

ARTICLE VI - PERMITS AND SUBDIVISION PLAT APPROVALS¹

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PART 1. CERTIFICATES OF ZONING COMPLIANCE AND SPECIAL USE PERMITS.

Sec. 17-600. Permits Required.

- A. Subject to section 17-1101, "Permit Required, Permitting Procedures" with regard to signs, the use made of property may not be substantially changed (see section 17-407, "Change in Use"); substantial clearing, grading, or excavation may not be commenced; and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
1. A zoning permit issued by the Director of Planning & Economic Development who is also referred to as the Administrator. (A landscape plan may be needed in order to obtain a zoning permit. See section 17-607 and Appendix C).
 2. A certificate of zoning compliance issued by the Administrator
 3. A special use permit issued by the Town Council,
 4. A special use zoning map amendment with site plan approval issued by the Town Council (See Art. XVII, Part 2. Conditional Zoning District Rezoning),
 5. A certificate of appropriateness issued by the Historic District Commission or Planning Director,
 6. A floodplain development permit issued by the Floodplain Administrator (Planning Director),
 7. A watershed development permit issued by the Stormwater Administrator (Planning Director).
- B. Zoning permits, certificates of zoning compliance, special use permits, site plan approvals, floodplain development permits, watershed development permits, certificates of appropriateness and sign permits are issued under this chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in section 17-619, "Amendments to and Modifications of Permits," all development shall occur strictly in accordance with such approved plans and applications.

- C. Physical improvements to land to be subdivided may not be commenced except in accordance with a special use permit issued by the Town Council for major subdivisions or after final plat approval by the planning director for minor subdivisions (see Part 2 of this Article).
- D. A zoning permit, certificate of zoning compliance, special use permit, watershed development permit, floodplain development permit, certificate of appropriateness or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal); shall identify the property involved and the proposed use; shall incorporate by reference the plans submitted; and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All special use permits shall be recorded in the Johnston County Registry after execution by the record owner as provided in section 17-616.

Sec. 17-601. No Occupancy, Use or Sale of Lots Until Requirements Fulfilled.

- A. Issuance of a zoning permit or special use permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit, floodplain development permit or certificate of appropriateness as needed) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or make necessary improvements to a subdivision. However, except as provided in sections 17-609 , “Authorizing Use or Occupancy Before Completion of Development Under Certificate of Zoning Compliance”; 17-615 , “Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use Permit”; and 17-616 , “Completing Developments in Phases,” the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with.
- B. Additionally, a certificate of zoning compliance must be issued for all projects for which a special use permit and the other permits (listed in 17-600 above) has been issued or which are subject to a conditional use zoning district. The zoning permit must be issued prior to the issuance of a building permit to show compliance with this chapter and the applicable special use permit or the regulations and conditions of the applicable conditional zoning district.
- C. A certificate of zoning compliance must be issued by the Administrator before a certificate of occupancy is obtained.

Sec. 17-602. Who May Submit Permit Applications.

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- A. Applications for all permits, including but not limited to, zoning, special use or sign permits or subdivision plat approvals will be accepted only from persons having the legal authority to act in accordance with the permit, certificate or the subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- B. When the applicant does not own the property at issue, the Administrator shall require the applicant to submit written evidence of his authority to submit the application in accordance with the subsection 17-602 (A). See also appendix A.

Sec. 17-603. Applications to Be Complete.

- A. All applications for zoning, special use, subdivision approval, flood plain, and watershed development permits, or certificates of appropriateness or sign permits must be complete before the permit-issuing authority is required to consider the application.
- B. Subject to subsection (C), an application is complete when it contains all the information that is necessary for the permit-issuing authority to decide whether the development, if completed as proposed, will comply with all the requirements of this chapter.
- C. In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the appendices to this chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in light of the substantive requirements set forth in this text of this chapter. However, when this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in article XV of this chapter.
- D. All applications for special use permits, watershed development permits and flood plain development permits must be accompanied by a site plan of such proposal prepared by a N.C. Licensed Engineer, Architect or Professional Surveyor. The presumption established by this Chapter is that all the information set forth in Appendix A, "Information Required With Applications," is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the Planning Director/Administrator may allow less information or require more

information to be submitted according to the needs of the particular case. For applications submitted to the Planning Board or Town Council, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in Appendix A should be submitted.

- E. All applications for zoning permits and any other permit (except applications for subdivision plat approval, applications requiring site plan approval, individual single family or duplexes dwellings on single lots) must be accompanied by a sketch plan prepared by a N.C. Licensed Engineer, Architect or Professional Surveyor. The presumption established by this Chapter is that all the information set forth in this sub-section is necessary to satisfy the requirements of this sub-section. However, it is recognized that each development is unique, and therefore the Planning Director/Administrator may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Zoning Board of Adjustment, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth below be submitted.
- F. The sketch plan shall contain:
 - 1. The name and address of the owner and applicant, if not the same person,
 - 2. The proposed name and location of the development,
 - 3. The approximate total acreage of the proposed development,
 - 4. The tentative streets, sidewalks or greenways and lot arrangements, and lot boundary lines,
 - 5. Topographic lines,
 - 6. Perennial streams, water bodies, flood plain and watershed boundaries, and setbacks therefrom (if any),
 - 7. Proposed utilities layouts,
 - 8. Proposed open space and recreation areas,
 - 9. The locations of buildings or the building setback lines, and
 - 10. Any other information the owner or applicant believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this chapter.

- G. All applications for zoning permits for single family dwellings or duplexes on single lots must be accompanied by a sketch plan drawn to scale. The presumption established by this Chapter is that all the information set forth in sub-section (F) above is necessary to satisfy the requirements of this sub-section. However, it is recognized that each development is unique, and therefore the Planning Director/Administrator may allow less information or require more information to be submitted according to the needs of the particular case. The sketch plan shall contain:
1. The name and address of the owner and applicant, if not the same person,
 2. The approximate total acreage of the proposed development,
 3. The locations of buildings, lot boundary and building setback lines, and
 4. Any other information the owner or applicant believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this chapter. If the principal structure is less than 10 feet from a lot boundary line, the Planning Director may require a survey drawn by a N.C. Licensed Engineer, Architect or Professional Surveyor.
 5. If the property is located in a floodplain, the application requirements of Article X must be met.
- H. The Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

Sec. 17-604. Staff Consultation Before Formal Application.

To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, pre-application consultation between the developer and the planning staff is strongly encouraged.

Sec. 17-605. Staff Consultation After Application Submitted.

- A. Upon receipt of a formal application for a zoning permit, certificate of zoning compliance, special use permit, watershed development permit, flood plain development permit, or subdivision plat approval, the Administrator shall review the application and, if the applicant wishes, confer with the applicant to ensure that he or she understands the planning staff's interpretation of the applicable requirements of this chapter, that the developer has submitted all of the information that he or she

intends to submit, and that the application represents precisely and completely what he or she proposes to do. If the Administrator believes that the application is incomplete, he or she shall advise the applicant in writing about what is required to complete the application.

- B. If the application is for a permit that requires board approval (such as a special use permit), the Administrator shall place the application on the agenda of the Planning Board when the application is as complete as the applicant intends to make it. However, as provided in section 17-612, "Recommendations on Special Use Permit Applications," if the Administrator believes that the application is incomplete, he or she shall recommend to the Planning Board and Town Council that the application be denied on that basis.

Sec. 17-606. Zoning Permit Applications.

- A. A completed application form for a zoning permit shall be submitted to the Administrator by filing a complete copy of the application with the Administrator in the Planning Department.
- B. The Administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in section 17-605 that:
 - 1. The requested permit is not within the Administrator's jurisdiction according to the Table of Permissible Uses; or
 - 2. The application is incomplete; or
 - 3. The permitted site work has not been approved by other Town Departments or government agencies having jurisdiction; or
 - 4. If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article XIII, "Nonconformities," of this chapter.)

Sec. 17-607. Landscape Plan Procedures.

- A. Landscape plans shall be submitted to the Planning Department and shall be reviewed by the Planning Department. Plans shall be approved by the Administrator for uses by right. They shall review and forward recommendations to the Planning Board and Town Council for major subdivision plats (Sec. 17-654, et. seq.), special use permits (Sec. 17-610 et. seq.) and conditional district rezoning applications (Sec. 17- 1750, et seq.).

- B. The Administrator shall not issue a certificate of zoning of compliance for an approved development permit or plan or part thereof until all applicable requirements of this Section have been satisfied. A temporary certificate of zoning compliance may be issued for a period not to exceed 90 days, if the Planning Director determines there are extenuating circumstances that would affect the seeding or planting of the site and if applicant posts a sufficient performance guarantee (Sec 17-657). The Administrator may recommend that Johnston County Building Inspections Department issue a temporary certificate of occupancy for a period not to exceed 90 days.
- C. Landscaping Plan. Landscaping plans shall be submitted before or at the time of application for a zoning permit or site plan review, or as described in sub-section (A) above. Landscaping Plans shall meet the standards of Sec. 17-509 and Appendix A for all development projects. These plans shall contain the following information:
1. Date of plan preparation.
 2. Project name and description of land use.
 3. Project owner and mailing address.
 4. A map at a scale of 1" = 100' or less showing:
 - a) North arrow.
 - b) Scale.
 - c) Approximate locations and species of all existing hardwood trees at least 8" DBH, all conifer trees at least 12" DBH, and all dogwoods and American Hollies at least 4" DBH. The canopy drip line of those trees shall be delineated. If groves of protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the map, stating the approximate number of protected trees and species mix, without specifying data on each individual tree.
 - d) Note on plan stating that prior to any clearing, grading, or construction activity, tree protection fencing will be installed around protected trees or groves of trees. And no construction workers, tools, materials, or vehicles are permitted within the tree protection fencing.
 - e) Locations, dimensions and square footages of required buffer strips and parking lot landscaping.
 - f) Details of required landscaping showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.

- g) All existing and proposed utilities and if applicable, their associated easements.
- h) Location and square footage of structures and parking lots.
- i) Adjacent zoning districts.
- j) Approximate locations of all trees greater than 8" DBH within required buffers and of all areas of natural vegetation to be used as part of the buffer.
- k) Setbacks of all structures and specifications and shielding of certain uses, as required.

Exception to the proposed use of canopy trees may be applied to plantings proposed near power lines. The Administrator may suggest a suitable substitution in such cases

Sec. 17-608. Certificates of Zoning Compliance.

