGN.** A sign, balloon, streamer, pennant, placard, propeller or other device designed to attract attention activity through sign movement caused by wind.
- (46) **WINDOW SIGN.** A sign mounted on or attached to a window and visible from a public street or right-of-way.

**SPECIAL USE PERMIT.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

**STORY.** That portion of a principal building included between the surface of any floor and the surface of the next floor above or, if there is no floor above, the space between the floor and the ceiling next above. A basement is not counted as a story.

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

- (1) **PRIVATE STREET.** A privately owned and maintained street which provides the principal means of vehicular access to abutting properties.
- (2) **STREET RIGHT-OF WAY LINE.** The street right-of-way boundary. That is, the line

which separates the street from the lot.

**STRUCTURE.** Any object constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to an object having more or less permanent location on the ground.

(1) **PRINCIPAL STRUCTURE.** A building in which is conducted the main or principal use of the lot on which the building is situated.

(2) **TEMPORARY STRUCTURE.** A structure intended for temporary offices, headquarters, residence, classrooms and the like on the same lot or tract of land being used or developed for a directly related permanent use.

**SUPERVISED LIVING FACILITY.** A facility providing a structured living environment for developmentally disabled adults or children within the context of a residential setting, supervision may vary from full time to part time depending on the severity of the developmental disability.

**TOWN BOARD.** The Town Board of Aldermen of East Spencer, North Carolina

**TOWNHOUSE.** A single-family dwelling unit in a row of at least three single-family dwelling units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more fire resistant walls.

**TRACT.** An area, parcel, site, piece of land or property which is the subject of a development application.

**TRAILER, CAMPER (RECREATIONAL VEHICLE).** A vehicle with or without its own motor power, equipped or used for recreational purposes and mounted on wheels or designed to be so mounted and transported.

**USE.** The purpose or activity for which a piece of land or its structures is designed, arranged, or intended, or for which it is occupied or maintained.

(1) **ACCESSORY USE.** A use customarily incidental and subordinate to the principal use or building and located on the same lot with the principal use or building.

(2) **PRINCIPAL USE.** The main use of land or structures on a lot, as distinguished from an accessory use.

**VARIANCE.** A modification of this chapter, which is not contrary to the public interest, where strict enforcement of this chapter would cause undue hardship to the applicant because of circumstances unique the individual property, and not caused by the owner or applicant, on which the variance is granted.

**VEGETATION.** All plant growth, especially trees, shrubs, vines, ferns, mosses, and grasses.

**VIDEO SALES AND RENTAL.** A commercial establishment offering for sale or rent video cassettes, video reproductions, photographs, films, motion pictures, slides, or other visual representations. Adult video stores are separately defined and regulated under Adult

Establishments.

**WATERSHED.** An area in which natural ridge lines form the outer perimeter of a basin which diverts rainfall and natural drainage into streams or rivers which in turn drain to lower elevation.

**YARD.** A space on the same lot with a principal building which is open, unoccupied, and unobstructed by structures from ground to sky except where encroachments and accessory structures are expressly permitted under this chapter.

(1) **FRONT YARD.** A yard extending the full width of the lot, situated between the front lot line and a line parallel thereto passes through the nearest point of the principal structure.

(2) **REAR YARD.** A yard extending the full width of the lot, situated between the rear lot line and a line parallel thereto passing through the nearest point of the principal structure.

(3) **SIDE YARD.** A yard suited between the side lot line and a line parallel thereto passing through the nearest point to the principal structure and extending from the front yard to the rear yard.

**ZONING ENFORCEMENT OFFICER.** An official or person designated by the Town Manager with enforcing this chapter.

**ZONING PERMIT APPROVAL.** An approval permit issued by the Zoning Administrator for the construction or other improvement or land alteration which authorizes the use of land outlined within section 155.139 as permitted by the Ordinance. A Zoning Permit Approval shall be obtained prior to establishment of a use within a zoning district.

**ZONING MAP AMENDMENT OR REZONING.** An amendment to a zoning regulation or zoning map for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

**ZONING REGULATION.** A zoning regulation authorized by §155.117 of this Chapter.

## **DISTRICT REGULATIONS**

### **§ 155.020 DISTRICTS ESTABLISHED.**

For the purposes of this chapter, the town and its one-mile extraterritorial jurisdictions are hereby divided into the following use districts.

- (A) O&I office and institutional district, various density patterns;
- (B) GB general business district, various density patterns;
- (C) HB highway business district, various density patterns;
- (D) 1-2 heavy industrial district, moderate low density;
- (E) C-1 neighborhood business district, moderate low density;
- (F) 85-ED economic development district, moderate to moderate high;
- (G) R-1 single-family district, low density;
- (H) R-3 single-family district, medium;
- (I) RM-10 multi-family, moderate density;
- (J) RM-18 multi-family, moderate density.

## **155.021 DESCRIPTION OF DISTRICTS.**

For the purpose of this chapter, the Town and its one-mile extraterritorial jurisdiction is hereby divided into the following districts.

### **(A) COMMERCIAL, BUSINESS, AND INDUSTRIAL DISTRICTS**

1. *O&I OFFICE AND INSTITUTION* is primarily intended to accommodate the office and institutional use of land developed in various densities. The principal structure of the O&I district is the office and institutional building, including the adaptive reuse of former residential, commercial, and industrial buildings previously existing within the community.

2. *GENERAL BUSINESS DISTRICT* is primarily intended to accommodate a wide range of retail, service, and office uses in various density patterns. The district is typically located along through fares in areas which have developed with minimal front set back.

3. *THE HIGHWAY BUSINESS DISTRICT* is primarily intended to accommodate retail service and distributive uses which are typically located along thoroughfares in various density patterns. The district is established to provide location for establishments which require high visibility and good road access, or which cater primarily to passing motorists. Development in this district generally has substantial front setbacks.

4. *1-2 HEAVY INDUSTRIAL DISTRICT* is primarily intended to accommodate a wide range of assembling, fabricating and manufacturing activities in a moderate low-density pattern. The district is established for the purpose of providing appropriate locations of development regulation for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties.

5. *C-1 COMMERCIAL DISTRICT*, the neighborhood business district provides for the commercial use of land in harmony with surrounding residential zoning districts. Commercial development should be environmentally and aesthetically compatible with surround residential uses. The requirements for the C-1 zoning district should ensure harmony with residential uses and not impair existing and/or future residential

development. All establishments developed under the C-1 classification should be scaled to meet shopping needs of the immediate area and should not be scaled to detract from high commercial zoning districts.

6. *ED-85 DISTRICT* is established to preserve, encourage and enhance the economic development opportunities in areas adjacent and near I-85 in accordance to the plans adopted by the Town of East Spencer. It is recognized that I-85 is uniquely important to the future of the Town because of the great potential for development of all types that exist along this corridor. Development within this district; shall be of types which maximize the economic benefits to the Town while minimizing the potential impacts.

The district is designed to accommodate, as appropriate, uses such as manufacturing, distribution, retail, service industries, corporate parks in a moderate-to-moderate high density pattern. Certain individual uses may be allowed as uses by right in the districts, while other more intensive uses may require a higher level of review and approval by the Town. The district encourages and allows more creative design of land development than may be provided on other general zoning district.

The "85" represents the relationship to I-85 and "ED" represents the economic development designation.

## **(B) MULTI-FAMILY DISTRICTS**

1. *RM-10 RESIDENTIAL MULTI-FAMILY DISTRICT* is a moderate district and is primarily intended to accommodate multi-family uses at a maximum overall density of ten (10) units per acre.

2. *RM-18 RESIDENTIAL MULTI-FAMILY DISTRICT* is a moderate district. and is primarily intended to accommodate multi-family uses at a maximum overall density of eighteen (18) units per acre.

## **(C) SINGLE-FAMILY RESIDENTIAL DISTRICTS**

1. *R-1 SINGLE-FAMILY DISTRICT* provides for residential use of land in the low-density pattern at four (4) units per acre. The principal structure in the R-1 zoning district is the single-family detached dwelling.

2. *R-3 SINGLE FAMILY DISTRICT* provides for residential use of land in the Medium to high density pattern in which the principal use of land is the single-family detached dwelling.

**(D) Conditional Zoning District**

1. Where the regulations and restrictions applicable within a zoning district permitting a proposed use are inadequate to ensure the compatibility of a proposed development with the immediately surrounding neighborhood in accordance with the principles of this Ordinance and applicable adopted plans, the property owner may apply for rezoning to a conditional zoning district bearing the same designation as a standard zoning district but subject to additional conditions, in accordance to G.S. § 160D-703.
2. A conditional zoning district bearing the designation CZ is hereby established as a companion district for every district established in section 155.020. These districts are: CZ- O&I, CZ-GB, CZ-HB, CZ-I-2, CZ-C-1, CZ-85-ED, CZ-R-1, CZ-R-3, CZ-RM-10, CZ-RM-18
3. All regulations which apply to the general use zoning district shall also apply to the companion conditional zoning district. All other regulations, which may be offered by the property owner and approved by the Governing Body as a part of the rezoning process shall also apply.

**§ 155.022 DISTRICT BOUNDARIES SHOWN ON THE ZONING MAP.**

(A) The boundaries of the districts are shown on the zoning map. The zoning map and all the notations, references, and amendments thereto, and other information shown thereon are hereby made a part of this chapter the same as if the information set forth on the map were all fully described and set out herein.

(B) The zoning map is posted at the Town Hall and is available for inspection by the public.

**§ 155.023 DUE CONSIDERATION GIVEN TO DISTRICT BOUNDARIES.**

In the creation, by this chapter, of the respective districts, careful consideration is given to the peculiar suitability of each district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the community.

**§ 155.024 RULES GOVERNING INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of any of the aforesaid districts, as shown on the zoning map, the following rules apply:

(A) Where the district boundaries are indicated as approximately following street, alley or highway lines, the lines shall be construed to be the boundaries.

(B) Where district boundaries are so indicated that they approximately follow street, alley or highway lines, the lines shall be construed to be the boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, alleys, or highways, or the right-of-way of the same, the district boundaries shall be construed as being parallel thereto and at a distance there from as indicated on the zoning map.

(D) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad right-of-way lines or these lines extended, the centerline, street lines or railroad right-of-way lines shall be construed to be the boundaries.

(E) Where a district boundary line divides a lot or tract in single ownership, the district requirements of the least restricted portion of the lot or tract shall be deemed to apply to the whole thereof, provided the extensions shall not include any part of a lot or tract more than 50 feet beyond the district boundary line. The term "least restricted" shall refer to all zoning restrictions.

(F) In unsubsidized property, the location of zoning boundaries shall be determined by use of the scale appearing on the map.

(G) In subdivided property, the location of zoning boundaries shall be construed to be the nearest parallel lot line. However, if the zoning boundaries lie at a scaled distance greater than 25 feet from any parallel or approximately parallel lot line, the boundary shall be determined by use of the scale;

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

**§ 155.25 USES BY DISTRICT.**

The following are the permitted (P) and conditional-~~special~~ **special** uses (S) for the zoning districts of the jurisdiction.

| USE   | RM 10 | RM 18 | R-3 | R-1 | C-1 | GB | HB | 1-2 | O&1 | 85 - ED |
|---|-------|-------|-----|-----|-----|----|----|-----|-----|---------|
| <b>Adult Establishment</b>                              |       |       |     |     |     |    |    | S   |     |         |
| <b>Agriculture</b>                                      |       |       |     |     |     |    |    |     |     | P       |
| <b>Agriculture Sales</b>                                |       |       |     |     |     |    |    |     |     | P       |
| <b>Agriculture Supplies</b>                             |       |       |     |     |     | S  | S  | P   |     | P       |
| <b>Antique shops</b>                                    |       |       |     |     | P   | P  | P  |     |     |         |
| <b>Art Galleries</b>                                    |       |       |     |     | P   | P  | P  |     | P   |         |
| <b>Art Schools</b>                                      |       |       |     |     | P   | P  | P  |     |     |         |
| <b>Arts and Craft Shop</b>                              |       |       |     |     |     | P  | P  | P   |     | P       |
| <b>Auto parking lots associated with permitted uses</b> | P     | P     | P   | P   | P   | P  | P  | P   | P   | P       |
| <b>Auto parts/accessories manufacturing</b>             |       |       |     |     |     |    |    | P   |     | P       |
| <b>Automobile parts and supply stores</b>               |       |       |     |     |     | P  | P  | P   |     | P       |
| <b>Auto repair, painting, and upholstery</b>            |       |       |     |     |     | S  | S  | P   |     | P       |
| <b>Auto sales</b>                                       |       |       |     |     |     |    | S  | P   |     | P       |
| <b>Bakeries, retail</b>                                 |       |       |     |     |     | P  | P  | P   |     | P       |
| <b>Bakeries, wholesale</b>                              |       |       |     |     |     |    | S  | P   |     | P       |
| <b>Barber and beauty colleges</b>                       |       |       |     |     |     | P  | P  | P   | P   |         |
| <b>Barbershops and beauty shops</b>                     |       |       |     |     |     | P  | P  | P   |     |         |