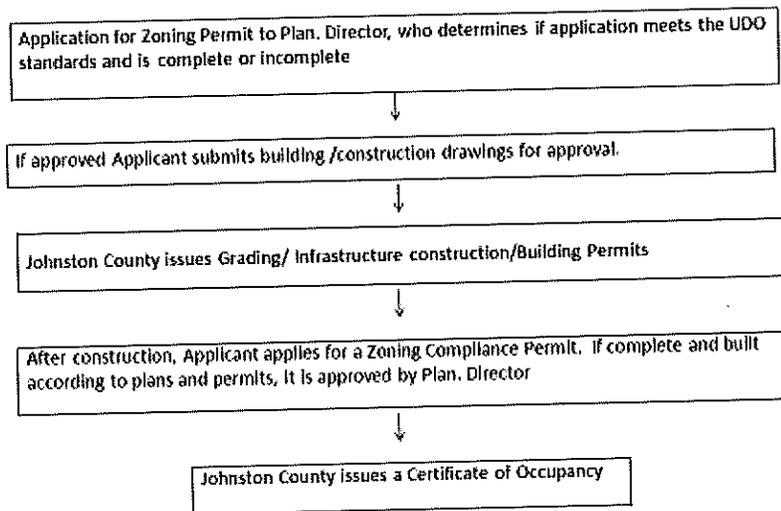
- A. A completed application form for a certificate of zoning compliance shall be submitted to the Administrator by filing a complete copy of the application with the Administrator in the Planning Department.
- B. The Administrator shall issue the certificate of zoning compliance unless he finds, after reviewing the application and consulting with the applicant as provided in section 17-604 that:
 - 1. The approved and permitted work on the site has not been completed; or
 - 2. The application is incomplete; or
 - 3. The permitted site work has not been approved by other Town Departments or government agencies having jurisdiction; or
 - 4. If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in article XIII, "Nonconformities," of this chapter.)

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FLOW CHART ZONING PERMIT and CERTIFICATE of ZONING COMPLIANCE

DEFINITIONS: A "Zoning Permit" is issued by Staff before a building permit. Zoning Permits are the Town's check that the zoning is correct for the planned development.

"Certificates of Zoning Compliance" are issued by staff after construction but before a Certificate of Occupancy is issued. CZPs are the Town's check that the project was built in accordance with the development permits.



Sec. 17-609. Authorizing Use or Occupancy Before Completion of Development Under a Certificate of Zoning Compliance.

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this Chapter prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance guarantee to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve (12) months) determined by the Administrator. The performance guarantee shall be payable to or in favor of the town and shall be in an amount equal to 125% of the reasonably estimated cost of completion of the project, as estimated by the developer and approved by the Administrator. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

The permit recipient may elect which performance guarantee he or she will use from the options specified by this subsection.

- A. The term "performance guarantee" shall mean any of the following forms of guarantee:
 - 1. Surety bond issued by any company authorized to do business in this State.
 - 2. Letter of credit issued by any financial institution licensed to do business in this State.
 - 3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.
- C. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

Sec. 17-610. Special Use Permits.

- A. An application for a special use permit shall be considered by the Town Council by filing a copy of the application with the Administrator in the Planning Department.
- B. The Town shall follow the procedures at Article VI, Part 1 for all Town Council hearings on Special Use Permit applications.
- C. Subject to subsection (D), the Town Council shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:
 - 1. The requested permit is not within its jurisdiction according to the Table of permissible uses; or
 - 2. The application is incomplete; or
 - 3. If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article XIII, "Nonconformities," of this chapter).

- D. Even if the Town Council finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
1. Will materially endanger the public health or safety; or
 2. Will substantially injure the value of adjoining or abutting property; or
 3. Will not be in harmony with the area in which it is to be located; or
 4. Will not be in general conformity with the future land-use plan, thoroughfare plan, or other plan specifically adopted by the Town Council.

Sec. 17-611. Burden of Presenting Evidence; Burden of Persuasion.

- A. The burden of presenting a complete application (as described in section 17-603) to the Planning Board and Town Council shall be upon the applicant. However, unless the Planning Board or Town Council informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.
- B. Once a completed application has been submitted, the burden of presenting evidence to the Town Council sufficient to lead it to conclude that the application should be denied for any reasons stated in subsections 17-610 (C)(1), 17-610 (C)(3) or 17-610 (D) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.
- C. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains always on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any reasons set forth in section 17-610(C) rests on the party or parties urging that the requested permit should be denied.

Sec. 17-612. Recommendations on Special Use Permit Applications.

- A. Before being presented to the Town Council, an application for a special use permit shall be referred to the Planning Board for action in accordance with this section. The Town Council may not hold a hearing on a special use permit application until the Planning Board has had an opportunity to consider the application pursuant to standard agenda

procedures. In addition, at the request of the Planning Board, the Town Council may allow the Planning Board more time to consider the application.

- B. When presented to the Planning Board, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with section 17-603 "Applications to be Complete" and other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the Town Council. If the planning staff report proposes a finding or conclusion that the application fails to comply with section 17-603 or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- C. The Planning Board shall consider the application and the attached staff report in a timely fashion, and may, in the Chairperson's discretion, hear from the applicant or members of the public. (Notice to the adjoining property owners is provided for in subsection 17-1611 "Meetings of the Planning Board").
- D. After reviewing the application, the Planning Board shall report to the Town Council whether it concurs in whole or in part with the staff's proposed findings and conditions, and to the extent there are differences, the Planning Board shall propose its own recommendations and the reasons therefore. The Chair or Vice-Chair of the Planning Commission should report to the Town Council in person at the public hearing.
- E. In response to the Planning Board's recommendations, the applicant may modify this application prior to submission to the Town Council and the planning staff may likewise revise its recommendations.

Sec. 17-613. Town Council Action on Special Use Permits.

In considering whether to approve an application for a special use permit, the Town Council shall proceed according to the following format:

- A. A simple majority vote of the Town Council is required to approve any motion related to the issuance of a special use permit.
- B. The Town Council shall consider whether the application is complete. If the Town Council concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the information lacking or the requirement with respect to which the application is incomplete. If a motion to this effect is not approved, this shall be taken as an affirmative finding by the board that the application is complete.
- C. The Town Council shall consider whether the application complies with all the applicable requirements of this chapter. If a motion to this effect passes, the Town Council need

not make further findings concerning such requirements. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one or more of the requirements of this chapter. Such a motion shall specify the requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Town Council to be unsatisfied through this process.

- D. If the Town Council concludes that the application fails to comply with one or more requirements of this chapter, the application shall be denied. If the Town Council concludes that all such requirements are met, it shall issue the permit, unless it adopts a motion to deny the application for one or more of the reasons set forth in subsection 17-610 (D). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

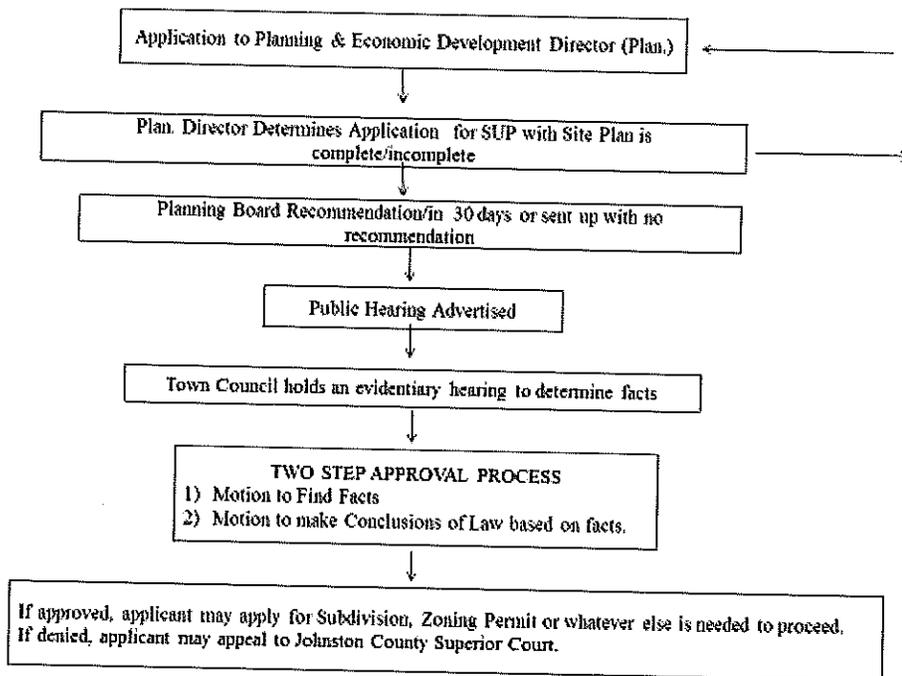
Sec. 17-614. Additional Requirements on Special Use Permits.

- A. Subject to subsection (B), in granting a special use permit, the Town Council may, by a simple majority vote, attach to the permit such reasonable requirements in addition to those specified in this Chapter as will ensure that the development in its proposed location:
 - 1. Will not endanger the public health or safety;
 - 2. Will not injure the value of adjoining or abutting property;
 - 3. Will be in harmony with the area in which it is located; and
 - 4. Will be in conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the Town Council, and
 - 5. Will comply with any additional requirements listed in Art. V, Part 2 beginning at section 17- 520.
- B. The Town Council may not attach additional conditions that modify or alter the specific requirements set forth in this chapter unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- C. The Town Council may not attach conditions for which the Town does not have authority under statute to regulate nor conditions that the courts have held to be unenforceable.
- D. Without limiting the foregoing, the Town Council may attach to a permit a condition limiting the permit to a specified duration.

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- E. All additional conditions or requirements shall be entered on the permit.
- F. All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.
- G. A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any reasons set forth in subsections 17-610 C. or D.

FLOW CHART SPECIAL USE PERMIT



Sec. 17-615. Authorizing Use, Occupancy, or Sale Before Completion of Development Under a Special Use Permit.

- A. In cases when, because of weather conditions or other factors beyond the control of the special use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings or selling lots in any subdivision, the Town Council may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter

are concerned) if the permit recipient provides a performance guarantee as provided in section 17-609.

- B. In the case of a failure on the part of the developer to timely complete all improvements, the Administrator shall immediately call either the entire performance guarantees or as much of said guarantee as is necessary to complete the remaining improvements. The town shall return to the developer any funds not spent in completing the improvements.
- C. The Administrator or Town Council, as appropriate, shall release a portion of any performance guarantee as the improvements are completed.
- D. When the Town Council imposes additional requirements upon the permit recipient in accordance with section 17-614 or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the Town Council may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if the Council specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if the Council concludes that compliance will be ensured as the result of any one or more of the following:
 - 1. A performance guarantee is furnished to and administered by the Town in the manner described in subsection (A);
 - 2. A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made; or
 - 3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Article XV. "Enforcement" section 17-1504, "Penalties and Remedies for Violations," and section 17-1505, "Permit Revocation and Building Permit Denial."
- E. With respect to subdivisions in which the developer is selling only undeveloped lots, the Town Council may authorize final plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the subdivider provides a performance guarantee to the Town Council to ensure that all of these requirements will be fulfilled within not more than twelve (12) months after final plat approval. The subdivider may elect which performance guarantee he or she will use from the range specified by this subsection (A) above. The performance guarantee shall be furnished and administered in this section.

Sec. 17-616. Completing Developments in Phases.

- A. If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (C), the provisions of section 17-601, “No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled,” and section 17-615 “Authorizing Use, Occupancy, or Sale Before Completion of Development Under a Special Use Permit” (exceptions to section 17-601 “No Occupancy, Use or Sale of Lots Until Requirements Fulfilled”) shall apply to each phase as if it were the entire development.
- B. As a prerequisite to taking advantage of the provisions of subsection A., the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.
- C. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule or completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
 1. If the improvement is one required by this chapter, then the developer may utilize the provisions of subsections 17-615 A. and C. “Authorizing Use, Occupancy or Sale Before Completion of Development Under a Special Use Permit”; and
 2. If the improvement is an amenity, not required by this chapter, or is provided in response to a condition imposed by the Town Council, then the developer may utilize the provisions of subsection 17-615 B.

Sec. 17-617. Expiration of Permits.

- A. Zoning, special use, watershed development, flood plain development and sign permits shall expire automatically if, within one year after the issuance of such permit:
 1. The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
 2. Less than ten (10) percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such

permits has been completed on the site. With respect to phased development (see section 17-616 “Completing Development in Phases”), this requirement shall apply only to the first phase.

- B. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 17-618 “Effect of Permit on Successors and Assigns”.
- C. The permit-issuing authority may extend for a period up to one (1) year the date when a permit would otherwise expire pursuant to subsection A. or B. if it concludes that:
 - 1. The permit has not yet expired;
 - 2. The permit recipient has proceeded with due diligence and in good faith; and
 - 3. Conditions have not changed so substantially as to warrant a new application.

Successive extensions may be granted for periods up to one (1) year upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

- D. For purposes of this section, the permit within the jurisdiction of the Town Council is issued when it votes to approve the application and issue the permit. A permit within the jurisdiction of the Planning Director / Administrator is issued when the earlier of the following takes place:
 - 1. A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or
 - 2. The Land Use Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions.
- E. Notwithstanding any of the provisions article XIII, “Nonconformities,” of this chapter, this section shall be applicable to permits issued prior to the date this section becomes effective.

Sec. 17-618. Effect of Permit on Successors and Assigns.

- A. Zoning, certificate of zoning compliance, special use, watershed development and floodplain development and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable, until expired.

However, so long as the land or structures or any portion thereof covered under a permit continue to be used for the purposes for which the permit was granted, then:

1. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
 2. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (B)) of the existence of the permit at the time they acquired their interest.
- B. Whenever a special use permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued and the permit is subsequently recorded in the Johnston County Registry and indexed under the record owner's name as grantor.

Sec. 17-619. Amendments to and Modifications of Permits.

- A. Insignificant Deviations. Insignificant deviations from the permit (including approved plans) issued by the Town Council or the Administrator are permissible, and the Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- B. Minor Changes. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification. For the purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- C. Major Changes. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Town Council, new conditions may be imposed in accordance with section 17-614 "Additional Requirements on Special Use Permits", but the applicant retains the right to reject such

additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

- D. The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (A), (B), and (C).
- E. An applicant requesting a change in approved plans shall point out to the Administrator, specifically and in writing, what deviation or changes are requested. The Administrator shall respond in writing. No changes shall be authorized except in conformity with this section.
- F. When (i) a request for a change in a permit is made under this section (whether for an insignificant deviation, minor modification, or major modification), and (ii) the use of the property is not changed, and (iii) some type of nonconforming situation other than a non-conforming use exists on the property, then the permit change may be approved without requiring the elimination of the nonconforming situations. However, any new development authorized by the permit change shall comply with current standards to the extent reasonably practicable, and the permit issuing authority may require the elimination of nonconforming situations when the cost (financial and otherwise) of doing so is clearly proportional to the benefits of elimination of such nonconformity.

Sec. 17-620. Reconsideration of Town Council Action.

- A. Whenever (i) the Town Council disapproves an application for a special use permit, or (ii) the Board of Adjustment denies an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board for one (1) calendar year unless the applicant clearly demonstrates that:
 - 1. Circumstances affecting the property that is the subject of the application have substantially changed; or
 - 2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time for an appeal to superior court (see Art XV “Enforcement section 17-1506, “Judicial Review”). However, such a request does not extend the period within which an appeal must be taken.
- B. Notwithstanding subsection A., the Town Council may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Sec. 17-621. Applications to be Processed Expeditiously.

Recognizing that inordinate delays in acting upon applications or appeals may impose unnecessary costs on the applicant or appellant, the Town shall make every reasonable effort to process permit applications and appeals as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this chapter.

Sec. 17-622 through § 17-649. Reserved.

PART 2. MAJOR AND MINOR SUBDIVISIONS.

*For subdivisions to be in a Water Supply Watershed, see also section 17-422, “Water Supply Watershed Protection District.”

Sec. 17-650. Regulation of Subdivisions.

See section 17-600 for the applicability of this Part to the development process. Major subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a special use permit as provided in Part I of this article, and sale of lots is permitted after final plat approval as provided in section 17-654, “Major Subdivision Approval Process.” Minor subdivisions only require a one-step approval process, and the sale of lots is permitted after final plat approval as provided in section 17-653, “Minor Subdivision Approval.”

Sec. 17-651. No Subdivision Without Plat Approval.

- A. No person may subdivide his land except in accordance with all the provisions of this chapter. No person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of sections 17-652, 17-653 or 17-654 and recorded in the Johnston County Registry. Gift lots, as defined in section 17-652 A., are exempt from the requirements of this part, and nothing in this part shall require that a plat for any gift lot be recorded in Johnston County Registry.
- B. The Johnston County Register of Deeds may not record a plat of any subdivision within the Town’s planning jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.

Sec. 17-652. Special Purpose Subdivisions.

- A. Gift Lots. A gift lot is defined as a one-time gift from a parent to his or her child of a parcel of land divided from the parent’s property. In such cases, the transaction shall not be deemed to be for the purpose of sale or building development, as those terms are used in G.S. § 160A-376, and the resulting transaction is therefore not subject to the requirements of this part.
- B. Public Infrastructure Subdivisions.
 - 1. A public infrastructure subdivision is defined as one involving the acquisition of land by the Town or other government entity for public infrastructure purposes, including, but not limited to, well lots, pump station lots and lift station lots. A

Article VI – Permits and Final Plat Approval

public infrastructure subdivision shall not include the creation of new public or private streets or roads.

2. Procedure for Review and Approval.

- a) Public infrastructure subdivisions shall be approved by the Administrator.
- b) Prior to submitting a final plat pursuant to subsection (c) below, the subdivider may, but is not required to, submit a sketch plan to the Administrator for review. If a sketch plan is submitted, the procedure and requirements set forth in subsection 17-653 (C) shall be followed.
- c) The subdivider shall submit three (3) copies of a final plat to the Administrator that satisfy the following:
 - 1) The plat shall be prepared by a Registered Land Surveyor currently licensed in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the Manual of Practice for Land Surveying in North Carolina;
 - 2) The final plat shall be of a size and material suitable for recording in the Johnston County Registry and shall be at a scale of not less than one (1) inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines;
 - 3) The plat shall meet the specifications of sections 17 –652,B.,2.c),1) and 17 – 652,B.,2.c),2) and Appendix A; and
 - 4) The following signed certificates shall appear on the plat:
 - (i) Certificate of Ownership and Dedication.

“I hereby certify that I own or am the authorized representative of the owner(s) of the property shown and described herein, which is located in the subdivision jurisdiction of the Town of Selma. On behalf of myself and/or the owner(s) of the property, I hereby adopt this plan of subdivision.

Date

[Print Owner's name if different from signatory]

[Print name and title, if any]”

(ii) Certificate of Survey and Accuracy.

“State of North Carolina
Town of Selma

I, _____ certify that this map was drawn (by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____) (other); that the ratio of precision as calculated by latitudes and departures is 1: _____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____); that this map was prepared in accordance with § G.S. 47-30, as amended.

Witness my hand and seal this ____ day of _____, 20__.

Seal or Stamp

Registered Land Surveyor

Registration Number”

- d) No preliminary plat is required for a public infrastructure subdivision.
- e) No filing fee or acreage fee is required for a public infrastructure subdivision.
- f) The Administrator shall review the final plat for compliance with the requirements of this chapter and the zoning ordinance.
- g) During this review, the Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agreed to by the Town Council). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.
- h) If the Administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

"Certificate of Approval for Recording

"I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Selma, North Carolina, and that this plat has been approved for recording in the Office of the Register of Deeds of Johnston County. This plat is null and void if not recorded at the Johnston County Deed Registry within thirty (30) days of the date written below.

Date

Planning and Economic Development Director
Selma, North Carolina”

- (i) If the final plat is disapproved by the Administrator, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one copy of the plat shall be retained by the Administrator as part of the records; one copy of the reasons and the other copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit the same for reconsideration by the Administrator or appeal the decision to the Town Council.
- (j) If the final plat is approved by the Administrator, one (1) copy shall be retained by the subdivider, one (1) copy shall be retained by the Administrator and one (1) copy shall be filed with the Town Clerk.
- (k) The subdivider shall file the approved final plat in the Johnston County Registry within thirty (30) days of the approval. Otherwise, such approval shall be null and void.

C. Cemetery Subdivision

- 1. A cemetery subdivision is defined as a public or private cemetery created primarily for the purpose of interring human or animal remains on or in individual plots, crypts or niches.
- 2. The Planning Director / Administrator may approve cemetery subdivisions following Section 17-653 minor subdivision approval process, with the following changes:
 - a) The plat certifications shall be those required for Public Infrastructure Subdivisions, and
 - b) Sub-sections 17-653 B. 1. and 2. do not apply.
- 3. The dimensional standards of Art IV Part 3 do not apply to individual lots created for the interment of human or animal remains or cremains. All other dimensional standards apply to cemetery subdivisions.

Sec. 17-653. Minor Subdivision Approval.

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- A. The Planning Director shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.
- B. Restrictions on the Use of Minor Subdivision Approval Process.
1. The minor subdivision process may not be used a second time within three (3) years on any property less than 1,500 feet from the original property boundaries by anyone who had an option on or any legal interest in the original subdivision at the time the plat received preliminary or final plat approval. Furthermore, the minor subdivision process may not be used within three (3) years on any property less than 1,500 feet from the original property boundaries by any subsequent owner, individual having an adoption on or individual having any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval. If a subdivision is disqualified from the minor subdivision approval process by this subsection, the major approval process must be used instead.
 2. Not more than a total of three (3) lots (or two new lots plus the remainder of the original lot for a total of three lots) may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.
- C. The applicant for minor subdivision plat approval, before complying with subsection (D), shall submit a sketch plan (i.e. a preliminary plan) to the Planning Director for a determination of whether the approval process authorized by this section can be and should be utilized. The Planning Director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five (5) years.
- D. Applicants for minor subdivision approval shall submit to the Planning Director two copies of a plat conforming to the requirements set forth in subsections 17-655 B. and C., except that a minor subdivision plat shall contain the following certificates in lieu of those required in section 17-655:

1. **Certificate of Ownership**

"I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Selma, North Carolina, and that I freely adopt this plan of subdivision."