| <b>USE</b>   | <b>RM<br/>10</b> | <b>RM<br/>18</b> | <b>R -<br/>3</b> | <b>R -<br/>1</b> | <b>C-1</b> | <b>GB</b> | <b>HB</b> | <b>1 - 2</b> | <b>O&amp;1</b> | <b>85-<br/>ED</b> |
|--|------------------|------------------|------------------|------------------|------------|-----------|-----------|--------------|----------------|-------------------|
| <b>Bed and breakfast</b>                                 | <b>S</b>         | <b>S</b>         | <b>P</b>         | <b>P</b>         | <b>S</b>   | <b>S</b>  | <b>S</b>  | <b>S</b>     |                | <b>S</b>          |
| <b>Boarding houses</b>                                   |                  |                  |                  |                  | <b>S</b>   |           |           |              |                | <b>P</b>          |
| <b>Boat and trailer<br/>manufacture</b>                  |                  |                  |                  |                  |            |           | <b>S</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Book and magazine<br/>stores</b>                      |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  | <b>P</b>     |                |                   |
| <b>Bowling alleys</b>                                    |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Building material and<br/>specialties manufacture</b> |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Building materials<br/>storage and sales yard</b>     |                  |                  |                  |                  |            |           | <b>S</b>  | <b>P</b>     |                |                   |
| <b>Bus stations</b>                                      |                  |                  |                  |                  |            |           | <b>S</b>  |              |                |                   |
| <b>Business colleges</b>                                 |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  |              | <b>P</b>       |                   |
| <b>Business machines and<br/>parts manufacture</b>       |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Camera supply stores</b>                              |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Campgrounds</b>                                       |                  |                  |                  |                  |            |           | <b>P</b>  | <b>P</b>     |                |                   |
| <b>Carwash</b>   |                  |                  |                  |                  |            | <b>S</b>  | <b>S</b>  | <b>P</b>     |                |                   |
| <b>Cemeteries</b>  | <b>S</b>         |                  | <b>S</b>         | <b>S</b>         |            |           |           |              |                |                   |
| <b>Ceramics shops</b>                                    |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Clothing and fabric<br/>stores</b>                    |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Contractor's office</b>                               |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  | <b>P</b>     | <b>P</b>       | <b>P</b>          |
| <b>Convenience stores</b>                                |                  |                  |                  |                  | <b>S</b>   | <b>P</b>  | <b>P</b>  | <b>P</b>     |                |                   |

| <b>USE</b>   | <b>RM<br/>10</b> | <b>RM<br/>18</b> | <b>R-3</b> | <b>R-1</b> | <b>C-1</b> | <b>GB</b> | <b>HB</b> | <b>1 - 2</b> | <b>O&amp;1</b> | <b>85-<br/>ED</b> |
|--|------------------|------------------|------------|------------|------------|-----------|-----------|--------------|----------------|-------------------|
| <b>Customary home occupations</b>                                  | <b>P</b>         | <b>P</b>         | <b>P</b>   | <b>P</b>   | <b>S</b>   | <b>P</b>  |           |              |                |                   |
| <b>Dairy products distributing facilities</b>                      |                  |                  |            |            |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Day care facilities</b>   |                  |                  | <b>P</b>   | <b>P</b>   | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Department stores</b>   |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Drug stores</b>   |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Dry cleaning &amp; laundry pick ups</b>                         |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Dry cleaning and laundry plants</b>                             |                  |                  |            |            |            |           | <b>S</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Dwelling, Duplex</b>  | <b>P</b>         | <b>P</b>         | <b>P</b>   |            |            |           |           |              |                | <b>P</b>          |
| <b>Dwelling, multi-family</b>                                      | <b>P</b>         | <b>P</b>         |            |            |            |           |           |              |                |                   |
| <b>Dwelling, single-family (excluding manufactured homes)</b>      | <b>P</b>         | <b>P</b>         | <b>P</b>   | <b>P</b>   | <b>S</b>   | <b>S</b>  | <b>S</b>  |              |                | <b>P</b>          |
| <b>Electrical appliance &amp; electrical equipment manufacture</b> |                  |                  |            |            |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Exterminators</b>   |                  |                  |            |            |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Family care units</b>   | <b>P</b>         | <b>P</b>         | <b>P</b>   | <b>P</b>   | <b>S</b>   | <b>S</b>  |           |              |                |                   |
| <b>Financial institutions</b>                                      |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |              | <b>P</b>       |                   |
| <b>Floral shops</b>  |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |              | <b>P</b>       |                   |
| <b>Flour and feed mills</b>  |                  |                  |            |            |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Funeral homes</b>   |                  |                  |            |            |            |           | <b>P</b>  |              |                | <b>P</b>          |
| <b>Furniture manufacturing</b>                                     |                  |                  |            |            |            | <b>P</b>  | <b>P</b>  | <b>P</b>     |                | <b>P</b>          |

| <b>USE</b>   | <b>RM<br/>10</b> | <b>RM<br/>18</b> | <b>R -<br/>3</b> | <b>R -<br/>1</b> | <b>C-1</b> | <b>GB</b> | <b>HB</b> | <b>1 - 2</b> | <b>O&amp;1</b> | <b>85-<br/>ED</b> |
|--|------------------|------------------|------------------|------------------|------------|-----------|-----------|--------------|----------------|-------------------|
| <b>Furniture sales</b>   |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Game rooms</b>  |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Gift shops</b>  |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                | <b>P</b>          |
| <b>Greenhouses</b>   |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Grocery stores</b>  |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Group homes</b>   | <b>S</b>         | <b>S</b>         | <b>S</b>         | <b>S</b>         | <b>S</b>   | <b>S</b>  | <b>S</b>  |              |                |                   |
| <b>Hardware<br/>manufacturing</b>                                |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Hardware stores</b>   |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Hatcheries</b>  |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Heating &amp;<br/>Refrigeration shop</b>                      |                  |                  |                  |                  |            |           | <b>S</b>  | <b>P</b>     |                |                   |
| <b>Hobby shops</b>   |                  |                  |                  |                  | <b>P</b>   | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Horticultural nurseries</b>                                   |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>House wares<br/>manufacturing</b>                             |                  |                  |                  |                  |            |           |           | <b>P</b>     |                | <b>P</b>          |
| <b>Ice and cold storage<br/>facilities</b>                       |                  |                  |                  |                  |            |           | <b>P</b>  | <b>P</b>     |                |                   |
| <b>Indoor theaters</b>   |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  |              |                |                   |
| <b>Industrial supplies and<br/>equip. sales and<br/>services</b> |                  |                  |                  |                  |            |           | <b>P</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Industrial trade schools</b>                                  |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Insulation contractors</b>                                    |                  |                  |                  |                  |            |           | <b>S</b>  | <b>P</b>     |                | <b>P</b>          |
| <b>Jewel sales and repair</b>                                    |                  |                  |                  |                  |            | <b>P</b>  | <b>P</b>  | <b>P</b>     |                |                   |

| USE | RM<br>10 | RM<br>18 | R-3 | R-1 | C-1 | GB | HB | 1-2 | O&<br>1 | 85-<br>ED |
|-----|----------|----------|-----|-----|-----|----|----|-----|---------|-----------|
|-----|----------|----------|-----|-----|-----|----|----|-----|---------|-----------|

**\*\*Note: Manufactured home parks and class B manufactured homes are permitted only as continuing non-conforming uses.**

|   |  |          |  |  |            |             |          |          |          |          |
|---|--|----------|--|--|------------|-------------|----------|----------|----------|----------|
| <b>Jewelry manufacturing</b>                                |  |          |  |  |            |             | <b>P</b> | <b>P</b> |          | <b>P</b> |
| <b>Laundromats</b>  |  |          |  |  |            | <b>P</b>    | <b>P</b> | <b>P</b> |          |          |
| <b>Libraries</b>  |  |          |  |  | <b>P</b>   | <b>P</b>    | <b>P</b> |          | <b>P</b> |          |
| <b>Lumber mills</b>   |  |          |  |  |            |             |          | <b>P</b> |          | <b>P</b> |
| <b>Machine/welding shops</b>                                |  |          |  |  |            |             |          | <b>P</b> |          | <b>P</b> |
| <b>Manufactured home parks **</b>                           |  |          |  |  | <b>SEE</b> | <b>NOTE</b> |          |          |          |          |
| <b>Manufactured homes on individual lots (Class A Only)</b> |  | <b>P</b> |  |  |            |             |          |          |          |          |
| <b>Medical/dental labs.</b>                                 |  |          |  |  |            |             | <b>P</b> | <b>P</b> | <b>P</b> |          |
| <b>Metal fabricating</b>                                    |  |          |  |  |            |             |          | <b>P</b> |          | <b>P</b> |
| <b>Monument works/sales</b>                                 |  |          |  |  |            |             |          | <b>P</b> |          | <b>P</b> |
| <b>Motels/Hotels</b>  |  |          |  |  |            | <b>S</b>    | <b>P</b> |          |          |          |
| <b>Museums</b>  |  |          |  |  |            | <b>P</b>    | <b>P</b> |          | <b>P</b> |          |
| <b>Music/Dance Studios</b>                                  |  |          |  |  | <b>P</b>   | <b>P</b>    | <b>P</b> |          | <b>P</b> |          |
| <b>Music stores</b>   |  |          |  |  | <b>P</b>   | <b>P</b>    | <b>P</b> |          |          | <b>P</b> |
| <b>Musical instruments manufacturing</b>                    |  |          |  |  |            |             |          | <b>P</b> |          | <b>P</b> |
| <b>Office equipment sales/service</b>                       |  |          |  |  | <b>P</b>   | <b>P</b>    | <b>P</b> | <b>P</b> |          |          |
| <b>Office furniture</b>                                     |  |          |  |  |            | <b>P</b>    | <b>P</b> | <b>P</b> |          |          |
| <b>Office supply stores</b>                                 |  |          |  |  |            | <b>P</b>    | <b>P</b> | <b>P</b> |          |          |

| USE   | RM<br>10 | RM<br>18 | R-3 | R-1 | C-1 | GB | HB | 1-2 | O&1 | 85-<br>ED |
|---|----------|----------|-----|-----|-----|----|----|-----|-----|-----------|
| Optical goods   |          |          |     |     |     | P  | P  |     | P   |           |
| Outdoor recreation<br>and entertainment<br>(public)   | S        | S        | S   | S   | S   | P  | P  | P   |     | P         |
| Outdoor recreation<br>and entertainment<br>(private)  |          |          |     |     |     | P  | P  | P   |     | P         |
| Outdoor sales of<br>plants, fruits,<br>and vegetables |          |          |     |     |     |    |    | P   |     | P         |
| Pallet manufacturing                                  |          |          |     |     |     |    |    | P   |     | P         |
| Paper products<br>manufacturing                       |          |          |     |     |     |    |    | P   |     | P         |
| Pet shops   |          |          |     |     |     | P  | P  | P   |     |           |
| Photographic studios                                  |          |          |     |     |     | P  | P  | P   |     |           |
| Places of worship                                     | S        | S        | S   | S   | P   | P  | P  | P   | P   |           |
| Plastic products                                      |          |          |     |     |     |    |    | P   |     | P         |
| Plumbing/heating<br>supply                            |          |          |     |     |     | P  | P  | P   |     |           |
| Precision instruments<br>manufacturing                |          |          |     |     |     |    |    | P   |     | P         |
| Print shops   |          |          |     |     |     | P  | P  | P   |     | P         |
| Private clubs and<br>lodges (not for profit)          |          |          |     |     | S   | S  | S  | S   | P   | S         |
| Private clubs and<br>lodges (for profit)              |          |          |     |     |     | S  | S  | S   | P   | S         |
| Private schools                                       | S        | S        | S   | S   | P   | P  | P  |     | P   |           |
| Professional offices                                  |          |          |     |     | P   | P  | P  |     | P   |           |
| Public buildings and<br>facilities                    | S        | S        | S   | S   | P   | P  | P  | P   | P   | P         |

| <b>USE</b>   | <b>RM<br/>10</b> | <b>RM<br/>18</b> | <b>R-3</b> | <b>R-1</b> | <b>C-1</b> | <b>GB</b> | <b>HB</b> | <b>1-2</b> | <b>O&amp;1</b> | <b>85-<br/>ED</b> |
|--|------------------|------------------|------------|------------|------------|-----------|-----------|------------|----------------|-------------------|
| <b>Public works/utilities service/storage yards</b>    |                  |                  |            |            |            | <b>P</b>  | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Radio/T.V. repair shops</b>                         |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  | <b>P</b>   |                |                   |
| <b>Radio stations</b>                                  |                  |                  |            |            |            |           | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Recreational vehicle storage on individual lots</b> | <b>P</b>         | <b>P</b>         | <b>P</b>   | <b>P</b>   |            |           |           |            |                |                   |
| <b>Recreational vehicle sales</b>                      |                  |                  |            |            |            |           | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Research labs</b>                                   |                  |                  |            |            |            |           | <b>P</b>  | <b>P</b>   | <b>P</b>       | <b>P</b>          |
| <b>Residential treatment facility</b>                  | <b>S</b>         | <b>S</b>         | <b>S</b>   | <b>S</b>   | <b>S</b>   | <b>S</b>  |           |            |                |                   |
| <b>Rest homes</b>                                      | <b>S</b>         | <b>S</b>         | <b>S</b>   | <b>S</b>   | <b>S</b>   | <b>S</b>  | <b>S</b>  |            |                |                   |
| <b>Restaurants</b>                                     |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Restaurants, neighborhood, cafe</b>                 |                  |                  | <b>S</b>   | <b>S</b>   |            |           |           |            |                |                   |
| <b>Roofing and materials storage</b>                   |                  |                  |            |            |            |           | <b>S</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Roofing and materials storage sales</b>             |                  |                  |            |            |            |           | <b>S</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Rubber/glass products manufacturing</b>             |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Service stations</b>                                |                  |                  |            |            | <b>S</b>   | <b>S</b>  | <b>S</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Sewing rooms</b>                                    |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Shoe sale and repair</b>                            |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |            |                |                   |
| <b>Shopping Centers</b>                                |                  |                  |            |            |            | <b>P</b>  | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Sign painting fabricating</b>                       |                  |                  |            |            |            |           | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Sporting goods manufacturing</b>                    |                  |                  |            |            |            |           | <b>P</b>  | <b>P</b>   |                |                   |
| <b>Supervised living facility</b>                      | <b>P</b>         | <b>P</b>         | <b>P</b>   | <b>P</b>   |            |           |           |            |                |                   |