Owner

Date

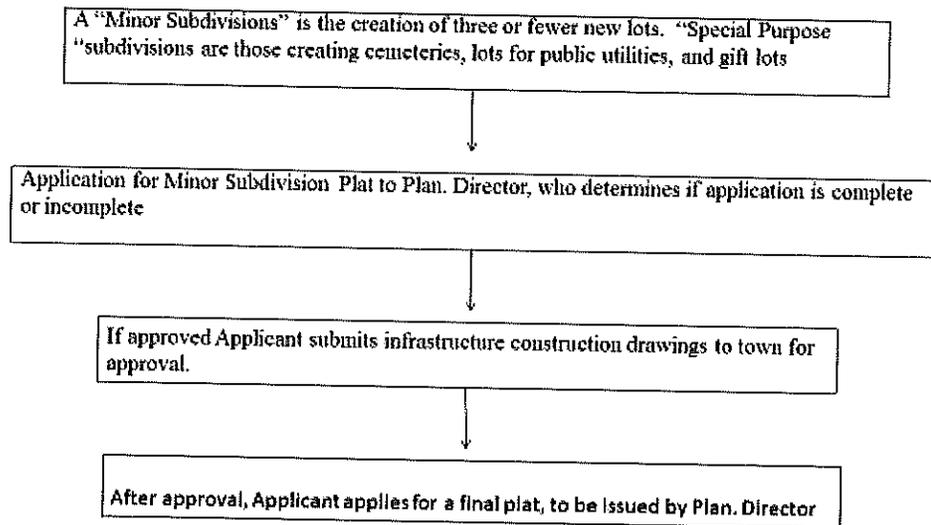
2. **Certificate of Approval for Minor Subdivision.**

Article VI – Permits and Final Plat Approval

- E. The Planning Director shall take expeditious action on an application for minor subdivision plat approval. However, either the Planning Director or the applicant may at any time refer the application to the major subdivision approval process.
- F. Subject to subsection E., the Planning Director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in section 17-200 “Definitions,” the proposed subdivision is disqualified as a minor subdivision pursuant to subsection B., or the application for subdivision fails to satisfy any other applicable requirement of this chapter.
- G. If the subdivision is disapproved, the Planning Director shall promptly furnish the applicant with a written statement of the reasons for disapproval.
- H. Approval of any plat is contingent upon the plat being recorded in the Johnston County Registry within sixty (60) days after the date the Certificate of Approval for Minor Subdivision is signed by the Planning Director or his or her designee.
- I. Review of Decision. Any party aggrieved by the Planning Director’s decision to approve or disapprove a request for minor subdivision plat approval pursuant to this Section may seek to have the decision reviewed by filing an action in Johnston County Superior Court seeking appropriate declaratory or equitable relief. Such action must be filed within the time frame specified in N.C.G.S. §160A-381(e) and Section 152-117 of this Ordinance for petitions in the nature of certiorari.

Article VI – Permits and Final Plat Approval

FLOW CHART MINOR SUB-DIVISION and SPECIAL PURPOSE PLATS



Sec. 17-654. Major Subdivision Approval Process.

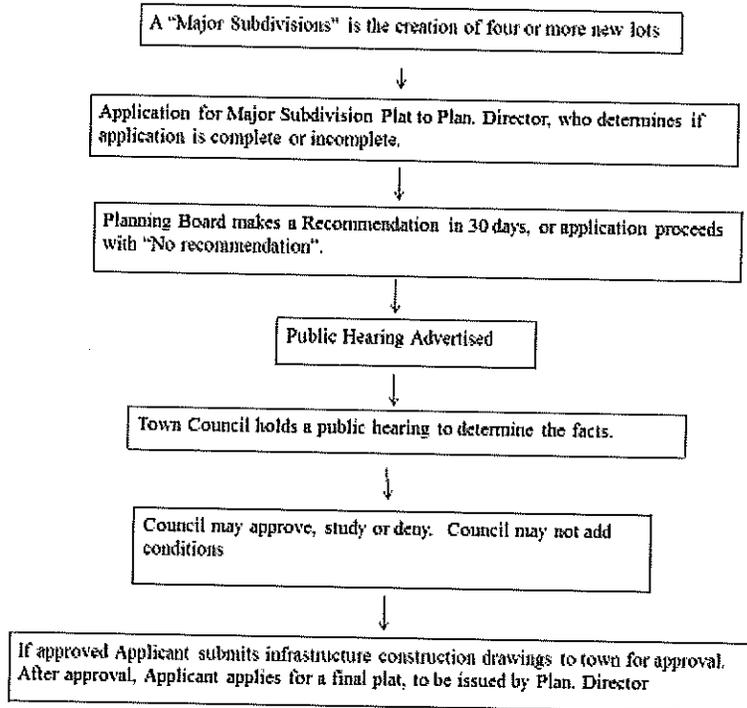
- A. The applicant (or developer) shall submit a special use permit application with an application for a site plan/preliminary plat containing all the information listed in Appendix A. The Planning Director shall process the application as provided in section 17-608, *et seq.*
- B. If the site plan and special use permit are approved by the Town Council following Planning Board review, then the applicant may submit construction drawings. Construction drawings will be reviewed by the Technical Review Committee. (See Art. XVI, Administrative Mechanisms, Part 6. Staff.) The applicant/developer may install the infrastructure as provide on the site plan and special use permit and then apply for a final major subdivision plat.
- C. Planning Director shall approve or disapprove major subdivision final plats. Notwithstanding the foregoing, if, at the time the special use permit was issued for the subdivision pursuant to part 1 of this Article, the Town Council requested that the final plat be reviewed by it, then the Town Council shall approve or disapprove the major subdivision final plat.

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- D. The applicant for major subdivision plat approval shall submit to the Administrator the following: (i) one (1) copy of the plat either in original ink on polyester film (mylar) or a reproduced drawing, transparent and archival (as defined by the American National Standards Institute), (ii) two (1) paper copies of the plat, and (iii) one (1) digital copy of the plat. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one (1) inch equals not more than one hundred (100) feet.
- E. In addition to the appropriate endorsements, as provided in section 17-655 “Endorsements on Major Subdivision Plats”, the final plat shall contain the following information:
1. The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Johnston County Registry;
 2. The name of the subdivision owner or owners;
 3. The township, county, and state where the subdivision is located;
 4. The name of the surveyor and his registration number and the date of survey;
 5. The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
 6. All the additional information required by G.S. § 47-30.
- F. The applicable final approval authority shall approve the proposed plat unless it is found that the plat or the proposed subdivision fails to comply with one or more of the requirements of this ordinance or that the final plat differs substantially from the plans and specifications approved in conjunction with the special use permit that authorized the development of the subdivision.
- G. If the final plat is disapproved by the Planning Director, the applicant shall be furnished with a written statement of the reasons for the disapproval.
- H. Approval of a final plat is contingent upon the plat being recorded within sixty (60) days after the approval certificate is signed by the Planning Director or his or her designee.

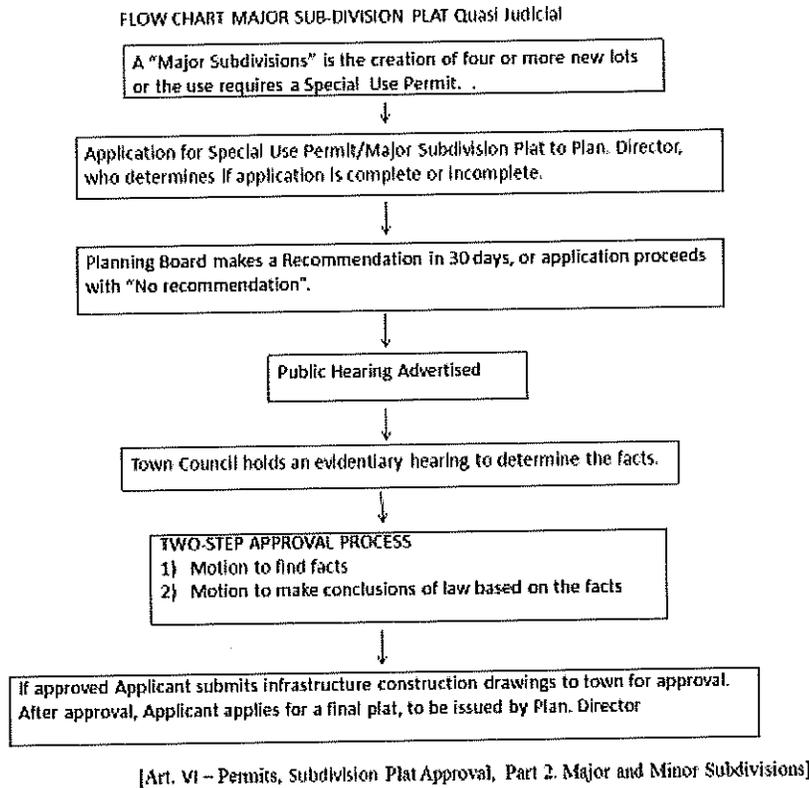
Article VI – Permits and Final Plat Approval

FLOW CHART MAJOR SUB-DIVISION PLAT Legislative



[Art. VI – Permits, Subdivision Plat Approval, Part 2. Major and Minor Subdivisions]

Article VI – Permits and Final Plat Approval



Sec. 17-655. Endorsements on Major Subdivision Plats.

All major subdivision plats shall contain the endorsements listed in subsections A., B. and C. herein and in section 17-653 D.6. The endorsements listed in subsection D. and F. shall appear on plats of all major subdivisions located outside the corporate limits of the Town but within the planning jurisdiction. Endorsement E. shall be affixed only if the Town Council accepts dedication. The following endorsements from Section 17-653 shall be affixed applicable: subsections D. 4. and D. 5. Other endorsements may be required to comply with State or Federal law.

A. Certificate of Approval.

I hereby certify that all streets shown on this plat are within the Town of Selma's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance guarantee and that the subdivision shown on this plat is in all respects in compliance with Selma Code of Ordinance Chapter 17, and

therefore this plat has been approved by the Selma Town Council subject to its being recorded in the Johnston County Register of Deeds within sixty (60) days of the date below.

Planning & Economic Development Director

Date

B. Certificate of Ownership and Dedication.

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Selma , that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, greenways, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Selma Town Council in the public interest.

Owner

Date

Notarized

C. Certificate of Survey and Accuracy.

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in the Johnston County Registry at Book _____, Page _____); that the boundaries not surveyed are clearly indicated as drawn from information found in the Johnston County Registry at Book _____, Page _____; that the ratio of precision as calculated is 1: _____; that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, 20____.

Seal or Stamp

Registered Land Surveyor

Registration Number

D. Division of Highways District Engineer Certificate.

I hereby certify that the public streets shown on this plat have been completed, or that a performance guarantee has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the N.C. State Department of Transportation for acceptance of subdivision streets on the State highway system for maintenance.

District Engineer

Date

E. Optional Acceptance of Offer of Dedication

NOTE: To be used only if Town Council accepts the offer of dedication at the time the final plat is approved.

"I hereby certify that all streets and sidewalks, parks and greenways, potable water, sanitary sewer, and/or stormwater infrastructure (or any other easements, lots and/or infrastructure) shown on this plat were accepted by the Town Council by a resolution adopted at the meeting held on ____, 2__".

Town Clerk

Date

F. Optional Certification that Town of Selma Ordinances Apply

NOTE: To be used only where a (i) portion of a property lies outside of the Town's jurisdiction and a portion of the property is within the Town's jurisdiction and (ii) the property owner wishes to have the entire property developed under the Town's ordinances and standards.

"We hereby certify that the application or enforcement of the Town's ordinances to the property shown on this plat is not under coercion or otherwise based upon any representation by the Town that the Town's approval of any land use planning would be withheld from the property owner without the application or enforcement of the Town's ordinance outside the territorial jurisdiction of the Town.

Planning & Economic Development Director

Date

Owner

Date

Sec. 17-656. Plat Approval Not Acceptance of Dedication Offers.

Approval of a plat does not constitute acceptance by the town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. The town may, however, accept any such offer of dedication by resolution of the Town Council or by exercising control over and maintaining such facilities.

Sec. 17-657. Protection Against Defects.

A. Acceptance of Facilities and Improvements Prior to Completion. When, pursuant to section 17-615 “Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use Permits,” occupancy, use or sale is allowed before the completion of any engineered stormwater control facilities or “best management practices” (BMPs) intended for dedication, then the performance guarantee that is posted pursuant to section 17-615 shall warrant that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

1. Whenever any engineered stormwater control facilities or “best management practices” (BMPs) intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall provide a performance guarantee to the permit-issuing authority to guarantee that he or she will correct all defects in such facilities or improvements that occur within one (1) year after the offer of dedication of such facilities or improvements is accepted.
2. An architect or engineer retained by the developer shall certify to the Town that all facilities and improvements to be dedicated to the Town have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the Town of the offer of dedication of such facilities or improvements.

B. Defects. For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the Town to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this ordinance.

Sec. 17-658. Maintenance of Dedicated Areas Until Acceptance.

As provided in Art. V Design Standards, Part 4., section 17-592, “Maintenance of Common Areas and Facilities,” all facilities and improvements, including streets, with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

Sec. 17-659. Other Subdivision Requirements.

A. Suitability of Land for Subdivision.

1. Land which has been determined by the permit-issuing authority, based on engineering surveys or other expert reports, to pose an ascertainable danger to life or property because of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider demonstrates that the necessary measures to eliminate said dangers will be taken. The permit-issuing authority may accept a sealed report from an engineer or other qualified expert as conclusive evidence of the adequacy of any proposed measure.
2. Land that has been used for disposal of solid waste shall not be subdivided unless tests by the Johnston County Health Department, a structural engineer or a soils expert determine that the land is suitable for the purpose proposed.

B. Consistent with article X, "Flood Damage Prevention," all subdivision proposals shall minimize the likelihood of property damage from flooding and dangerous conditions that result from flooding.

C. Blocks shall have sufficient width to allow for two tiers of lots of minimum depth except where single tier lots are necessary to separate residential development from vehicular through traffic; or in nonresidential subdivisions, planned developments and mixed use developments, to separate a residential area from another type of use; or where abutting a body of water.

Sec. 17-660 through 17-670. Reserved.

PART 3. VESTED RIGHTS.

Sec. 17-680. Vested Rights.

- A. Purpose. The purpose of this section is to implement the provisions of G.S. § 160A-385.1, pursuant to which a statutory zoning vested right is established upon the approval of a site-specific development plan.
- B. Definition. For the purposes of this section, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:
 1. Approval Authority. The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.
 2. Site Specific Development Plan. A plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits or approvals: special use permit, conditional zoning approval, and subdivision approval. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.
 3. Zoning Vested Right. A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.
- C. Establishment of a Zoning Vested Right.
 1. A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council, Planning Board, the Board of Adjustment or other board or official designated by ordinance or this section of a site-specific development plan following notice and public hearing. For the purposes of this section, approval of a conditional zoning district shall constitute the approval of a site-specific development plan.
 2. The approving authority may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. (The contents of site specific development plans are listed in Appendix A.)

3. Notwithstanding subsections 1. and 2. above, approval of a site-specific development plan with the conditions that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
4. A site-specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance related thereto.
5. The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this section.
6. A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

D. Approval Procedures and Approval Authority.

1. Except as otherwise provided in this subsection, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
2. Following approval or conditional approval of a site-specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, if such reviews and approvals are not inconsistent with the original approval.
3. Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of such approval or other town ordinances.

E. Duration.

1. A zoning right that has been vested as provided in this section shall remain vested for a period of two (2) years unless specifically and unambiguously provided otherwise pursuant to subsection 2. below. This vesting shall not be extended by

any amendments or modifications to a site-specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

2. Notwithstanding the provisions of subsection (1), above, the approval authority may provide that rights shall be vested for a period exceeding two (2) years, but not exceeding five (5) years, where warranted considering all relevant circumstances including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site-specific development plan is approved.
 3. Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.
- F. Termination. A zoning right that has been vested as provided in this section shall terminate:
1. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
 2. With the written consent of the affected landowner;
 3. Upon findings by the Town Council, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific development plan;
 4. Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action;
 5. Upon findings by the Town Council, by ordinance after notice and hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site-specific development plan; or
 6. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific development plan, in

which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

- G. Voluntary Annexation. A petition for annexation filed with the town under G.S. §§ 160A-31 or 160A-58.1 shall contain a signed statement declaring whether any zoning vested right with respect to the properties subject to the petition has been established under G.S. §§ 153A-344.1 or 160A-385.1. A statement that declares that no zoning vested right has been established under G.S. §§ 153A-344.1 or 160A-385.1 shall be binding on the landowner, and any such zoning vested right shall be terminated.
- H. Limitations. Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.
- I. Repealer. In the event that G.S. § 160A-385.1 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.
- J. Effective Date. This section shall be effective March 31, 2017 and shall only apply to site specific development plans approved on or after March 3, 2017.

Sec. 17-681 through 17-699. Reserved.

ARTICLE X. FLOOD DAMAGE PREVENTION

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Sec. 17-1000. Statutory Authorization, Findings of Fact, Purpose and Objectives.

- A. **Statutory Authorization.** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.
- B. **Findings of Fact.**
1. The flood prone areas within the jurisdiction of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- C. **Statement of Purpose.** It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
 2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 4. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
 5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.
- D. **Objectives.** The objectives of this ordinance are to:
1. Protect human life, safety, and health;
 2. Minimize expenditure of public money for costly flood control projects;

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3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business losses and interruptions;
5. Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
7. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Sec. 17-1001. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In the event of conflict, the definitions found in Article II control in all uses except under this Article.

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

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

Appeal: A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

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

Area of Special Flood Hazard: See **Special Flood Hazard Area (SFHA)**.

Base Flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other

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source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

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

Building: See **Structure**.

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

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

Development Activity: Any activity defined as Development which will necessitate a Floodplain Development Permit.

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

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

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

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

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

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

Flood Insurance: The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM): An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (See also DFIRM)

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

Flood Prone Area: See **Floodplain**.

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

Floodplain: Any land area susceptible to being inundated by water from any source.

Floodplain Administration: The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit: Another name for a Zoning Permit, which is the type of permit required in conformance with the provisions of this Chapter, prior to the commencement of any development activity.

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

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

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

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

Floodway encroachment analysis: An engineering analysis of the impact a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries, base flood elevations, and floodway surcharge elevations. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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

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

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

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

Historic Structure: Any structure that is:

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

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

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

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

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

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

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

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Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

Mean Sea Level: For purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected in 1988, to which Base Flood Elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.

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

Non-Encroachment Area: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

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

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

Principally Above Ground: That at least 51% of the actual cash value of the structure is above ground.

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

Recreational Vehicle (RV): A vehicle, which is:

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

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Reference Level: The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone AE, A, A99 or AO.

Regulatory Flood Protection Elevation: The Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE *plus three (3) feet of freeboard*. In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade.

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

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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

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

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

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

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

Structure: A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas

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storage tank that is principally above ground.

Substantial Damage: Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

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

Variance: A grant of relief from the requirements of this ordinance.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles IV, V, VI and XIV is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE): The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

Sec. 17-1002. General Provisions.

- A. Lands to Which This Ordinance Applies. This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdiction (ETJ), of the Town of Selma.
- B. Basis for Establishing the Special Flood Hazard Areas. The Special Flood Hazard Areas are those

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identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated December 2, 2005 for Johnston County and associated DFIRM panels, including any digital data developed as part of the Flood Insurance Study, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Johnston County are also adopted by reference and declared a part of this ordinance.

- C. Establishment of Zoning Permit. A Zoning Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of section 17-1002. B. of this ordinance.
- D. Compliance. No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.
- E. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
 - G. Considered as minimum requirements;
 - H. Liberally construed in favor of the governing body; and
 - I. Deemed neither to limit nor repeal any other powers granted under State statutes.
- J. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- K. Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation according to Article XV of this chapter.

Sec. 17-1003. Administration.

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- A. Designation of Floodplain Administrator. The Director of Planning and Economic Development, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.
- B. Zoning Permit for Floodplain Development and Certification Requirements.
1. Application Requirements. Application for a Zoning Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - 1) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - 2) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 17-1002. B., or a statement that the entire lot is within the Special Flood Hazard Area;
 - 3) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 17-1002. B.;
 - 4) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 17-1002. B.;
 - 5) The Base Flood Elevation (BFE) where provided as set forth in Section 17-1002. B.; Section 17-1003. C.; or Section 17-1004. D.;
 - 6) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - 7) The certification of the plot plan by a registered land surveyor or professional engineer.
 - b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - 1) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - 2) Elevation in relation to mean sea level to which any non-residential structure in Zone

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AE, A or AO will be floodproofed; and

- 3) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
 - c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34 (7/12)) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
 - d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - 1) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - 2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 17-1004. B. (4) (c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
 - e) Usage details of any enclosed areas below the lowest floor.
 - f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 17-1004. B., subsections 6) and 7) of this ordinance are met.
 - i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
2. Permit Requirements. The Zoning Permit shall include, but not be limited to:
- a) A description of the development to be permitted under the floodplain development permit.

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- b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 17-1002. B.
 - c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - e) All certification submittal requirements with timelines.
 - f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
3. Certification Requirements.
- a) Elevation Certificates
 - 1) An Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - 2) An Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - 3) A final as-built Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required after construction is completed and prior to Certificate of Zoning Compliance issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a

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certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Zoning Compliance.

- b) Floodproofing Certificate. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (*FEMA Form 086-0-34 (7/12)*), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 17-1004. B. (3),b).
- d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- e) Certification exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - 1) recreational vehicles meeting requirements of Section 17-1004. B. 6. a);
 - 2) temporary structures meeting requirements of Section 17-1004. B. 7.; and
 - 3) accessory structures less than 150 square feet meeting requirements of Section 17-

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1004. B. 8.

4. Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Johnston County Building Official, shall:
 - a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.
- C. Duties and Responsibilities of the Administrator. The Administrator shall perform, but not be limited to, the following duties:
 1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
 2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 3. Notify adjacent communities and the N. C. Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
 4. Assure that maintenance is provided within the altered or relocated portion of said

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watercourse so that the flood-carrying capacity is maintained.

5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 17-1004. F. are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 17-1003. B. 3.
7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 17-1003. B. 3.
8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 17-1003. B. 3.
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 17-1003. B. 3. and 17-1004. B. 2.
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 17-1002. B., obtain, review, and reasonably utilize any BFE data, along with floodway or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 17-1004. D. 2. b), in order to administer the provisions of this ordinance.
12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 17-1002. B., obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
14. Permanently maintain all records that pertain to the administration of this ordinance and

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make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended and N.C. Gen. Stat. Chap 132.

15. Make on-site inspections of work in progress. As the work, pursuant to a floodplain development permit progresses, the Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
 16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Administrator may order the work to be immediately stopped according to the provisions of section 17-1503. Violation of a stop-work order constitutes a misdemeanor.
 17. Revoke zoning permits for floodplain development as required. The Administrator may revoke the zoning permit under the provisions of section 17-1505. Any zoning permit mistakenly issued in violation of an applicable State or local law may also be revoked.
 18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Administrator and each member of the planning department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 19. Follow through with corrective procedures of Section 17-1003. D.
 20. Review, provide input, and make recommendations for variance requests.
 21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 17-1002. B. of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
 22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- D. Corrective Procedures. When the Administrator finds violations of applicable State and local laws, the procedures found in Article XV, Enforcement and Review, shall be followed.
- E. Variance Procedures.
1. The Zoning Board of Adjustment as established by Article XVI, Part 3 of this Chapter, hereinafter referred to as the "appeal board", shall hear and decide requests for variances

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from the requirements of this Article. The appeal board shall follow the standards and procedures of Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions, Interpretations and Hearing Procedures, of this Chapter.