| <b>USE</b>                                      | <b>RM<br/>10</b> | <b>RM<br/>18</b> | <b>R-3</b> | <b>R-1</b> | <b>C-1</b> | <b>GB</b> | <b>HB</b> | <b>1-2</b> | <b>O&amp;I</b> | <b>85-<br/>ED</b> |
|---|------------------|------------------|------------|------------|------------|-----------|-----------|------------|----------------|-------------------|
| <b>Tailor shops</b>                             |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |            | <b>P</b>       |                   |
| <b>Tattoo and body art</b>                      |                  |                  |            |            |            |           | <b>S</b>  | <b>S</b>   |                |                   |
| <b>Taxi stands</b>                              |                  |                  |            |            |            |           | <b>P</b>  |            |                |                   |
| <b>Textile and cordage<br/>manufacturing</b>    |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Tobacco sales and<br/>warehousing</b>        |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Toy stores</b>                               |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |            |                |                   |
| <b>Trucking terminals</b>                       |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Upholstery and<br/>drapery manufacturing</b> |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Video sales and rental</b>                   |                  |                  |            |            | <b>P</b>   | <b>P</b>  | <b>P</b>  |            |                | <b>P</b>          |
| <b>Warehouse, mini</b>                          |                  |                  |            |            |            | <b>P</b>  | <b>P</b>  | <b>P</b>   |                | <b>P</b>          |
| <b>Warehousing<br/>distribution</b>             |                  |                  |            |            |            |           |           | <b>P</b>   |                | <b>P</b>          |
| <b>Woodworking shop</b>                         |                  |                  |            |            |            | <b>P</b>  | <b>P</b>  |            |                |                   |

## GENERAL REGULATIONS

### § 155.040 CONFORMANCE REQUIRED.

(A) No building or land shall hereafter be used, and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

(B) No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

### §155.041 REDUCTION OF LOT AND YARD AREAS PROHIBITED

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

### § 155.042 RELATIONSHIP OF BUILDING TO LOT PROHIBITED.

Every building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified and in no case shall there be more than one principal building or structure and its customary accessory buildings or structures on any lot, except in the case of a planned unit development or a bona fide farm.

### § 155.043 STREET ACCESS.

(A) No building shall be erected on a lot which does not have access to a paved street whether public or privately maintained.

(B) All private streets shall be construed and maintained in accordance with the specifications set forth by the State Department of Transportation's *Minimum Construction Standards for Subdivision Roads, Current edition*.

### § 155.044 USES PROHIBITED.

If a use or class of uses is not specifically indicated as being permitted in a district either as a right or as a special use, then the use or class of use is prohibited.

### § 155.045 INTERSECTION VISIBILITY.

To ensure safe sight distances where streets intersect and where driveways intersect streets, a minimum clear vision area shall be provided. On a corner lot in residential and/ or business districts, there shall be no obstruction to vision by structures, grade or foliage other than power or utility poles between a height of three feet and a height of ten feet, measured above.



the average elevation of the existing surface of each street at the centerlines thereof.

**§ 155.046 LOCATION OF ACCESSORY AND TEMPORARY BUILDINGS ON RESIDENTIAL LOTS.**

(A) On any residential lot, accessory and temporary buildings shall not be located in any required front or side yard, shall not cover more than 30% of any required rear yard and shall be at least 5 feet from any other building on the same lot and 20 feet from any buildings used for human habitation on adjoining lots. Any part of the building, including the footings and roof overhang, shall be a minimum of 5 feet from any lot line.

(B) Detached accessory or temporary buildings or structures designed or used for human habitation as permitted by this chapter shall be located no closer than 30 feet to any other building or structure on the subject property and on adjoining lots and shall meet the side yard requirements for the district in which they are located.

**§ 155.047 PRIVATE SWIMMING POOLS ON RESIDENTIAL LOTS.**

Private swimming pools shall not be located in any front or side yard and shall not be less than 10 feet from any lot line. Access to private swimming pools shall be limited by fencing, walling or another appropriate safety barrier.

**§ 155.048 LOT OF RECORD, DATE AND PERMITTED USE.**

(A) In any district in which residences are a permitted use, where a lot has an area or width of less than the required area or width and was a lot of record on or before the effective date of this chapter, the lot may be occupied by a single-family dwelling, provided that the minimum front, rear and side yard requirements for the district in which it is located are met and further provided that the requirements of § 155.058 are followed. This provision shall not apply to any lot to which the provisions of § 155.049 apply.

(B) In all other districts where a lot has an area or width of less than the required area or be width and was a lot of record on or before the effective date of this chapter, the lot may be occupied by a permitted use, provided that all other requirements of the district are met and further provided that the requirements of § 155.058 are followed. This provision shall not apply to any lot to which the provisions of § 155.049 apply.

**§ 155.049 ADJOINING AND VACANT LOTS.**

If two or more adjoining and vacant lots of record are in single ownership at any time after the effective date of this chapter, and the lots individually have less area or width than the minimum requirements of the district in which the lots are located, the lots shall be considered as a single lot which meets the minimum requirements of this chapter for the district in which the lots are located.

**§ 155.050 SIDE YARDS ON CORNER LOTS.**

In any residential district the side yard requirements for corner lots along the street side right-of-way line shall have an extra wide width of ten feet. Measurement shall be made from the right-of-way line. If there is no recorded right-of-way, add 25 feet to the minimum side yard requirement shown and measure from the edge of the pavement. Accessory buildings in the rear yard shall also comply with the side yard requirement.

**§ 155.051 FRONT AND/ OR SIDE YARD SETBACKS.**

(A) The front and/ or side yard requirements of this chapter shall not apply to any lot where the front and/ or side yard coverage on developed lots located wholly or in part within 100 feet to each side of the lot and/ or located within the same block and zoning district and fronting on the same street as the lot is less than the minimum required front and/ or side yard. In these cases, the front and/ or side yard on the lot may be less than the required yards but not less than the average of the existing front and/ or side yards on the developed lots, provided that the front and/ or side yard on the lot shall not be less than one-half of the required front and/ or side yard.

(B) All measurements for front yard setback shall be made from the right-of-way (§ 155.054). If there is no recorded right-of-way, add 15 feet to the minimum front yard required as shown in § 155.054.

**§ 155.052 CONDITIONS FOR MODIFICATION OF REQUIRED YARDS.**

Requirements for front, rear and side yards may be modified under the following conditions:

(A) Cornices, eaves, steps, gutters, bay windows, fire escapes, fire balconies, fire towers and similar features may project not more than 2' feet into any required yard.

(B) Necessary retaining walls and fences less than six feet in height, when located in the rear yard, shall be exempt from the yard requirements of this chapter, except that on a corner lot no fence more than three feet in height shall be located within any yard or building setback required along the side street line by any other provision of this chapter. The height of any fence located within a yard abutting on a street line shall be measured from the sidewalk, and if there is no sidewalk or curb, from the grade of the centerline of the street. All other fence heights shall be measured from natural grade. Terraces, steps, and uncovered porches which are not in any part more than four feet above the ground floor level and not within 2' feet of any lot line shall be exempt from the yard requirements of this chapter.

**§ 155.053 EXCEPTIONS TO HEIGHT LIMITS.**

Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain building, skylights, towers, steeples, flagpoles, chimneys, wireless masts, water tanks, silos or similar structures may be erected above the height limits herein specified if so, approved by the Project Review Committee.

The Project Review Committee shall not approve the structures if they determine that these structures may pose health, safety, or welfare risks to surrounding property. No penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space.

**§ 155.054 DIMENSIONAL REQUIREMENTS.**

The following are dimensional requirements for the zoning districts of the town.

| <i>District</i> | <i>Min. Lot Size<br/>Sq. Feet/Acres</i> | <i>Min. Front<br/>Setback<br/>Feet*</i> | <i>Min. Side<br/>Yard<br/>Feet**</i> | <i>Min. Rear<br/>Yard<br/>Feet</i> | <i>Min. Lot<br/>Width<br/>Feet</i> | <i>Max. Bldg.<br/>Height<br/>Feet</i> |
|-----------------|---|---|--------------------------------------|------------------------------------|------------------------------------|---------------------------------------|
| HB              | N/A                                     | 30                                      | 10                                   | 20                                 | N/A                                | 50                                    |
| GB              | N/A                                     | 30                                      | 10                                   | 20                                 | N/A                                | 50                                    |
| I-2             | N/A                                     | 50                                      | 15                                   | 20                                 | N/A                                | 50                                    |
| O&I             | N/A                                     | 30                                      | 10                                   | 20                                 | N/A                                | 50                                    |
| 85-ED           | 5 ACRES                                 | 40                                      | 40                                   | 40                                 | N/A                                | N/A                                   |
| C-1             | N/A                                     | 30                                      | 10                                   | 20                                 | N/A                                | 35                                    |
| RM-10           | 4500                                    | 40                                      | 15                                   | 30                                 | 85                                 | 35                                    |
| RM-18           | 3100                                    | 40                                      | 15                                   | 30                                 | 100                                | 35                                    |
| R-1             | 12000                                   | 30                                      | 10                                   | 8                                  | 80                                 | 35                                    |
| R-3             | 6000                                    | 30                                      | 12                                   | 25                                 | 75                                 | 35                                    |

Notes to Table:

\*Front yard setback shall be as shown if measured from the right-of-way, or 15 feet greater if measured from pavement edge or the average of the front yard on either side of the lot. On corner lot add 10 feet.

\*\*In residential districts only: on corner lots add ten feet to the minimum side yard setback from the side street right-of-way line. (See § 155.050).

**§ 155.055 FENCES.**

(A) Fences shall be allowed on any lot, provided they meet the following guidelines. A zoning permit is required for any fence within the zoning jurisdiction of the town.

- (1) Fencing erected in any front yard, or in any side yard abutting a street right-of-way, shall not exceed four feet in height.
- (2) Fencing in any other side or rear yard shall not exceed six feet in height.
- (3) Any fencing abutting a street right-of-way shall be of the traditional picket or rail style.
- (4) In no case shall any wire-based fencing be used along a street right-of-way.

- (B) *Exceptions.* The style and height requirements within this section shall not apply to:
- (1) Any nonresidential lot;
  - (2) Any residential lot greater than two acres in size. Two or more contiguous but separate tax or zoning parcels shall not be considered one lot for the purpose of determining fence style and height.
- (C) All fencing must be erected and/ or constructed such that no part of the fence obstructs a clear vision area, as defined in § 155.007 and outlined in § 155.045 nor encroaches into any public right-to-way.
- (D) As noted in § 155.054, if there is no right-of-way recorded, add 15 feet and measure from the edge of pavement.

**§ 155.056 CUSTOMARY HOME OCCUPATIONS.**

- (A) Customary home occupants, as defined in § 155.007, may be located in districts provided for in § 155.026, with the other requirements as set forth in this section.
- (B) A customary home occupation may not be allowed if it has any significant adverse impact on the surrounding neighborhood. A use may be regarded as having a significantly adverse impact on the surrounding neighborhood if:
- (1) There is a window display or outside storage of goods, stock in trade, or other commodities;
  - (2) Any on-premise retail sales occur except for the sale of products or goods made on the residential lot as a result of the home occupation;
  - (3) Any person not a resident on the premises is employed in connection with the purported home occupation;
  - (4) It creates unfavorable noise, fumes, smoke, odor, dust, glare, vibrations, or electrical interference;
  - (5) More than 25% of the total gross floor area of the dwelling, including the basement, is used for the home occupation;
  - (6) Any accessory buildings or other structures on the premises are additionally used for the home occupation;
  - (7) The home occupation is open to the public earlier than 7:00 a.m. or later than 9:00 p.m.;
  - (8) Additional parking other than that associated with the residential use is provided; and/or

(9) If a sign in excess of two square feet in size is located on the premises.

(C) The Zoning Administrator may withdraw the home occupancy permit when he or she finds that the home occupation has a significantly adverse impact on the surrounding neighborhood.

**§ 155.057 ADULT ESTABLISHMENTS.**

(A) It is recognized that there are some uses of property which, because of their very nature, are recognized as having characteristics which impose adverse effects on the neighborhood in which the use is located. Regulations are necessary to minimize the adverse effects and to prevent a particular area subject to the zoning jurisdiction of the town from the concentration of the uses. It is not the intent of this section to conflict with state laws regulating adult establishments, but rather to regulate the location of adult establishments whose material or activities are legal.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicated or requires a different meaning.

**ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE.** A bookstore which:

(a) A majority of its gross income during any calendar month is received from the sale of publications, including books, magazines, and other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in G.S. § 14-202.10; or

(b) Has a preponderance of its publications, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in G.S. § 14-202.10.

**ADULT CABARET/CLUB.** A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

- (a) Persons who appear nude or semi-nude;
- (b) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; and/ or
- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions

which depict or describe specified sexual activities or specified anatomical areas.

**ADULT ESTABLISHMENTS.** Any structure or use of land that is defined in G.S. § 202.10 and/ or including the following:

- (a) Adult arcades;
- (b) Adult bookstores;
- (c) Adult cabarets/ clubs, such as "topless" dancing;
- (d) Adult live entertainment;
- (e) Adult live entertainment businesses;
- (f) Adult motels or hotels;
- (g) Adult motion picture theaters;
- (h) Adult mini-motion picture theaters;
- (i) Adult theaters;
- (j) Adult video stores;
- (k) Escort agencies;
- (l) Massage businesses;
- (m) Nude model studios; and
- (n) Sexual encounter centers.

**ADULT LIVE ENTERTAINMENT.** Any performance of, or involving the actual presence of, real people which exhibit specified sexual activities or specified anatomical areas.

**ADULT LIVE ENTERTAINMENT BUSINESSES.** Any establishment or business wherein adult live entertainment is shown for observation by patrons.

**ADULT MOTEL OR HOTEL.** A motel, hotel, or similar commercial establishment that:

- (a) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video

cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities or specified anatomical areas as one of its principal business purposes;

- (b) Offers a sleeping room for rent for a period of time that is less than ten hours; and/ or
- (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

**ADULT MINI-MOTION PICTURE THEATER.** An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT MOTION PICTURE THEATER.** An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. **ADULT MOTION PICTURE THEATER** does not include any adult mini-motion picture theater as described above.

**ADULT THEATER.** A theater, concert hall, auditorium or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas or specified sexual activities.

**ADULT VIDEO STORE.** A commercial establishment which as one of its principal business purposes offer for sale or rent for any form of consideration any one or more of the following:

- (a) Video cassettes, video reproductions, photographs, films, motion pictures, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas; and/or
- (b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**ESCORT AGENCY.** A person or business that furnished, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration. An **ESCORT** means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**MASSAGE BUSINESS.** Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. In this context, **MASSAGE** means the manipulation

of body muscles or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device. Health massages and body work therapists shall not be deemed employees in a licensed **MASSAGE BUSINESS** as defined here.

**NUDE MODEL STUDIO.** Any place where a person who appears semi-nude, in a state of nudity, or displaying specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the state or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one nude or seminude model is on the premises at any one time.

**SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/ or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

- (C) An adult establishment use shall only be allowed as a special use in the industrial district.
- (D) There shall be a spacing of 1500 feet between adult establishment uses. The 1,500 foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads or land forms.
- (E) No adult establishment shall be located within 1,500 feet of a church, public or private school, child day care or nursery school, public park, residences and/ or residentially zoned property, or any establishment with an on-premises ABC license. The 1,500-foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads or landforms.
- (F) The minimum setbacks, maximum building height and all other dimensional requirements shall be the same as for uses in the highway business district.
- (G) The amount of parking spaces required shall be the same as for all commercial uses. Parking areas shall be located in the front of the principal building.
- (H) There shall be no screening or buffers allowed in any form.
- (I) Signs allowed shall be in compliance with highway business district sign regulations. Any ground, wall, canopy, or projection sign shall contain only the name of the establishment. It



shall not contain any advertising or identification of any product, service, and the like.

(J) Customer or member entrances shall only be in the front of the building facing the street. No side or rear entrances shall be allowed for use by anyone patronizing an adult business.

(K) No printed material, slide, video, photograph, written text, live show, or visual presentation format shall be visible from outside the establishment.

(L) There shall not be more than one adult business use, either the same or another use, located on the same property, building or structure.

(M) Except for an adult motel or hotel, no adult establishment use may have sleeping quarters.

(N) Other applicable regulations contained in this chapter shall be in effect.

#### § 155.058 NONCONFORMANCES.

Any parcel of land, use of land, building or structure existing at the time of the adoption of this chapter, or any amendment thereto, that does not conform to the requirements of the district in which it is located may be continued and maintained subject to the following provisions:

*(A) Nonconforming lots.*

(1) *Vacant lots.* This category consists of vacant lots for which plats or deeds have been recorded in the Office of the County Register of Deeds, which at the time of adoption of this chapter fails to comply with the minimum area and/or width requirements of the districts in which they are located. Any nonconforming lot may be used for any of the uses permitted in the district in which it is located, provided that:

(a) Where the lot area or width is not more than 20% below the minimum specified in this chapter, and other dimensional requirements are otherwise complied with, the Zoning Enforcement Officer is authorized to issue a zoning compliance permit.

(b) Where the lot area or width is more than 20% below the minimum specified in this chapter or other dimensional requirements cannot be met, the Board of Adjustment is authorized to consider a variance of the dimensions as shall conform as closely as possible to the required dimensions; and

(c) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this chapter and the lots individually have less area or width than the minimum requirements of the district in which the lots are located, the lots shall be combined to create a single lot or lots which meet the minimum requirements of this chapter for the district in which the lots are located.

(2) *Occupied lots.* This category of nonconformance consists of lots, occupied by buildings or structures at the time of the adoption of this chapter, that fail to comply with the minimum requirements for area, width, yard, and setbacks for the district in which they are located. These lots may continue to be used.

(3) *Uses of land.* This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where the use of the land is not permitted to be established hereafter, under this chapter, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

- (a) When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use;
- (b) A nonconforming open use of land shall be changed only to a conforming use;
- (c) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming; and
- (d) When any nonconforming open use land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/ or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(2) *Uses of structures.* This category of nonconformance consists of buildings or structures used at the time of enactment of this chapter for purposes or uses not permitted in the district in which they are located. The uses may be continued as follows:

- (a) An existing nonconforming use of a structure may not be changed to another nonconforming use.
- (b) When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- (c) A nonconforming use of a structure may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
  1. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
  2. Maintenance and repair necessary to keep a structure containing a nonconforming use in sound conditions are permissible.
  3. Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected, and arranged or

designed for the nonconforming use is permissible.

(d) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/ or nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(C) *Nonconforming structures.* This category includes any structure not in conformance with the restrictions of this chapter after the effective date of adoption of this chapter. The nonconformances shall include, but not be limited to height, bulk, and setback. The nonconforming structures shall be allowed to remain with the following conditions:

(1) A nonconforming structure may not be enlarged or altered except where maintenance and repair are necessary to keep the structure in sound condition.

(2) When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.

(3) When any nonconforming structure is damaged, repair must follow the guidelines listed in division (D) below.

(4) Structural alterations as required by law or ordinance to secure the safety of the structures are permissible.

(D) *Reconstruction of damaged buildings or structures.* Any nonconforming structure or structure containing a nonconforming use which has been damaged by fire, wind, flood, or other causes may be repaired and used as before provided:

(1) Damage does not exceed 50% of assessed value; single-family residences may be repaired and rebuilt if damage exceeds 50% of assessed value but they must meet all other criteria. Nonconforming manufactured homes may not be repaired or rebuilt under any circumstances if damage exceeds 50% of assessed value;

(2) Repairs are initiated within 12 months and completed within two years of the damage;

(3) The total amount of space devoted to a nonconforming use may not be increased;

(4) Reconstructed nonconforming structures may not be made nonconforming by the repairs; and

(5) Where possible, any nonconforming structure shall be repaired or reconstructed in a manner so as to minimize or ameliorate the nonconformance.

(E) *Continuation of manufactured home parks.*

(1) Manufactured home parks that become nonconforming uses shall be permitted to continue operation subject to the following stipulations:

- (a) Nonconforming manufactured home parks may not be expanded or increased in size not shall any additional spaces be added to the site;
- (b) When a site at a nonconforming manufactured home park is vacated, another manufactured home may not be placed on that site;
- (c) A nonconforming manufactured home park that is discontinued for 180 days shall not be reestablished. Vacancy and/ or nonuse of the park, regardless of the intent of the owner, shall constitute discontinuance under this provision;
- (d) If an existing nonconforming manufactured home on a conforming lot is removed, it shall only be replaced with a conforming structure or building; and
- (e) If a nonconforming manufactured home is abandoned for a period of more than 180 days, the habitation of the manufactured home shall be prohibited. The date of abandonment shall be that date at which the abandonment of the manufactured home becomes evident.

*(F) Continuation of manufactured homes on individual lots.*

(1) Manufactured homes located on individual lots which become nonconforming structures may be continued until a time as the home is replaced. The replacement unit may not be another nonconforming structure. Manufactured homes on nonconforming lot may be continued. At the time that they are removed, the reestablishment of a manufactured home to any other structure on that lot is prohibited until a time as the lot is made to conform to the requirements of this chapter.

(2) If an existing manufactured home on a conforming lot is removed, it shall only be replaced with a conforming structure or building.

(3) If a manufactured home is abandoned for a period of more than 180 days, the habitation of the manufactured home shall be prohibited. The date of abandonment shall be that date at which the abandonment of the manufactured home becomes evident.

## **DEVELOPMENT REQUIREMENTS**

### **§ 155.070 INTENT.**

(A) It is the intent of this chapter to provide general standards for development in the town and its zoning jurisdiction to ensure that the development will be arranged and constructed in a safe, orderly, and visually harmonious manner and will reflect the basic character of the development site and its surroundings.

(B) Any application for a zoning permit in which the proposed use, construction or other improvement or land alteration would affect previously undeveloped property shall be accompanied by a site plan of the property identifying all champion trees in the areas to be affected, along with the proposed location of the use, construction, improvement, or alteration. The Project Review Committee shall review all site plans in accordance with the standards set forth in division (A) above.

(C) New construction projects in any zoning district requiring a building permit, except single-family residential construction or residential accessory construction, are required to meet certain development standards to ensure compatibility with surrounding land uses, provide for attractive, well-planned projects, and promote the public health, safety, and welfare of the town. All new construction projects which, in the opinion of the Town Planner, will impact surrounding land uses or public facilities or which are one acre or larger must be approved prior to the start of construction by the Zoning Enforcement Officer and/ or the Project Review Committee, as established in §§ 155.040 *et seq.*

(D) If the Project Review Committee deems it impractical for a developer to comply with portions of this subchapter, the Project Review Committee shall have the authority to modify or elect not to apply portions of this subchapter so long as the modifications or deletion of a requirement does not constitute a variance.

(E) A site plan, once approved, must be resubmitted if construction has not commenced within one year of approval. Construction is deemed to have commenced if footers have been poured and approved.

#### **§ 155.071      APPLICABILITY.**

Except as otherwise provided in this chapter, no land or structure shall be used or occupied and no excavation, removal of soil, clearing or placing of fill shall take place on land contemplated for development, and no structural alteration of a building shall be constructed except in compliance with this chapter. Renovation or remodeling of a building meeting or exceeding one-half its current assessed value, not including land, shall comply with design standards outline within this chapter.

#### **§ 155.072      GENERAL SITE ARRANGEMENT.**

Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but not be limited to the creation of hazards, nuisances, danger or inconveniences, the unreasonable loss of light and air or solar access, or unreasonable loss of privacy.

#### **§ 155.073      DEVELOPMENT STANDARDS.**

(A) The area, yard, and height requirements shall be the same as those established for each zoning district in § 155.054.

(B) Site plans are required before any decision can be rendered by the Zoning Enforcement Officer and/ or the Project Review Committee. At least three copies of all required plans, drawings and specifications shall be filed at the time of application. These plans and specifications shall furnish the following information:

(1) The applicant shall provide a boundary survey and vicinity map showing the property's total acreage, zoning classifications, general location in relation to major streets, railroads and/ or waterways, date, north arrow, existing easements, reservations, and rights-of-way.

(2) Plans shall include topographical features, streams, vegetation, soil types, flood prone areas, historic sites, and other features, as required by the town.

(3) The proposed schedule of development, including phases or stages likely to be followed, shall be submitted with all plans.

(4) (a) Plans shall show the location of public water and sewer lines presently in existence, connections to these lines, manholes, pumping stations, fire hydrants, and other necessary features as established by the part of the town. All multi-family projects must have public water and sewer service or approved treatment facilities as are required by the appropriate state or local authorities.

(b) Where a public water and/ or sewer service is not reasonably available, individual water supply systems or subsurface sewage disposal systems may be permitted subject to approval by the County Health Department and the requirements stated in this code.

(5) Storm water drainage system. The locations of natural drainage systems and/ or storm water management installations are required on the plans. These features shall be designed, constructed, and maintained so as to:

(a) Provide for the natural infiltration of storm water;

(b) Control the velocity of runoff flows;

(c) Extend the time of concentration of storm water runoff; and

(d) Collect and transmit excess storm water flows into either the town drainage system or into a natural drainage system. The following criteria shall also be considered:

(1) To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting man-made drainage ways shall remain undisturbed.

(2) All storm drainage systems shall be designed to carry storm water from a ten-year frequency storm.

(3) No surface water may be channeled or directed into a sanitary sewer.