2. Variances may be issued for:

- a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
- b) Functionally dependent facilities if determined to meet the definition as stated in Section 17-1001. of this Article, provided provisions of Sections 17-1003. E. 9. b), c), and e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
- c) Any other type of development, provided it meets the requirements of this Article.

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

- a) The danger that materials may be swept onto other lands to the injury of others;
- b) The danger to life and property due to flooding or erosion damage;
- c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d) The importance of the services provided by the proposed facility to the community;
- e) The necessity to the facility of a waterfront location as defined under Section 17-1001. of this ordinance as a functionally dependent facility, where applicable;
- f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g) The compatibility of the proposed use with existing and anticipated development;
- h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j) The expected heights, velocity, duration, rate of rise, and sediment transport of the

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floodwaters and the effects of wave action, if applicable, expected at the site; and

- k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
4. A written report addressing each of the above factors shall be submitted with the application for a variance.
5. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
8. Conditions for Variances:
 - a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d) Variances shall only be issued prior to zoning or other development permit approval.
 - e) Variances shall only be issued upon:
 - 1) A showing of good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship; and

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- 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met:
 - a) The use serves a critical need in the community.
 - b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - d) The use complies with all other applicable Federal, State and local laws.
 - e) The Town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Sec. 17-1004. Provisions for Flood Hazard Reduction.

- A. General Standards. In all Special Flood Hazard Areas, the following provisions are required:
 1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
 2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
 4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
9. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
10. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 17-1003. E. 10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 17-1003. B. (3).
11. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
12. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
13. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
14. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
15. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

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16. (When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

B. Specific Standards.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 17-1002. B., or Section 17-1004. D., the following provisions, in addition to the provisions of Section 17-1004. A., are required:

1. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 17-1001. of this ordinance.
2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in 17-1001. of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 17-1004. G. 2. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 17-1003. B. 3., along with the operational plan and the inspection and maintenance plan.
3. Manufactured Homes.
 - a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section 17-1001. of this ordinance.
 - b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

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- c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 17-1004. B. 4.
 - d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the Johnston County Emergency Management Coordinator.
4. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation;
 - c) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - 1) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - 2) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - 3) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - 4) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - 5) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

5. Additions/Improvements.

- a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - 2) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - 2) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

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- 1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - 2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
6. Recreational Vehicles. Recreational vehicles shall either:
- a) Temporary Placement
 - 1) be on site for fewer than 180 consecutive days; or
 - 2) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions)
 - b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

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- a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b) Accessory structures shall not be temperature-controlled;
- c) Accessory structures shall be designed to have low flood damage potential;
- d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 17-1004. A. 1;
- f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 17-1004. A. 4; and
- g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 17-1004. B. 4. c).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 17-1004. B. 2. Elevation or floodproofing certifications in accordance with Section 17-1003. B. 3. are required for all other accessory structures exceeding the minimum size or minimal investment.

9. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the design flood elevation, securely attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 17-1004. B. 2. shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is

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empty and the effects of flood-borne debris.

- d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - 1) at or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - 2) anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

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

- a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 17-1004. F. of this ordinance.
- b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 17-1004 F. of this ordinance
- c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

11. RESERVED.

12. Standards for Floodplains Without Established Base Flood Elevations. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article X, Section 17-1002. B., where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 17-1004. A., shall apply:

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

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2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 17-1004. A. and B.
 - b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 17-1004 B. and F.
 - c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 17-1002. B. and utilized in implementing this ordinance.
 - d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 17-1001. All other applicable provisions of Section 17-1004. B. shall also apply.
- E. Standards for Riverine Floodplains With Base Floor Elevations But Without Established Floodways or Non-Encroachment Areas. Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
 1. Standards of Sections 17-1004. A. and B.; and
 2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- F. Floodways and Non-Encroachment Areas. Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 17-1002. B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 17-1004. A.

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and B., shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
 2. If Section 17-1004. F.1. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
 3. Manufactured homes may be permitted provided the following provisions are met:
 - a) The anchoring and the elevation standards of Section 17-1004. B. 3.; and
 - b) The encroachment standards of Section 17-1004. F. 1.
- G. Standards for Areas of Shallow Flooding (Zone AO). Located within the Special Flood Hazard Areas established in Section 17-1002. B., are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:
1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of three (3) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
 2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 17-1004. G. 1. so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 17-1003. B. 3. and Section 17-1004. B. 2.
 3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

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Sec. 17-1005. Legal Status Provisions.

- A. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance. This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 13, 2004 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town enacted on April 13, 2004, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for the Town of Selma is April 13, 2004.

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

Sec. 17-1006 – 17-1099. Reserved

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Sec. 17-1100. Purpose.

The purposes of this section are as follows:

- A. To allow businesses, institutions, and individuals to exercise their right to free speech by displaying an image on a sign, and to allow audiences to receive such information.
- B. To promote and maintain visually attractive residential, agricultural, retail, commercial, historic, open space and industrial districts.
- C. To provide for reasonable and appropriate communication and identification for on premise signs in commercial and industrial districts to foster successful businesses.
- D. To encourage the use of creative and visually attractive signs.
- E. To ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian, bicycle and vehicular environment.
- F. To protect property values.
- G. To promote public health, safety, and welfare by avoiding conflicts between signs and traffic control devices, avoiding traffic hazards, and reducing visual distractions and obstructions.
- H. To enable maintenance of rights-of-way and public property.
- I. To protect and preserve the aesthetic quality and physical appearance of the town.

Sec. 17-1101. Permit Required, Permitting Procedures.

- A. No sign shall be constructed, erected, placed or replaced until a zoning permit has been issued by the administrator. In addition to the procedures and requirements of Art VI, Part 1, the applicant shall submit a sign plan showing the location, size, height, style and method of illumination (if any). No permit shall be issued by the Administrator until the applicant can provide the proper state permits have been obtained from the N.C. DOT (if required).

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- B. Common Sign Plan. Where multiple building mounted signs of the same type (including wall, ground and awning signs) are proposed for display on a building or group of buildings situated upon the same property or within a common development, such as a shopping center, the owner or developer shall submit a common signage plan that details a uniform approach to the permitted sign material(s), type of illumination and style of signage. Following the submission of the common signage plan, all signs installed within the area covered by the plan shall conform to the submitted plan. Common signage plans may only be altered following their submission if the original applicant or their successor agrees to modify all affected signage within the area covered by the plan to meet the new standard.
- C. Revocation of Permit. Any valid permit issued for a lawful outdoor advertising structure may be revoked by the planning director or town council for any one (1) of the following reasons:
1. Mistake of material facts by the issuing authority for which had the correct facts been made known, the zoning permit in question would not have been issued.
 2. Issuance of a permit based on an error of law.
 3. Misrepresentation of material facts by the applicant on the zoning permit application.
 4. Failure to pay all applicable fees.
 5. Failure to construct a sign and affix the permanent permit tag within one hundred eighty (180) days from the date of issuance of the zoning permit.
 6. Any alteration of a sign for which a permit has previously been issued which would cause that sign structure to fail to comply with the provisions of this Chapter or the N.C. General Statutes or Administrative Code (if applicable).
 7. Any alteration of a nonconforming sign not made in accordance with the provisions of Article XIII, "Nonconformities."
 8. Unlawful destruction of trees or shrubs or other growth located on a right-of-way to increase or enhance the visibility of a sign. This includes destruction of plants without authorization from the Town of N.C. D.O.T.
 9. Unlawful violation of the control of access on interstate, freeway and other controlled-access facility. Failure to maintain a sign such that it reaches a state of dilapidation, disrepair or disuse. Such determination shall be made by the Town.

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10. Abandonment, discontinuance or destruction of a sign.

Sec. 17-1102. Definitions.

As used in this Article and Chapter, the following words, except where the context clearly indicates otherwise, are defined as follows. Where a sign type could be considered a subset of another type of sign, the most specific definition will control the regulatory standards that are applied. The definitions in this section are not repeated in Article II.

- A. **Air-Activated Signs, Moving Signs.** Any temporary sign which in part or in total rotates, revolves or other-wise is in motion that is not a flag or temporary blade sign.
- B. **Animated Signs.** Any electronic sign displaying flashing, intermittent or color changing light or lighting.
- C. **Awning.** An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.
- D. **Balloon Signs, Inflatable Signs.** Any air or gas-filled balloon, figure, or object attached to a definite or fixed location.
- E. **Banner Signs.** A temporary sign made of flexible materials and supported along more than one side or at two or more corners by staples, tape, wires, ropes, strings or other materials that are not fixed or rigid.
- F. **Blade Signs, temporary.** A type of air-activated temporary sign, mounted on a pole perpendicular to the normal flow of traffic.
- G. **Blade Signs, Projecting Signs, permanent.** A permanent projecting sign mounted on a building façade that is perpendicular to the normal flow of traffic.
- H. **Canopy.** An architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached and at the outer end by one or more stanchions attached to the ground. It is comprised of a rigid structure over which a covering is attached. If the stanchions are attached to the building, "Canopy" is indistinguishable from "Awning."
- I. **Canopy Sign.** A wall sign that is located on the roof, fascia, soffit or ceiling of a canopy.

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- J. **Cornerstone.** A ceremonial masonry stone (block) or replica set into a prominent location in the exterior wall of a building. The cornerstone is considered a structural component of the building and is not a sign.
- K. **Electronic Changeable Message.** A permanent electronic sign with changeable copy, is programmable, and has a digital display.
- L. **Feather Flags.** See "blade signs, temporary."
- M. **Flags.** Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device. May include federal, state and local flags as well as nongovernmental flags, but does not include temporary blade signs otherwise known as feather flags.
- N. **Free-Standing Permanent Signs.** Any permanent sign supported wholly or in part by some structure other than a building. Pole signs and ground-mounted signs are types of permanent signs.
- O. **Glare.** The sensation produced by luminance within the visual field that are sufficiently greater than the luminance to which eyes are adapted which causes loss in vision or visibility.
- P. **Government Signs.** A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.
- Q. **Ground Sign.** A sign entirely attached to and supported by the earth. Ground signs include pole signs and monument signs. Ground signs may be temporary or permanent.
- R. **Marquee.** A permanent, roofed structure attached to and supported by the building and projecting over public property. Marquees are part of the building. They are distinct from canopies and awnings as those structures are attached to the building but are not structurally part of the building.
- S. **Marquee Sign.** A wall sign mounted flat against the front face of the marquee and projecting no more than 12 inches from the face.
- T. **Monument Signs.** A free-standing sign where the base of the sign structure is on the ground. A pole mounted sign where the sign is within twelve inches of adjacent grade shall be considered a monument sign.

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- U. **Moving Signs.** See air-activated signs and animated signs.
- V. **Off-Premise Sign.** A sign on a property on which there is no building.
- W. **Outdoor Advertising Sign.** Any permanent outdoor sign which is designed, intended or used to advertise or inform which is visible from any place on the main-traveled way of Interstate highway 95 or U.S. Highway 70. Such signs are also known as billboards. See N.C. Gen. Stat. Ann. § 136-128 (3)
- X. **People Sign, Human Billboard, Sign Walker, Sign Twirler.** A person who applies a sign to his or her person, or costume, who wears a sandwich board sign, who carries a sign, and who may wear a costume.
- Y. **Pole Signs.** A sign that is mounted on a free-standing pole or other support so that the bottom edge of the sign face is eight feet or more above grade.
- Z. **Political Sign.** Any sign that advocates for political action. The term does not include a commercial sign.
- AA. **Portable Message Sign.** A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.
- BB. **Projected Image Signs.** Visual images projected against structures by an external projection device, typically visible at night.
- CC. **Projecting Signs.** See "Blade sign, projecting signs, permanent."
- DD. **Roof Signs.** Signs placed on or above rooflines of buildings. Permanent building projections below the top roofline of a building are considered marquees. Signs attached below the roofline on a projection are considered canopies, awnings, or marquee signs.
- EE. **Sandwich Board Sign, A- Sign.** A type of portable message sign constructed in such a manner as to form an "A".
- FF. **Sign.** A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face

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or to an object, product, place, activity, person, institution, organization or business. Signs not exposed to view from a street or public access area are not signs for the purpose of these regulations.

- GG. **Snipe Signs.** Signs placed upon or attached to any curb, sidewalk, utility pole, post, fence, hydrant, bridge, another sign or other surface, bench, street light, mailbox, or natural objects such as trees or rocks, located on, over or across any public street or public property.
- HH. **Temporary Signs.** Signs for which the entire structure is temporary or portable. Signs not intended as a permanent installation.
- II. **Utility Pole Signs.** A type of snipe sign, typically made of cardboard, attached to public utility such as light poles.
- JJ. **Vehicle Message Sign.** A type of portable message sign that is attached to or painted on a vehicle that is parked on or adjacent to any property where the principal use of the vehicle is to display the sign and not to be used for transportation.
- KK. **Wall Signs.** A sign mounted flat against and projecting no more than twelve (12) inches from the wall. Canopy, awning and marquee signs are considered to be types of wall signs.
- LL. **Window Signs.** A sign affixed to the interior or exterior of a window, excluding merchandise to attract the attention of persons outside the building.
- MM. **Yard Signs** (also known as road signs, lawn signs, election signs, real estate signs). A temporary sign generally designed with metal or wood supports designed to be inserted into a grassed or dirt surface.

NN. Examples of Temporary Signs.



Figure 1 Blade Signs, Feather Flags



Figure 2 Sandwich Board Sign



Figure 3 Portable Sign

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Figure 4 Banner

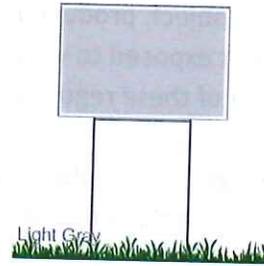


Figure 5 Lawn/Yard Sign

OO. Examples of Permanent Sign Designs

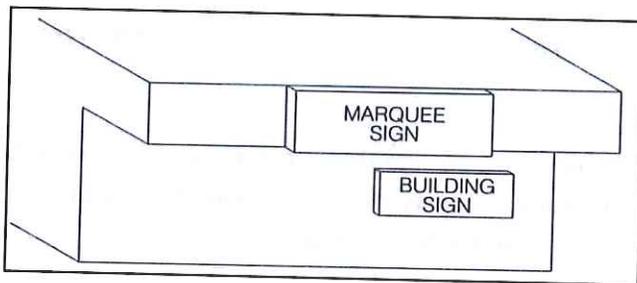


Figure 1 Building Signs

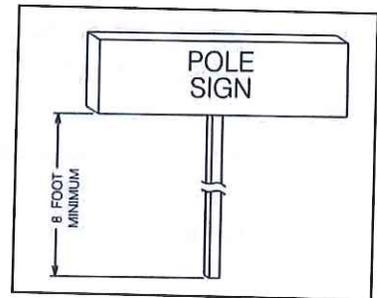


Figure 2 Pole Sign

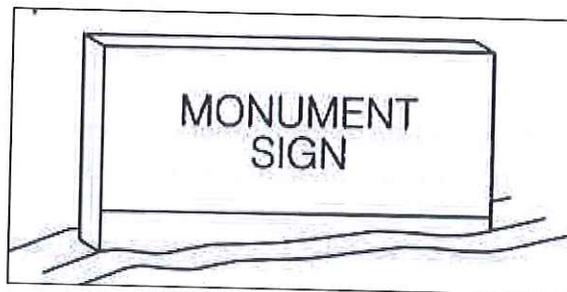


Figure 3 Monument/Ground Sign

Sec. 17-1103. Substitution Clause.

Signs containing noncommercial speech are permitted anywhere that commercial signs are permitted, subject to the same regulations applicable to such signs.

Sec. 17-1104. Severability Clause.

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this code is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the code.

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Sec. 17-1105. Prohibited Signs.

Unless such signs serve a governmental purpose as identified in 17-1106, the following signs are prohibited in the Town of Selma.

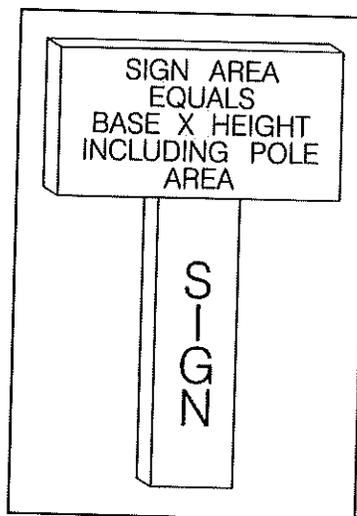
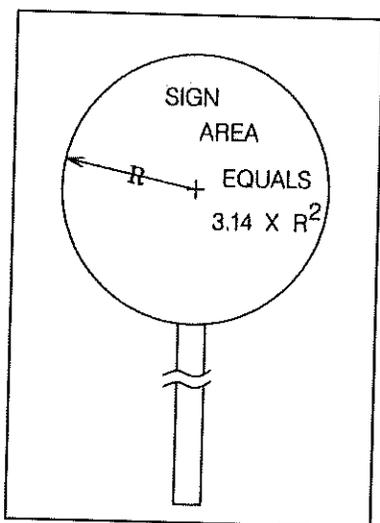
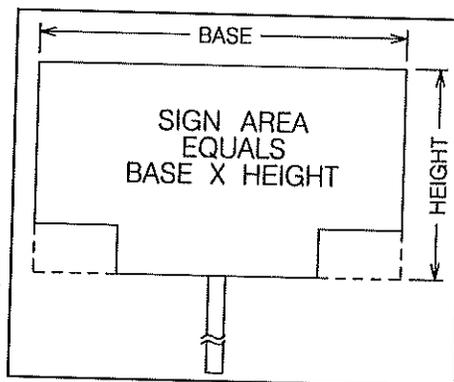
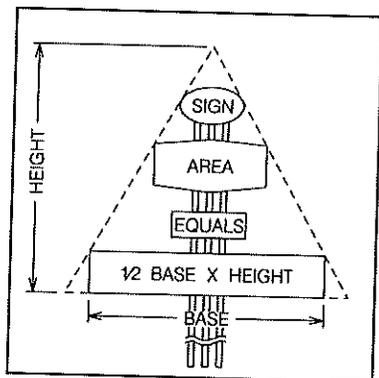
- A. Roof Signs.
- B. Snipe Signs, including utility pole signs.
- C. Simulated or unofficial public safety, warning or traffic signs.
- D. Animated and Electronic Message Signs that change more frequently than every 8 seconds.
- E. Motion signs including air-activated and balloon signs but not including temporary blade signs or signs allowed in residential districts.
- F. Vehicle message signs, permanent or temporary.
- G. Signs located within sight triangles of intersections.
- H. Signs emitting glare that causes discomfort or pain or reduces visibility.
- I. Flags consecutively strung together.
- J. Obscene signs and hate-speech signs.
- K. Off-premise signs greater than 32 square feet.
- L. Projecting signs less than 84" (7 feet) in height.
- M. Portable message signs.

Sec. 17-1106. Government Signs.

These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by this State, the federal government, Johnston County or the Town of Selma or any other government agency or entity. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

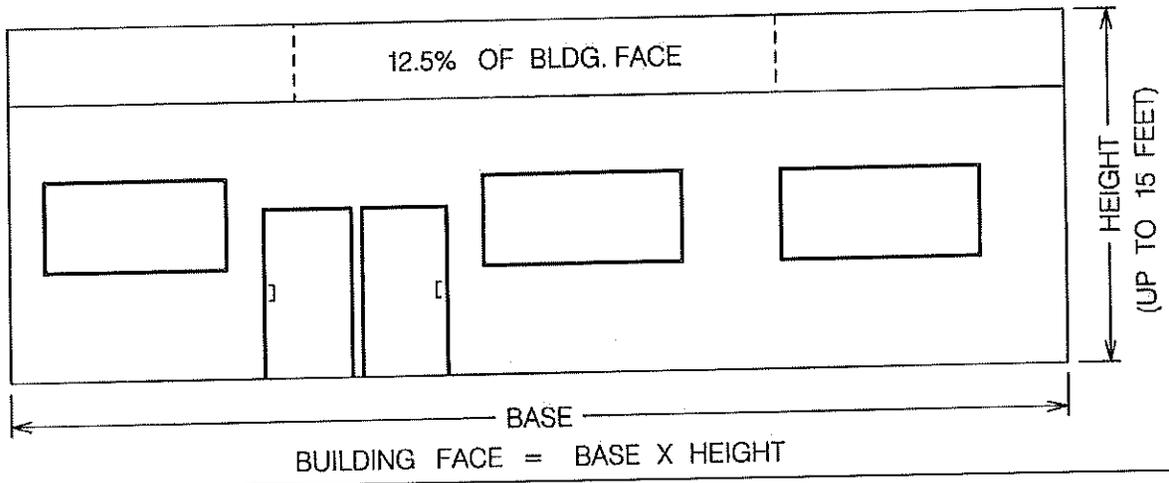
Sec. 17-1107. Calculations and Measurements Necessary to Determine Sign Dimensions.

A. Sign areas shall be computed as follows.



**When the pole area constitutes more than just support*

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- B. The measurement of frontage necessary to determine the area of free-standing signs is the horizontal distance between the side lot lines as measured at the front setback. When a corner lot allows for two free-standing signs, the calculations shall be based off each frontage. If a corner lot elects to place one sign at the corner, the sign size may be based off the longest side.
- C. The measurement of building frontage necessary to determine allowable wall signage shall be based off the frontage of the building dedicated to the particular use for which the sign is requested.
- D. Sign height for free-standing signs shall not extend above twenty-five (25) feet from grade, unless otherwise permitted by this Article.

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Sec. 17-1108. Temporary Sign Regulations by District.

- A. The following table reflects temporary signs allowed by district subject to time and manner regulations. "P" denotes the sign type is allowed. "X" denotes the sign type is not allowed. Sign types not included in the table are presumed to be disallowed unless addressed elsewhere in this article.