(4) All development shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of the development. More specifically:

- a. No development may be constructed or maintained so that the development unreasonably impedes the natural flow of water from higher adjacent properties across the development, thereby unreasonably causing substantial damage to higher adjacent properties.
  - b. No development may be constructed or maintained so that surface waters from the development are unreasonably collected and channeled onto lower adjacent properties at locations and volumes so as to cause substantial damage to lower adjacent properties; and
  - c. Concrete curbs or curb and gutter are required to adequately direct and control storm water in all paved parking lots.
- (5) No rainwater leaders, downspouts or downspout extensions shall extend beyond any building line, and none shall empty onto any street or sidewalk.
- (6) (a) Predevelopment site grading, for the purpose of this chapter, is any land disturbing activity of 6,000 square feet or more that is not regulated by a site plan previously approved by the town.
- (b) The grading may be considered a low impact or high impact activity based on the table below.

| <i>Low Impact Activity</i>   | <i>High impact Activity</i>   |
|--|---|
| Land disturbing activity in more than 100 feet from a residential district                     | Land disturbing activity is 100 feet or less from a residential district                                    |
| The steepness of the proposed slope at clearing limit is 3:1 horizontal to vertical or flatter | The steepness of the proposed slope at clearing limit is greater or steeper than 3:1 horizontal to vertical |
| The height of the proposed grade change from a cut or fill is less than equal to 3 feet.       | The height of the proposed grade change is greater than 3 feet.   |

- (c) If one or more of the high impact activities exist, it is considered high impact.
- (d) For a low impact activity, a predevelopment site grading permit can be secured following a review and approval by the Zoning Administrator. If denied by the Zoning Administrator, he or she shall state in writing the reasons for his or her denial. If the Zoning Administrator denies issuing the permit, the matter can be appealed to the Board of Adjustment.
- (e) For a high impact activity, a predevelopment site grading permit shall be reviewed and recommended by the Project Review Committee before being considered for review and recommendation by the Planning Board to the Board of Alderman.
- (7) The proposed location and design of streets, curbs and gutters and streetlights shall be included on the site plans.

- (8) Proposed street access, easements, monuments, and property lines shall be included as part of the site plans.
- (9) The proposed location and design of sidewalks shall be included as part of the site plans.
- (10) The proposed location of all proposed structures shall be shown on the site plans.
  - (a) Buildings shall, after complying with all other applicable regulations, be located as near the front property line as possible with parking areas located either to the rear or sides of the principal building.
  - (b) In the event that it is not practicable to adhere to the standards of subsection (a) above, the Project Review Committee shall require that the parking area landscaping standards outlined in §155.074 be increased by a factor of two.
- (11) The type and arrangement of streets and driveways within the development shall be in compliance with the Town's Community Transportation Plan.
  - (a) Principal vehicular access points to the development shall be designed to encourage smooth traffic flow with minimum hazards to pedestrians, bicycles, and vehicular traffic. Accommodations for controlled turning movements into and out of the development and improvement of the approach street shall be provided where existing or anticipated heavy traffic flows indicate need.
  - (b) To ensure safe sight distances where streets intersect and where driveways intersect streets, a minimum clear vision area shall be provided at the corners of the intersections. No structure or planting that would impede visibility shall be established in the clear vision area. Grading of land may be required where topography impedes the required clear vision area.
- (12)
  - (a) Every principal use must have access to a source of electric power and telephone service adequate to accommodate the reasonable needs of the use.
  - (b) All new electric power lines, including primary and secondary distribution lines and service laterals, telephone, and cable television lines necessary to provide service to a lot or development shall be placed underground in a manner acceptable to the regulations and standards that govern the utility.
- (13) Except for single- and two-family dwellings, all streets, driveways, sidewalks, parking areas and other common areas and facilities shall be lighted where necessary to ensure to security of property and the safety of persons using the facilities. In no case shall sources cause direct light or glare upon adjacent property or constitute a hazard to motorists using public streets.



- (a) Exterior lighting on any lot shall be designed and directed so that light is confined primarily to that lot.
- (b) No searchlights or other high intensity lighting devices used primarily to illuminate the night sky shall be permitted.
- (c) No external lighting device shall exceed a height of 30 feet.

(14) Every site upon which one or more dumpsters are to be placed shall be located and constructed so as to facilitate collection and minimize any harmful effect on persons occupying the development site, neighboring properties, or public rights-of-way. Those developments hereafter established that are required to provide a refuse container shall locate the container on the property it serves. The site shall be paved with concrete, asphalt or other bituminous paving and shall be located abutting a driveway of sufficient width to allow access by the town's solid waste collection equipment. Sites and means of access shall be approved by the Town Planner. All dumpsters shall be completely enclosed with metal, wood, or masonry material to a maximum height of six feet.

- (a) Persons located within any dwelling unit on residential property other than that where the dumpster is located;
  - (b) Occupants, customers, or other invitees located within any building or nonresidential property other than that where the dumpster is located, unless the other property is used for purposes permitted exclusively in the zoning district; and
  - (c) Persons traveling on any public street, sidewalk, or bikeway within the town.
- (15)(a) In order to reduce the impacts of a use of land on adjacent incompatible uses, buffers and screening shall be required at each boundary between different zoning districts or different developments, for example, two different shopping centers. Adult establishments may not have buffers or screening of any kind.
- (b) Within buffers, screening is required and shall consist of one or a combination of the following materials, as deemed appropriate and necessary by the Project Review Committee. The width of screening required will vary depending on the type and effectiveness of screen used.
1. A row of deciduous trees and/ or evergreen trees which are not less than 8 feet high at the time of planting and are spaced no more than 20 feet apart;
  2. A row of evergreen shrubs spaced not more than five feet apart which will grow to form a continuous hedge at least six feet in height within two years of planting. The shrubs shall be not less than two feet in height at the time of planting;
  3. Berms with lawn grass, low-growing evergreen shrubs, evergreen ground cover and/ or vegetable or rock mulch; and

## 4. Solid decorative brick walls and wood fences.

- (16) (a) Outdoor storage areas ancillary to the principal use of the lot shall not be used for the storage of any noxious and hazardous materials including, but not limited to: construction wastes, scrap, salvage, or debris; flammable or explosive liquids or substances; substances creating noxious fumes, vapors, dusts or wastes; automobile tires, and any other similar materials deemed to constitute a health hazard or public nuisance. All outdoor storage may be conducted inside or rear yards only.
- (b) Outdoor storage areas must be maintained to prevent the spillover of stored materials on abutting land or public rights-of-way, preserve the safety of pedestrians on adjoining sidewalks, prevent fire hazards, prevent the threat of breeding places for rats and vermin, prevent the possible uses of the yards as hiding places for criminal activity, and to eliminate the attraction of materials stored within to children playing. The storage area shall be fenced with a strong, secure visually impenetrable fence of suitable materials of at least six feet in height.
- (c) Outdoor storage areas must be clearly identified on the site plan and approved by the Planning Board and/ or Board of Aldermen prior to the issuance of the permit.
- (17) All prefabricated metal buildings must include an external veneer of masonry or other suitable decorative façade on at least three elevations, to include the front. The veneer shall cover the complete elevation.
- (18) Special Provisions for the 85-ED District.
- A) *Minimum lot size* - 5 acres
  - B) *Subdivision requirements*. All subdivisions of property must be approved as a PUD.
  - C) *Maximum Building Height*. No maximum height.
  - D) *Parking*. As required.
  - E) *Signs*. As provided in table 155.096 Billboard signs are not a permitted use anywhere in the Town's corporate limits or its ED along Interstate 85.
  - F) *Circulation system*. Requires access to major or minor thoroughfare or interstate service road. No access to local streets is allowed. Interior streets are designed to connect to other adjoining property within an 85-ED district. This requirement may be waived if it is found that connection to adjoining property is not appropriate due to incompatibility of adjacent development.
  - G) *Nuisance conditions*. The project shall not cause detrimental levels of noise, dust, odor etc. to nearby areas.
  - H) *Loading, maintenance, and outdoor storage areas*. All loading, maintenance and outdoor storage areas where permitted, shall be located to the rear or side of the building, but shall not face a side street.
  - I) *Open space*. Open space shall be suitably landscaped with grass and/or shrubs. See landscaping requirement of development ordinance.

- J) *Lighting*. Light shall be provided at intersections, along walkways and in Parking lots. The maximum height of lighting is twenty-five (25) feet. Spacing of lighting shall be four (4) times the height.
- K) *Buffer*. Forty (40) feet from project perimeter.
- L) *Street frontage*. Minimum of hundred (100) feet for development.
- M) *Minimum lot coverage*. Eighty (80) percent.
- N) *Building character and style*. Building designs within a PUD shall strive to establish a distinctive style and maintain a high-quality development standard. Building should include similar architectural styles but should not be identical throughout the development. The site plan shall at a minimum describe building materials colors and architectural features of the development.
- O) *Pedestrian facilities and design*. Within a PUD, the site plan shall provide for a unified and well-organized arrangement of building, service areas, parking, etc, to provide a high level of convenience and safety for pedestrians, employees, and visitors.

#### **§ 155.074 OFF-STREET PARKING AND LOADING.**

- (A) Off-street parking shall be provided for all uses of land, structures, and buildings, as well as for any expansion of the uses or change in use in accordance with the requirements of this chapter.
- (B) Parking areas shall, where possible, be located at either the rear or sides of the principal building. Parking areas for adult establishments shall only be in the front of the principal building.
- (C) The following parking area requirements shall apply within the zoning jurisdiction of the town:
  - (1) Parking areas shall be set back a minimum of 20 feet from the front property line or edge of right-of-way, whichever is greater. The setback area shall be occupied by a 20-foot landscaping strip developed to the standards as established by the town. If the setback area exceeds 20 feet, the landscaping strip shall be placed nearest the front of the lot.
  - (2) Parking areas shall be landscaped so that there is located within the interior of the parking area a landscaped area equivalent to the area of 1 parking space for each 15 parking spaces in the parking area.
  - (3) Landscaped areas shall be surrounded by a concrete curb or other material, such as landscape timbers, brick, and the like, in order to protect the landscaped area and to define its borders.
  - (4) Landscaped areas shall be composed of materials determined by the Project Review Committee to be appropriate in order to maintain the appearance of the area.

- (D) Every building or structure used for business, trade, or industry hereafter erected shall provide space for the loading and unloading of vehicles off the street or public alley. The space shall be located, when possible, at the rear of the business. In some cases, the Town Planner may approve the loading space at the end or side of a business. No vehicle shall be required to back onto a right-of-way, street, or public alley.
- (E) Commercial, industrial, and wholesale operations shall provide loading in dimensions and quantities determined by the Project Review Committee to be sufficient to allow normal loading and unloading operations of magnitude appropriate to the use. All plans shall meet the requirements of the Americans with Disabilities Act.
- (F) The following parking space requirements shall apply within the zoning jurisdiction of the town:
- (1) For apartments and manufactured homes located within manufactured home parks, two spaces for each dwelling unit;
  - (2) For motels, tourist homes and hotels, 1.05 space for each room or unit to be rented, plus one space for every two employees.
  - (3) For hospitals, one space for each two beds intended for patient use, plus one space for each staff or visiting doctor and one space for each two employees.
  - (4) For elementary schools and junior high schools, both public and private, one space for each employee;
  - (5) For senior high schools, trade schools and technical institutes, one space for each two students for whom the school was designed, plus one space for each employee;
  - (6) For restaurants, one space for each three seats, plus one space for each two employees.
  - (7) For medical and dental clinics and offices, four spaces for each doctor practicing at the clinic, plus one space for each employee;
  - (8) For auditoriums, theaters, stadiums, and similar uses involving the assembling of persons, one space for each three seats in the place of assembly, plus one space for each 100 square feet of floor or ground area used for amusement of assembly.
  - (9) For bus terminals, one space for each employee and one space for each bus loading ramp and track;
  - (10) For other office, business, and commercial uses, one space for each 200 square feet of gross floor area;
  - (11) For industrial, warehousing and wholesaling uses, one space for each 200 square feet of gross floor area.

- (12) For nursing homes, one space for every four beds.
- (G) All required parking or loading spaces shall be located on the same zoning lot as the principal use it serves, except as approved by the Town Planner. Parking spaces shall have minimum dimensions of 9 feet by 18 feet. Off-site parking for a permitted use, as required by this chapter, can be located by itself, or combined with parking for other uses, subject to certification by the Town Planner that the following requirements have been met:
- (1) The use being served by the off-site parking is a permitted principal use in the zoning district within which the lot containing the parking is located.
  - (2) The off-site parking spaces are located within a walking distance of 500 feet to a public entrance to the structure or land area containing the use of which the spaces are required.
  - (3) A safe, direct, attractive, lighted, and convenient pedestrian route exists or will be provided between the off-site parking and the use being served.
  - (4) The continued availability of off-site parking spaces necessary to meet the requirements of this section are ensured by an appropriate restriction on the title to the land providing the off-site parking spaces, in the form of a declaration, covenant or contract. At the discretion of the Project Review Committee, all off-street parking must be paved in all zoning district.
- (H) Up to one-half of the parking spaces required for one use may be used to satisfy the parking requirements for either a second use on the same zoning lot or a use for which the provisions of division (I) below are utilized, subject to certification by the Town Planner that the joint usage of parking complies with the following provisions:
- (1) The peak usage of the parking facility by one use will be at night or on Sundays, such as with theaters, assembly halls, or churches, and the peak usage of the parking facility by the second use will be at other times; or
  - (2) The second use is an ancillary use to the first use, such as restaurants and meeting rooms to hotels and motels.
- (I) (1) Use of required parking and loading areas. Parking areas shall be used for parking automobiles, motorcycles, and passenger trucks only, with no sales, storage, repair work, dismantling or service of any kind permitted.
- (2) Required loading space shall be available for the loading and unloading of vehicles and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements.
- (J) After the effective date of this chapter, buffers and screening shall be required between all parking lots and abutting uses.

## SIGN REGULATIONS

### § 155.085 PURPOSE.

The purpose of this subchapter is to encourage and permit signs that will by reason, size, location, construction, or manner of display promote public health, safety, and well-being; be compatible with and supportive of the requirements for traffic safety; be consistent with the visual quality and the historic and scenic character of the town by regulating signs in a way so as to support and complement the above stated purposes and other legitimate objectives as set forth in this chapter.

### § 155.086 APPLICABILITY.

This subchapter shall apply to all signs located within the corporate limits and zoning jurisdiction of the town.

### § 155.087 PROHIBITED SIGNS.

The following signs are prohibited in all zoning districts.

- (A) Any sign not included under the types of signs specifically permitted in a zoning district;
- (B) Any wind activated sign, except as permitted under the provisions of this subchapter;
- (C) Any portable sign, except as permitted under the provisions of this subchapter;
- (D) Any sign which displays flashing, blinking or intermittent light or light of changing intensity, except as permitted under the provisions of this chapter;
- (E) Any sign which moves or has parts or sections which move;
- (F) Any sign which obstructs or blocks the clear vision area, as defined by § 155.045;
- (G) Any roof sign;
- (H) Any off-premises sign which advertises or publicizes a product, service, or event not available or not occurring on the premises or lot upon which the sign is located;
- (I) Any sign painted upon the pavement of any public street or right-of-way except traffic control signs provided by governmental agencies;
- (J) Any sign which imitates in any way or appears similar to official traffic-control signs or devices;

- (K) Any sign placed in a public right-of-way except those placed by a governmental agency;
- (L) Any temporary sign except as provided by this subchapter;
- (M) Any sign, light or floodlight erected or maintained in a manner so as to cast direct light onto a public street or right-of-way or adjacent properties;
- (N) Any sign which obstructs or blocks another permitted sign;
- (O) Any sign containing obscene or offensive words, pictures, or symbols; and/ or
- (P) Any sign which does not comply with the provisions of state law.

**§ 155.088 PERMITTED SIGNS.**

- (A) One each of the following signs shall be permitted per zoning lot in addition to other permitted signs:
  - (1) Construction signs;
  - (2) Directory signs;
  - (3) Institutional signs;
  - (4) Integral signs;
  - (5) Home occupation signs;
  - (6) Window signs;
  - (7) Real estate signs; and
  - (8) Political signs.
- (B) The following signs are permitted as needed in addition to other permitted signs:
  - (1) Emergency or warning signs or lights including blinking or flashing lights erected or installed by government agencies;
  - (2) Flags;
  - (3) Holiday decorations;
  - (4) No trespassing/ no loitering/ keep out signs;

- (5) Traffic directional signs;
  - (6) Public signs; and
  - (7) Banners displayed for a public or charitable purpose.
- (C) Public buildings, churches, clubs, and lodges are permitted one wall sign, excluding painted wall signs, and one freestanding sign.

**§ 155.089 SIGNS EXEMPT FROM PERMITS AND FEES.**

The following signs are exempt from permits and fees:

- (A) Political signs;
- (B) Construction signs;
- (C) Real estate signs;
- (D) Special event signs;
- (E) Flags;
- (F) Institutional signs;
- (G) Public signs;
- (H) Public service signs;
- (I) Integral signs;
- (J) Occupant/ street number sign;
- (K) Professional nameplates;
- (L) No trespassing/ no loitering signs; and/ or
- (M) Emergency warning signs.

**§ 155.090 GENERAL SIGN REGULATIONS.**

- (A) All signs must be erected and/ or constructed so that no part of the sign or structure extends into or over a public right-of-way.
- (B) Two or more contiguous, but separate and distinct zoning lots or parcels shall not be considered one lot or parcel for the purpose of determining sign area or setback requirements.



- (C) (1) The sign area of a sign consisting of letters, figures, numbers, or symbols only, without a background, shall be the area of the smallest rectangle which would enclose all letters, figures, numbers, or symbols which constitute the sign.
- (2) The area of all other signs will be the entire surface area or signboard upon which letters, numbers, figures, symbols or copy of any sort could be placed. When a sign had more than one face, only one side shall be considered the sign area. Structure, bracing or support shall not be considered part of the sign area unless the structure is part of the sign face.
- (D) Freestanding signs shall be separated by a distance equal to the minimum lot width permitted in the zoning districts in which the freestanding signs are located. Freestanding sign support structures shall be located at least one foot from any public right-of-way or easement.
- (E) Construction signs shall not include any promotional material.
- (F) Institutional signs and home occupation signs shall be located only on the zoning lot occupied by the institution or home.
- (G) Gasoline service stations are permitted gasoline pump signs, a gasoline price sign, and one attached sign indicating the type of services offered in addition to other permitted signs.

**§ 155.091 SIGN REGULATIONS FOR RESIDENTIAL DISTRICTS.**

- (A) All signs listed in §155.088 are permitted in residential zoning districts.
- (B) Subdivisions may have two subdivision signs per entrance.
- (C) Height, area, setback, and number of signs permitted are indicated in § 155.096.

**§ 155.092 SIGN REGULATIONS FOR BUSINESS DISTRICTS.**

- (A) The following regulations apply to C-1, GB, and HB districts.
- (1) All signs listed in §§ 155.088 and 155.089 are permitted in all business zoning districts.
  - (2) Wall signs, freestanding signs, canopy signs or projecting signs are permitted. Each business may choose two signs.
  - (3) Projecting signs and canopy signs must be at least eight feet from the sidewalk at their lowest point.
  - (4) Illuminated signs are permitted, except as prohibited in §155.087.
  - (5) Height, area, setback, and number of signs permitted are indicated in § 155.096.

- (6) Industrial direction signs are permitted.
- (7) Electronic Messaging Centers (General Business Only). Height Limitation is 5 feet. Length is limited to 10 feet. (a) Setbacks: Minimum 5 feet from street right of way, minimum of
- (8) 10 feet from side property boundary. (b) Duration of Display: 30 seconds. (c) Landscape Provisions: Base of sign to include landscaping with shrubs, groundcovers and / flower plants. (d) Site plan along with detailed elevation drawing with dimensional information and materials clearly identified.

(B) The following regulations apply to industrial business districts:

- (1) All provisions of this subchapter apply to industrial business districts.
- (2) Signs for retail uses in industrial zoning districts shall comply with height, area, and setback requirements of business zoning districts.
- (3) Height, area, setback, and number of signs permitted are indicated in § 155.096.
- (4) Industrial direction signs, wall signs, illuminated signs, freestanding, projecting sign and canopy signs are permitted.

#### **§ 155.093 POLITICAL SIGNS.**

Political signs shall conform to State Law.

#### **§ 155.094 SIGNS PERMITTED IN SHOPPING CENTERS AND MALLS.**

- (A) Shopping centers and malls are permitted one freestanding sign to identify the mall and shopping center and are permitted one directory sign listing only the names of the businesses occupying the premises. The directory sign shall be attached to the same sign structure as the permitted freestanding sign.
- (B) Each separate business establishment within a mall or shopping center may have one wall-mounted sign.
- (C) Height, area, setback, and number of signs permitted are indicated in § 155.096.

#### **§ 155.095 BUSINESSES SET BACK 200 FEET OR MORE.**

A business set back from its major road frontage right-of-way line by over 200 feet may increase the permitted size of attached wall signs by 10% for each 50 feet beyond 200 feet, up to a maximum increase of 100%.

**§ 155.096 MAXIMUM SIGN AREA, NUMBER OF SIGNS PERMITTED AND SETBACKS.**

The following are the maximum sign area, number of signs permitted and setbacks for the zoning jurisdiction of the town.

| <b>ZONING DISTRICTS AND PERMITTED USES</b>             | <b>MAX. AREA PER LOT<br/>SQUARE FT.</b> | <b>MAX. NUMBER SIGNS PER FRONTAGE</b> | <b>MAX. AREA PER SIGN<br/>SQUARE FT.</b> | <b>MAX. HEIGHT<br/>FEET</b>    | <b>MIN. SETBACK<br/>FEET</b> |
|--|---|---------------------------------------|--|--------------------------------|------------------------------|
| All residential districts                              | 4                                       | 2                                     | 2  | 3                              | 1                            |
| GB   | 50                                      | 2                                     | 25                                       | 10                             | 10                           |
| Construction and real estate signs                     | 32 (4 in residential districts)         | 1                                     | 32 (4 in residential districts)          | 8 (4 in residential districts) | 1                            |
| 1 - 2  | 200                                     | 2                                     | 50                                       | 10                             | 10                           |
| Individual businesses within a mall or shopping center | 50*                                     | 1                                     | 50                                       | DNA                            | DNA                          |
| Mall and Shopping centers                              | 200                                     | 2                                     | 100                                      | 15                             | 10                           |
| C - 1  | 50                                      | 2                                     | 50                                       | 10                             | 10                           |
| Public building, churches, clubs, and lodges           | 20                                      | 1                                     | 15                                       | 4                              | 1                            |
| 85-ED  | 200                                     | 2                                     | 50                                       | 10                             | 10                           |

**Notes to Table:**

\*Section 155.095 provides for an increase in maximum sign area for buildings set back over 200 feet from the road.

DNA = Does Not Apply

**§ 155.097 ADMINISTRATION.**

- (A) A permit shall be issued for all signs hereafter erected, attached, installed, modified, or relocated unless exempted by the provisions of § 155.089.
- (B) Application for a permit shall be made to the Zoning Enforcement Officer, who shall prescribe the forms upon which applications are to be made as well as prescribing any other materials or information which may be necessary to ensure compliance with this subchapter.
- (C) A completed permit application shall describe the location, dimension, height, type of

construction and a drawing, plan, or photograph of the sign for which application is being made together with maps or other explanation as is necessary to properly and precisely describe the sign in question. The Zoning Enforcement Officer may require additional information or description at his or her discretion. This must be approved by the Project Review Committee.

- (D) The town charges a fee for each sign permit. Inspection fees will be charged for each inspection. Fee schedules are set by the Town Board and are subject to change.
- (E) A copy of an approved permit application, with required signatures affixed, shall constitute a Zoning Compliance Permit.

#### **§ 155.098 ENFORCEMENT.**

- (A) Every sign, including those specifically exempt from this subchapter with respect to permits and fees shall be maintained in good structural condition at all times. The Zoning Enforcement Officer shall have the authority to cause the repair, repainting, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare, by reason of inadequate maintenance, dilapidation or abandonment.
- (B) Except as otherwise provided in this subchapter, any sign that is located on property that becomes vacant and is unoccupied or unused for the conduct of normal business for a period of 90 days or more, or any sign that pertains to a time, event, or purpose that no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended due to a change in ownership or management of the business shall not be deemed abandoned unless the property remains vacant or unused for the conduct of normal business for 180 days or more. An abandoned sign shall be removed by the owner of the sign or owner of the premises.
- (C) (1) The Zoning Enforcement Officer shall cause to be removed any sign that endangers the public safety or any sign for which no permit has been issued, except those listed in § 155.089. The Zoning Enforcement Officer shall prepare a notice which shall state that the sign is to be removed with 30 days. The sign shall be removed at the expense of the sign owner or property owner in accordance with the provisions of this section.
  - (2) All notices mailed by the Zoning Enforcement Office shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the notice.
  - (3) Any persons having a financial interest in a sign for which a notice has been prepared may appeal to the Zoning Board of Adjustment by filing a notice of appeal within ten days after the receipt of the notice.
  - (4) Notwithstanding the above, in cases of emergency, the Zoning Enforcement Officer may cause the immediate removal of a sign posing imminent danger to public welfare or safety without notice and at the owner's expense.

(5) Costs of removal or repair, court costs and attorney fees incurred by the town shall be assessed against the owners of the sign or property.

(6) Existing signs, except off-premises signs such as billboards, which are made nonconforming by this subchapter but are not abandoned or do not pose a hazard to the public may continue to be used by the present owner. At the time that the zoning lot upon which the sign is located is sold, or at the time that the business to which the sign pertains is closed or sold, any existing sign must be removed or must be made to comply to all the provisions of this section within 180 days of the sale or business closure.

(D) If a sign owner fails to remove a sign which violates the provisions of this subchapter within the time period allotted for removal, the Zoning Enforcement Officer shall cause the sign to be removed and all costs of the removal shall be assessed against the owner of the sign or property.

(E) A nonconforming sign which sustains damage exceeding 50% of its value or sustains damage to more than 50% of the sign area may not be reconstructed unless the reconstruction will make the sign conform to all provisions of this subchapter.

(F) Notices of Violations (NOVs) will be delivered by hand, email, first-class mail, or posted on-site, to the permittee and landowner or person or occupant undertaking the activity.

(G) Inspections of Violations will be conducted within reasonable hours and upon presenting credentials to the occupant, landowner or permittee, and with consent or search warrant to inspect the property or areas not open to the public.

## **INTERPRETATIONS, APPEALS, VARIANCES AND AMENDMENTS**

### **§ 155.110 INTERPRETATIONS.**

(A) Where there is any uncertainty as to the intent or actual meaning of any provision of this chapter, or as to the intended location of any zoning district boundary shown on the zoning map, the Zoning Enforcement Officer shall make an interpretation on the provision or boundary on request of any person. Any person aggrieved by the interpretation may appeal the interpretation to the Board of Adjustment in accord with the provisions of this chapter.

(B) In making an interpretation of any zoning district boundary, or in deciding any appeal thereof, the Town Planner or Board of Adjustment shall apply the standards outlined in §155.025.

### **§ 155.111 APPEAL PROCEDURE.**

All questions arising in connection with the enforcement of this chapter shall be presented first to the Zoning Enforcement Officer, and these questions shall be presented to the Board of Adjustment only on appeal from a ruling of the Zoning Enforcement Officer. Any order, requirement, decision, or determination made by the Zoning

Enforcement Officer may be appealed to the Board of Adjustment pursuant to the procedure found in § 155.137.

- (A) After presented to the Board of Adjustment, written notice of determinations will be delivered by mail or personal delivery to the property owner or party seeking determination in accordance with G.S. § 160D-403(b).
- (B) Administrative decisions of any development or zoning regulation are allowed to be appealed to the Board of Adjustment, unless stated otherwise by ordinance or statute.
- (C) Appeals of any administrative determination under a development regulation must be filed within thirty (30) days of determination notice. Determination must be presumed and notice by mail is sent and received within 3 business days. The official who made the decision or their successor will appear as a witness to the appeal and enforcement actions and fines will be paused during the appeal in accordance with G.S. §.160D-405 & 160D-406.

#### **§ 155.112 STAY OF FURTHER ACTION.**

An appeal to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed, except where the Zoning Enforcement Officer certifies to the Board of Adjustment that, based on findings stated in the certificate, a stay would cause imminent peril to life or property, or that because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this chapter.

#### **§ 155.113 VARIANCES.**

- (A) Rules governing the granting of variances are as outlined in § 155.137.
- (B) Applications for appeal or for a variance shall be filed with the Town Planner. The Town Planner shall prescribe the forms on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.
- (C) No application shall be accepted by the Town Planner unless it complies with all requirements of this chapter. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies of the application.
- (D) On receipt of a complete application, the Town Planner shall transmit the application to the Board of Adjustment. In the case of applications for appeal, the Town Planner shall also transmit to the Board all documents constituting the record on which the decision being appealed was based. All appeals to the Board of Adjustment shall be final.

**§ 155.114 ACTION SUBSEQUENT TO DECISION.**

(A) The Town Planner shall cause notice of the disposition of all applications for appeals and variances to be delivered to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Town Planner.

(B) If a variance is granted, the nature of the variance and any conditions attached thereto shall be entered on the face of any necessary zoning permit.

**§ 155.115 FURTHER APPEALS TO SUPERIOR COURT.**

A decision by the Board of Adjustment on an application for appeal or for a variance may be appealed to the superior court by an aggrieved party. The appeal shall be in the nature of certiorari and must be filed with 30 days of the filing of the decision in the Office of the Town Planner Chapter and as established in 160D, Article 14.

**ZONING**

**§ 155.116 FEES FOR APPEALS OF VARIANCES.**

Fees sufficient to cover the cost of the appeal or variance process shall be charged to the petitioner at the time of application. The fees are set by the Town Board and are subject to change from time to time. Public agencies shall be exempt from all fees.

**§ 155.117 AMENDMENTS.**

- (A) The Town Board may, from time to time, on its own motion or on petition, after public notice and legislative public hearing as provided by this chapter, amend, supplement, change, modify or repeal the zoning regulations and restrictions and zone boundaries herein or subsequently established. No amending action shall be taken until the proposal has been submitted to the Planning Board for review and recommendation.
- (B) If no recommendation has been received from the Planning Board within 45 days after submission of the proposal to the Chairman of the Planning Board, the Town Board may proceed as though a favorable report has been received.
- (C) When adopting amendments to the zoning ordinance, a brief statement of reasonableness shall be adopted describing whether the action is consistent or inconsistent with approved plans in accordance with G.S. § 160D-605(a).
- (D) In the case conditions are imposed by the Board, they shall be reasonable in regard to protecting the public health, safety, and welfare, while ensuring substantial justice and equitable treatment of the applicant. The applicant or landowner must provide written consent to conditions relating to a conditional zoning and they will run with the land, binding the applicant and all successors, heirs, and future property owners.

**§ 155.118 GENERAL DISTRICT REZONINGS.**

- (A) All petitions for general use rezoning of any parcel or tract within the town limits and zoning jurisdiction of the town by any person or group other than the Town Board shall be filed with the Town Planner 20 days prior to the Planning Board meeting at which the petition is to be considered. The petition shall include:
- (1) The current zoning classification of the tract;
  - (2) The requested zoning classification of the tract;
  - (3) The current zoning classification of all contiguous parcels of land;
  - (4) The names of the property owners of all contiguous tracts;
  - (5) The names of the property owners of the tract to be rezoned;
  - (6) The location of the tract to be rezoned; and
  - (7) A map showing the tract to be rezoned and all contiguous tracts and streets.
- (B) The Town Board may rezone any parcel or tract of land from one use district to any other use district as described within this chapter after declaring intent to do so and following all regulations regarding public notice, legislative public hearing, and due process.
- (C) For a rezoning that is inconsistent with the applicable future land use map, the zoning map amendment approved that is not consistent, is deemed amended to the current applicable future land use map in accordance with G.S. § 160D-605(a).
- (D) When there is an amendment to the zoning map, the governing board shall adopt a statement of consistency or inconsistency analyzing relevant factors among those identified in section §155.121 and §155.137.

**§ 155.119 DECISIONS.**

- (A) The Town Board shall make a decision on the proposed amendment within 60 days after the public hearing.
- (B) Only two petitions for rezoning of any parcel or tract will be heard by the Town Board within a 12-month period regardless of site plan or other changes to the petition. This time period shall begin on the date the first petition is heard by the Planning Board.



**§ 155.120 PROTEST PETITIONS.**

(A) Protest petitions may be filed in response to any amendment, supplement, change, modification or repeal of this chapter or zoning map. The changes shall not become effective except by favorable vote of three-fourths of all members of the Town Board if the protest petition is signed by the owners of 20% or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof, extending 100 feet there from, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots. This shall not include any amendment which initially zones property added to the jurisdiction of this chapter as a result of annexation or otherwise.

(B) No protest against any change in or amendment to this chapter or zoning map shall be valid or effective unless:

(1) It is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment; and

(2) It shall have been received by the Town Clerk in sufficient time to allow the town at least two normal workdays, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

**§155.121 SPECIAL USE PERMITS.**

(A) Approval Procedure: Applications for Special Use Permits shall be processed in accordance with the procedures used for the review of applications for zoning map amendments except no referral shall be made to the Planning Board. All evidence presented at the quasi-judicial evidentiary public hearing in regard to applications for Special Use Permits shall be under oath. The mayor or any member temporarily acting as Mayor shall administer oaths to witnesses.

(B) Conditions for Approval: An application for a Special Use Permit shall be approved by the Board of Aldermen if and only if the Board finds that:

(1) The proposed use is represented by a "S" in the column for the district in which it is located on the Permitted Use Schedule in this Ordinance.

(2) The proposed conditions meet or exceed the development standards found in this Ordinance.

(3) Either the use as proposed, or the use as proposed subject to such additional conditions as the owner may propose or the Board may impose, is consistent with the purposes of the district and compatible with surrounding uses.

(4) The Special Use Permit shall be granted when each of the following Findings of Fact have been made by the Board:

- a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
  - b) That the use meets all required conditions and specifications;
  - c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
  - d) That the location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Jurisdiction and its environs.
- (C) Greater Restrictions: In granting a Special Use Permit, the Board may impose more restrictive requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served.
- (D) Permit Denial: If the Board fails to make the findings required or makes other findings inconsistent with the required findings, then such proposed permit shall be denied.
- (E) Permit Applicability: Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended through application for a new or amended Special Use Permit or until a use otherwise permitted in the district is established.
- (F) Compliance with Approved Permit: No building or other subsequent permit or approval shall be issued for any development on property subject to a Special Use Permit except in accordance with the terms of the permit and the district.
- (G) Submission of Site Plans: Site plans for any development made pursuant to any Special Use Permit shall be submitted for review in the same manner as other development plans required by this Ordinance.
- (H) Minor Modification(s): In approving such Site Plans, the Project Review Committee may make minor modifications to the requirements of such Special Use Permit where such modification will result in equal or better performance and provided that the objective and purpose of the requirements and conditions of the Special Use Permit are maintained.
- (I) Amendment of Permit: The Board may change or amend any Special Use Permit subject to the same consideration as provided for in this Ordinance for the original issuance of a Permit.
- (J) Timing of Amendment Proposal: No proposal to change or amend any Special Use Permit shall be considered within a one (1) year period after the date of the original authorization of such permit or within a one (1) year period after the hearing of any

previous proposal to change or amend any such permit.

- (K) Effect of Invalidity: If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, such Special Use Permit shall be null and void and of no effect.
- (L) Non-compliance with Permit Conditions: If after receiving a Notice of Violation for violation of the terms or conditions of a Special Use Permit, the owner fails to correct such violations within a reasonable time, then the Special Use Permit may, after a quasi-judicial evidentiary public hearing, be revoked by the Board. The Board shall revoke such permit on all or part of a development if it finds that there has been a violation that: was intentional; or continued for an unreasonable time after the owner had notice thereof; or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure. All of the other remedies of this ordinance for a zoning violation shall apply to a violation of the terms of a Special Use Permit. Civil and/or criminal penalties may accrue pending the correction of a violation of a Special Use Permit, notwithstanding the fact that the owner may correct the violation within a reasonable time for purposes of the revocation provisions of this paragraph.

#### **§155.122 FEES FOR AMENDMENTS, SPECIAL USE PERMITS.**

An application fee shall be filed with the Town Clerk at the time of application for any zoning change, amendment to this chapter, or special use permit. The fees are set by the Town Board to cover the cost of processing and advertising. These fees are subject to change from time to time.

## ADMINISTRATION AND ENFORCEMENT

### § 155.134 GENERAL BOARD ORGANIZATION

- (A) Each Board provided for by this Ordinance shall adopt detailed rules of procedure and maintain records in accordance with G.S. § 160D-308 et seq. All Boards provided for by this Ordinance shall comply with the standards and practices described herein.
- (B) Official meetings will be held in compliance with G.S. § 143-318.10. For which meeting minutes of proceeding shall be taken for each board.
- (C) Unless otherwise noted, each board will adopt rules as necessary to conduct its duties and to establish board organization, committees, procedures, meeting notice and meeting conduct. These rules shall be in accordance with State Law and the provisions in this Ordinance and be maintained by the Town Clerk or another designated officer. A document detailing board rules and procedure will be available and updated on the Town of East Spencer's website in compliance with G.S § 160D-308.
- (D) Voting unless otherwise described will be in the affirmative of simple majority of Board members for approval.
- (E) Board members will take an oath of office before starting his, her, or their duties in accordance with G.S § 160D-309.
- (F) Within the one-mile extraterritorial jurisdictions (ETJ) and future ETJ additions herein, population estimates will be updated with each decennial census for proportional representation and board appointment. In the advent of a preservation commission, the board must provide proportional representation if any districts or landmarks are designated in the ETJ in accordance with G.S § 160D-307.

**§ 155.135 TOWN BOARD.**

- (G) The Town Board of Aldermen, as the governing body of the town, acts in its legislative capacity when considering proposed amendments to the text of this chapter, to the zoning maps, or in considering Special use Permits, and shall observe the procedural requirements set forth in this chapter.
- (H) When considering amendments to this chapter, the zoning map, or the issuance of Special Use Permits, the Town Board shall follow the regular voting procedure and other requirements as set forth on other provisions of this code, the Town Charter or general law.

**§ 155.136 PLANNING BOARD.**

- (A) Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Town Board of Aldermen upon written charges after a public hearing.
- (B) Members of the Planning Board shall not serve on the Board of Adjustment.
- (C) The Planning Board shall have the powers listed below pursuant to G.S. § 160D 604.
  - (1) Make studies of the area within its jurisdiction and surrounding areas;
  - (2) Determine objectives to be sought in the development of the study area;
  - (3) Prepare and adopt plans for achieving these objectives;
  - (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
  - (5) Advise the Board of Aldermen concerning the use and amendment of means for carrying out plans; and provide a statement of consistency with the adopted comprehensive land development plan pursuant to G.S. § 160D-604(d)
  - (6) Exercise any functions in the administration and enforcement of various means for carving out plans that the Board of Aldermen may direct; and
  - (7) Perform any other related duties that the Board of Aldermen may direct. The Board of Aldermen may designate the Planning Board to perform any or all of the duties of a Board of Adjustment in addition to their duties.
- (D) A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to Chapter 160D of the General Statutes where the outcome of the matter being considered is reasonably likely to have a

direct, substantial, and readily identifiable financial impact on the member. Nor shall a member vote on a recommendation regarding a rezoning or text amendment, if the landowner of the property subject to a rezoning petition or the applicant for a text or map amendment is a person with whom the member has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild."

### § 155.137 BOARD OF ADJUSTMENT.

- (A) (1) A Board of Adjustment is hereby created as provided in G.S. § 160D-302. The Board shall consist of five regular members and two alternate members. Four of the regular members and one of the alternate members shall be residents of the town and shall be appointed by the Town Board. One regular and one alternate member shall be residents of the extraterritorial jurisdiction and shall be appointed by the Rowan County Board of Commissioners. The term for members shall be three years, except the terms be staggered so as to ensure continuity of experience on the Board. All members shall have equal rights and privileges in all matters.
- (2) Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Town Board or Board of Commissioners upon written charges after a public hearing.
- (3) Members of the Board of Adjustment shall not serve on the Planning Board.
- (4) In exercising powers, the Board of Adjustment shall follow statutory procedures for quasi-judicial development decisions as set forth in G.S. §160D-102(28). The Board of Adjustment must hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case. The evidentiary hearing must have testimony under oath and must establish written findings of fact and conclusions of law as provided in G.S. § 160D-406.
- (5) The Chair of the Board of Adjustment is authorized to administer oaths or affirmations to any witnesses in any quasi-judicial matter coming before the Board.
- (6) A Board of Adjustment member when exercising any quasi-judicial function shall not participate in or vote on any quasi-judicial matter in a manner that would violate 'affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild, the step, half, and in-law relationships.
- (B) (1) The Board shall have the powers listed below:
- (a) To hear and decide appeals where it is alleged that there is error in any order,

requirement, decision, or determination made by the Zoning Enforcement Officer;  
and

(b) To authorize, upon appeal in specific cases, a variance from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in undue hardship and so that the spirit of this chapter will be observed, and substantial justice done.

(2) The concurring vote of four-fifths of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer or to decide in favor of the applicant any quasi-judicial matter upon which it is required to pass under this chapter or to affect any variance authorized.

(3) The Board shall not grant a variance until a quasi-judicial evidentiary public hearing is held. Notice of the public hearing shall be as required by law.

(C) *Consideration of proposed variance.* The Board shall not grant a variance until a quasi-judicial evidentiary public hearing is held. Before a variance is granted, the following finds must have been demonstrated:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. This finding shall be based upon the following five sub findings:

(a) If the property owner complies with the provisions of the ordinance, he or she can secure no reasonable return from, or make no reasonable use of, his or her property.

(b) The hardship results from the application of the ordinance.

(c) The hardship is suffered by the applicant's property.

(d) The hardship is not the result of the applicant's own action.

(e) The hardship is peculiar to the applicant's property.

(2) The variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.

(3) The granting of the variance secures the public safety and welfare and does substantial justice.

(4) The requested variance is a minimum one that will make possible the reasonable use of the land and structures.

(5) The reasons set forth in the application justify the granting of the variance.

(D) (1) Temporary use permits can be issued by the Board of Adjustment for

manufactured homes in all districts except the floodplain district, where they will be used for temporary office purposes during the construction of any permanent building or for temporary classrooms for public schools.

(2) (a) Temporary use permits can be issued by the Board of Adjustment for manufactured homes in all districts except the floodplain district, where they will be used for temporary office purposes during the construction of any permanent building. Temporary use permits may be issued for a period of six months and may be renewed for one additional six-month period provided that the hardship continues to exist.

(b) Temporary use permits can be issued by the Board of Adjustment for temporary classrooms for public schools during the planned construction of a permanent addition or building. These permits may be issued for a period of one year and may be renewed for two additional annual periods provided that the hardship continues to exist. In no case shall such permit be extended past a three-year period.

(c) Application for renewal of a temporary use permit shall be made 30 days prior to the expiration date of the permit. All applications shall be made to the Zoning Enforcement Officer and in turn shall be reviewed by the Board of Adjustment to determine relative need. All applications must be accompanied by plans for the permanent construction as well as a proposed timetable for its completion. Any manufactured home permitted as an accessory use on a temporary basis shall be removed by 12:00 a.m. on the day of the expiration of the temporary use permit.

(3) Any manufactured home permitted as an accessory use on a temporary basis shall be removed by 12:00 a.m. on the day of the expiration of the temporary use permit.

(E) (1) Any person aggrieved by any decision of the Board of Adjustment, any taxpayer or any officer, department, board, or bureau of the town may, within 30 days after the filing of the decision of the Board of Adjustment, but not thereafter, present to a court of competent jurisdiction a petition for a writ of certiorari, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of illegality. Thereupon the decision of the Board shall be subject to review as provided by the law.

(2) An appeal from the decision of the Zoning Enforcement Officer may be taken to the Board of Adjustment by any person aggrieved or by any officer, department, board, or commission of the town affected by the decision. The appeal shall be made in writing to the Board and to the Zoning Enforcement Officer specifying the grounds, therefore. The Zoning Enforcement Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(3) An appeal stays all proceedings in furtherance on the actions appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal had been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In this case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board. or by court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown. The Board shall fix a reasonable time for quasi-judicial evidentiary



hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing any party may appear in person, by agent or by attorney.

**§ 155.138 ZONING ENFORCEMENT OFFICER.**

The Zoning Enforcement Officer is hereby authorized, and it shall be his or her duty to enforce and administer the provisions of this chapter. If a ruling on the Zoning Enforcement Officer is questioned, the aggrieved party or parties may, within 30 days after the filing of the ruling or decision of the Zoning Enforcement Officer, appeal the ruling or decision to the Board of Adjustment.

**§ 155.139 ZONING PERMIT REQUIRED.**

No building or other structure shall be erected, moved, extended, enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building, except for single-family residential, be commenced until a site plan has been submitted to and reviewed by the Project Review Committee and the Zoning Enforcement Officer has issued a zoning permit for the work.

**§ 155.140 APPLICATION FOR ZONING PERMIT.**

(A) Each application to the Zoning Enforcement Officer for a zoning permit shall be accompanied by plot plans in duplicate showing:

- (1) The actual dimensions of the lot to be built upon;
- (2) The size of the building to be erected;
- (3) The location of the building on the lot;
- (4) The location of existing structures on the lot, if any;
- (5) The number of dwelling units the building is designed to accommodate;
- (6) The approximate setback lines of buildings on adjoining lots;
- (7) The intended use of the property; and
- (8) Any other information as may be essential for determining whether the provisions of this chapter are being observed.

(B) Any zoning permit issued shall expire and be canceled unless the work authorized by it is begun within six months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one year. Written notice thereof shall be given to the persons affected, including notice that further work as described in the canceled permit shall not proceed unless and until another building permit and zoning permit had been obtained.

**§ 155.141 PERMITS AND CERTIFICATE OF OCCUPANCY REQUIRED FOR DEVELOPMENT.**

(A) A certificate of occupancy issued by the Zoning Enforcement Officer and the County Inspections Officer is required in advance of:

- (1) Occupancy or use of a building hereafter erected, altered or moved; or
- (2) A change of use of any building or land.

(B) In addition, a certificate of occupancy shall be required for each nonconforming use or structure created by the passage and subsequent amendments to this chapter. The owner of the nonconforming use or structure shall obtain a certificate of occupancy with 90 days of the date of passage or amendments.

(C) A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a zoning permit and shall be issued with ten days after the erection or structural alteration of the building or part shall have been completed in conformity with the provisions of this chapter. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter. If

the certificate of occupancy is denied, the Zoning Enforcement Officer shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A record of all certificated shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

**§ 155.142 FEES FOR ADMINISTRATIVE PROCESSES.**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for project review and zoning permits, special use permits, zoning amendments, appeals, variances and other administrative relief. The amount of the fees shall be fixed by the Town Board. Public agencies shall be exempt from all fees.

**§ 155.143 CONSTRUCTION AND USE TO COMPLY WITH APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.**

Certificates of zoning compliance issued on the basis of plans and applications approved by the Project Review Committee, or the Zoning Enforcement Officer authorize only the use, arrangement and construction set forth in the approved plans and applications, and not other uses, arrangements, and construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

**§ 155.144 TOWN ATTORNEY MAY PREVENT VIOLATION.**

If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this chapter, or any structure or land is used in violation of this

chapter, the Zoning Enforcement Officer shall inform the Town Attorney and the Town Attorney, in addition to other remedies, may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate the violation, to prevent the occupancy of the structure or land or to prevent any illegal act, conduct, business or use in or about the premises.

**§ 155.145 LIABILITY.**

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

**§ 155.146 PROJECT REVIEW COMMITTEE.**

(A) Development approval, except for single-family, nonmanufactured residential development, must be approved by the Committee in writing, in either protected electronic or paper form prior to the start of construction. Applications for approval must be made by a person with a vested property interest or a contract to purchase the property per G.S § 160D-403(a). Unless otherwise allowed by law, rights or privilege, development approvals must run or attach to the land in accordance with G.S. § 160D-104. Approval of a required plan by the Committee shall be a prerequisite to the issuance of a zoning permit. Development approvals are valid for twelve months in accordance with G.S. § 160D-108(d), unless altered by statute or extended by local rule.

(B) The Committee shall review whether or not the proposed development meets the standards established in this chapter and all other applicable regulations within the town. This review shall be of a technical nature only and shall not involve negotiation with developers nor the exercise of discretionary authority.

(C) (1) The owner or developer of the property designated in the application shall submit the application to the Zoning Enforcement Officer for project review. The application shall include all data required by this chapter.

(2) Three copies of all required plans, drawings and specifications shall be filed at the time of application. After review by the Project Review Committee, one copy shall be attached to the permit and kept on file in the Town Hall, one copy shall be returned to the developer for his or her records, and one copy shall be kept by the Zoning Enforcement Officer.

(3) After receipt of the application by the Zoning Enforcement Officer, a meeting of the Project Review Committee shall be called by the Chairman to review the project within 30 working days. Meetings of the committee shall be held at the call of the chairman. The developer may request a preliminary staff review prior to formal review. The Town Planner or Town Administrator may conduct the staff review. All meetings of the Committee shall be open to the public. At the hearing, any party may

appeal in person or by agent.

(4) If the Project Review Committee shall find that a proposed project does not meet all of the standards of this chapter, a copy of the application, with deficiencies noted, shall be returned to the developer for modification and resubmittal.

(5) In the event of failure to comply with the plans approved by the Project Review Committee, any permit issued for that project shall immediately become void. No permits for further construction or certificates of occupancy shall be issued until a time as the owner of developer meets with the Project Review Committee and presents plans and specifications to correct project deficiencies. An application fee of \$100 shall be paid to the town for each application to the Project Review Committee to help cover the necessary administrative costs.

**§ 155.147 ESTABLISHMENT OF A VESTED RIGHT.**

- (1) Process to Claim Vested Right. A landowner claiming a statutory or common law vested right may submit information to substantiate that claim may apply for the determination of a vested right pursuant to North Carolina General Statute 160D-108 on a form to be provided by the City at the same time as application is made for a zoning map amendment, subdivision plan approval, a conditional zoning, a special use permit, a site plan approval or a planned unit development approval. The Zoning Administrator shall make an initial determination as to the existence of the vested right. The decision of the Zoning Administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

**§ 155.148 TYPE AND DURATION OF STATUTORY VESTED RIGHTS.**

Amendments in The Town East Spencer development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to .G.S. 160D-108 provided that one of the types of approvals listed in this subsection remains valid and unexpired. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by East Spencer approvals are as follows:

- a. Six months - Building permits. - Pursuant to G.S. 160D-1109, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
- b. One year - Other local development approvals. - Pursuant to G.S. 160D-403(c), unless otherwise specified by statute or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.

- c. Two to five years - Site-specific vesting plans.
- i. Duration. - A vested right for a site-specific vesting plan or a planned unit development shall remain vested for a period of exceeding two years, but not exceeding five years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Zoning ordinance.
  - ii. Relation to building permits. - A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D-1109 and G.S. 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.
  - iii. Requirements for site-specific vesting plans. - For the purposes of this section, a "site-specific vesting plan" means a plan submitted to the board describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as guided by the zoning ordinance. What constitutes a site-specific vesting plan shall be defined by the relevant development regulation, and the development approval that triggers vesting shall be so identified at the time of its approval. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In absence of a zoning regulation setting forth what constitutes a site-specific vesting plan, any development approval shall be considered to be a site-specific vesting plan. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.
  - iv. Process for approval and amendment of site-specific vesting plans. If a site-specific vesting plan is based on an approval required by development regulations, a notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting plan established under this subdivision. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held. The board may approve a site-specific vesting plan upon such terms and

conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by its terms and conditions will result in a forfeiture of vested rights. A landowner is not required to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the local government's decision approving the plan or such other date as determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by the Zoning Administrator, if such are defined and authorized by local regulation.

- d. Seven years - Multiphase developments. - A multiphase developments shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- e. Indefinite - Development agreements. - A vested right of reasonable duration be specified in a development agreement approved under G.S. 160D-1001

#### § 155.999 PENALTY.

(A) Any person who violates the provisions of this chapter shall, upon conviction, be guilty of misdemeanor. Each day that a violation continues to exist shall constitute a separate violation and a separate offense for the purpose of the penalties specified herein.

(B) For violations of §§ 155.085 *et seq.*, a property owner shall be deemed to have persistently violated the provisions of that subchapter when two sign violations have been noted with any given six-month period. Upon a third violation of the provisions of §§ 155.085 *et seq.* within that six-month period, a citation of \$100 will be issued. The six-month period shall commence on the date the first notice of the timeline was prepared, and end on a date 180 following. After that date, violations shall be measured under a new and separate six-month deadline.