Table 11.1 Temporary Sign Types By Zoning District

Zoning Districts:	RA	R-20	R-10	R-8	TR	MHP	IN	N-B	C-B	GB	IB	I-1	I-2
Sign Types:													
Air Activated	P	P	P	P	P	P	X	X	X	X	X	X	X
Balloon/ Inflatables	P	P	P	P	P	P	X	X	X	X	X	X	X
Banner	P	P	P	P	P	P	X	P	P	P	P	P	P
Blade/feather	X	X	X	X	X	X	X	X	P	P	P	X	X
Construction Fence Wraps	P	P	P	P	P	P	P	P	P	P	P	P	P
Flags	P	P	P	P	P	P	P	P	P	P	P	P	P
People	P	P	P	P	P	P	P	P	P	P	P	P	P
Portable Message	X	X	X	X	X	X	X	X	X	X	X	X	X
Projected Image	P	P	P	P	P	P	P	P	X	X	X	X	X
Sandwich Board	X	X	X	X	X	X	P	P	P	P	P	P	P
Utility Pole	X	X	X	X	X	X	X	X	X	X	X	X	X
Yard Signs	P	P	P	P	P	P	X	P	P	X	X	X	X
Window Signs	P	P	P	P	P	P	P	P	P	P	P	P	P

- B. Number, duration and location of temporary signs. For the purposes of this section, the following districts are deemed to be residential districts: RA, R-20, R-10, R-8, TR, MHP and Residential Planned Unit Developments. All remaining zoning districts are deemed to be non-residential districts.

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C. Residential Districts: The following numbers of signs and their allowed duration is identified below. Temporary signs not listed below are not allowed.

Table 11.2

Sign Type	Number	Duration	Size	Permit Required
Air Activated, Balloon, Inflatable	3	One month, continuous. Not more than 3 months per year.	Unlimited	No
Construction Fence Wrap	1 per fence	*	After 24 months, maximum size is 24 square feet*	Not for First 24 Months*
Flags	3	Unlimited.	Maximum of 15 square feet each not to exceed 20 feet in height.	No
Projected Image	1	1 month, continuous. Not more than 3 months per year.	Shall not exceed the size of the wall space against which it is projected.	No
People Signs	1	Unlimited.	Unlimited	No
Yard Signs	Two per 5 acres or portion thereof	Unlimited.	Maximum of 2 square feet for properties less than 5 acres in size. Maximum of 32 square feet for properties greater than 5 acres in size.	No
Window Signs	1 per residence	Unlimited.	1 Square foot	No

* See footnote following next table.

D. Non-residential Districts. The following numbers of signs and their allowed duration is identified below. Temporary signs not listed below are not allowed.

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Table 11.3

Sign Type	Number	Duration	Size	Permit Required
Banner	1	21 days	24 square feet	Yes
Blade (feather)	1 per 50 linear feet of frontage. A maximum of 4 per lot.	Maximum 1 month, continuous. Not more than 90 days per year.	14' tall, 27 "wide	Yes
Construction Fence Wrap ¹	1 per fence	*	After 24 months, maximum size is 24 square feet*	Permit required 24 months from installation of sign*
Flags	3	Unlimited	24 square feet each not to exceed 25 feet in height.	No
People	No Limit	Unlimited	Unlimited	No
Projected Image	1	1 month, continuous. Not more than 90 days per year.	Shall not exceed the size of the wall space against which it is projected.	No
Sandwich Board	1 per business on property	Daily. Must be removed at the end of each business day	Maximum size of 3' x 5' per side	No
Yard Signs	1 per lot or 1 per 400 linear feet of frontage.	30 continuous days	4 square feet	No
Window Signs	Unlimited	Unlimited	Shall not cover more than 25% of each individual window inclusive of internal and external signage ²	No

E. Temporary yard signs, blade (feather) signs and flags may not be placed in rights-of-way. Signs must be placed at least thirty feet (30') from the centerline of the road that divides the lane of traffic closest to the property boundary. The purpose is to ensure that the signs are not in the way of vehicles mowing rights-of-way.

¹ Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site for 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but must continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required. N.C. Gen. Stat. §160A-381(j).

² Windows of non-residential buildings that do not contain an operating permanent or temporary use or business may have 100% window coverage by signs or blank materials such as paper, wood, fabric or others.

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Sec. 17-1109. Permanent Signs.

- A. Permanent signs in all non-residential districts and permanent ground-mounted signs for subdivisions, apartment complexes, mobile home parks or neighborhoods are required to have a permit prior to installation. All other permanent signs are not required to have a permit.
- B. All freestanding signs located within parking or vehicular use areas, and not in yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in this Ordinance.
- C. Residential Districts. The following permanent signs are permissible in the RA, R-20, R-10, R-8, TR, MHP and Residential PUD districts.
 - 1. Wall signs. 1 wall sign per structure is allowed maximum of 1 square foot in size. No permit is required.
 - 2. Ground-Mounted Signs. 1 ground-mounted sign is allowed per lot, maximum of 2 square feet in size. No permit is required.
 - 3. Ground-Mounted: Subdivision, Apartments, Mobile Home Parks or Neighborhood. 1 ground mounted sign to be placed at the entrance to subdivisions, apartment complexes, mobile home parks or established neighborhoods not to exceed 32 square feet in size per side per face, for a total of 64 square feet. Pole signs are not permitted.
 - 4. Residential Districts- Electronic Message Signs
 - a. Electronic Message Signs are permissible only for non-residential uses. Non-residential uses in the residential zoning districts include, but are not limited to, churches and schools; and
 - b. A Special Use Permit issued by Town Council is required; and
 - c. The maximum size of electronic message signs is 32 square feet or 50% of the permitted sign area, whichever is less; and
 - d. No sequential messages are permitted.
 - e. The standards of Section 17-1111 "Illumination" must be met.
 - f. Electronic message signs must be turned off between 11:00 PM and 6:00 AM.

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- D. Non-residential Districts. The non-residential zoning districts are the IN, NB, CB, GB, IB, I-1, I-2 and non-residential PUDS. The following table reflects permanent signs allowed by non-residential district. "PwP" denotes the sign type is allowable with a permit. "P" denotes the sign type is allowable without a permit. "X" denotes the sign type is not allowed. Sign types not included in the table are presumed to be disallowed unless addressed elsewhere in this Article.

Table 11.4 Sign Types by Non-Residential Zoning District

Sign Types		IN	NB	CB	GB	IB	I-1	I-2
Building:								
	Wall	PwP	PwP	PwP	PwP	PwP	PwP	PwP
	Marquee	PwP	PwP	PwP	PwP	PwP	PwP	PwP
	Canopy	PwP	PwP	PwP	PwP	PwP	PwP	PwP
	Awning	PwP	PwP	PwP	PwP	PwP	PwP	PwP
Ground-Mounted:								
	Monument	PwP	X	X	PwP	PwP	PwP	PwP
	Pole	X	X	X	PwP	PwP	PwP	PwP
	Electronic Messaging*	X	X	X	PwP	PwP	PwP	PwP
	Additional SF Allowed and Amount	P 10 SF	P 10 SF	P 10 SF	P 15 SF	P 15 SF	P 15 SF	P 15 SF

*Animation and special effects shall not be used when changing the message on an electronic message sign.

1. Wall Signs.

- a) The total square footage of signage allowed on a building shall not exceed an aggregate sign area equal to twelve and one-half (12.5) percent of the square footage of the first fifteen (15) feet in height of the wall face upon which the sign is located. In the event the height of the wall is less than fifteen (15) feet, the allowable building sign area is equal to twelve and one-half (12.5) percent of the square footage of the actual height of the wall face upon which the sign is located. Buildings designed to contain more than one business shall have allocated a wall sign for each business such that the aggregate total area may still be achieved, but not exceeded.
- b) Whenever a sign permit is requested for a property that includes more than one business, the owner or applicant shall identify the total amount of signage in use per business.

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2. Ground-Mounted Signs. Ground mounted signs shall be based on the frontage of the property on which they are located

Table 11.5

Linear Feet of Lot Frontage	Maximum Sign Area	Setback From Side Property Lines	Setback from Edge of Rights-of-Way
Less than 200 Feet	55 Square Feet	10 feet	12 feet
More than 200 Feet	80 Square Feet	10 feet	12 feet

- a) Each property is allowed one principal sign that is a monument, pole or electronic message sign (except as provided in sub-section c. below).
- b) In addition to the maximum sign area listed above for the principal ground sign, additional square footage as shown in Table 11.5 above is allowed for other signs. Examples of this type of signage are directional signs, entrance, exit, etc.
- c) A second ground sign per frontage is allowed for properties with two street frontages subject to the Table 11.5 above.
- d) A second ground sign is permitted for lots having one hundred (100) or more feet of street frontage; if the total area of both signs is no more than eighty (80) square feet.

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3. Alternative Pole Signs in the IB District. Each property in the IB zoning district may have one monument sign meeting the standards of subsection b. above and one pole sign meeting the standards of this section.

Table 11.6

Maximum Height of Sign	Maximum Sign Area	Setback From Side Property Lines	Setback from Edge of Rights-of-Way
50 feet	200 Square Feet Per Sign Face; No More Than 2 Sign Faces	20 feet	20 feet

- a) Additional square footage as shown in Table 11.6 above is allowed for other signs. Examples of this type of signage are directional signs, entrance, exit, etc.
- b) Illumination of the alternate pole sign is limited to internal illumination, lighted from behind to silhouette letters and figures.

Sec. 17-1110. Outdoor Advertising Sign Overlay District.

- A. Location: Outdoor advertising signs are permitted on any property zoned I-1, I-2, IB or GB within three hundred (300) feet of the nearest edge of the rights of way of I-95 or U.S. 70.
- B. Standards:
1. N.C. DOT outdoor advertising permit is required;
 2. All outdoor advertising signs shall be visible from the rights of way of U.S. 70 or I-95; and
 3. The standards of Table 11.7 shall be met; and

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Table 11.7

Type of Sign	Maximum Height of Sign Structure	Max. Height X Width of Sign Face	Maximum Sign Area ³	Sign Separation ⁴	Setback from Edge of Rights-of-Way and all property lines
Monopole	50 feet	30 X 60 feet ⁵ (including border and trim)	600 square feet per sign face; No more than 2 sign faces back-to-back or V-type	At least 500 feet on I-95; 1,500 feet on U.S. 70	50 feet
All others, except digital outdoor advertising signs ⁶	50 feet	30 X 60 feet	300 square feet per sign face; No More Than 2 Sign Faces back-to-back or V-type	At least 500 feet on I-95; 1,500 feet on U.S. 70 ⁷	50 feet
Digital Monopole signs, including conversions	50 feet	30 X 60 feet	600 square feet per Sign Face on I-95. 500 square feet per sign face on U.S. 70; No More Than 2 Sign Faces back-to-back or V-type; Only one sign per sign face	At least 1,000 ⁸ feet on the same side of the highway	50 feet

4. Signs shall not obscure or physically interfere with the view of a government sign, signal or device, nor obstruct or physically interfere with a driver's view of traffic or a road; and

³ Provided that V-type signs are connected at one point and no more than fifteen (15) feet apart at the furthest point of separation

⁴ Measured from the nearest edge of the paved rights-of-way directly opposite the signs along each side of the highway and also measured from signs located across the rights-of-way.

⁵ Outdoor Advertising on controlled routes says max height of sign 30 feet, maximum length 60 ft., maximum height of sign structure excepting "cut outs" is 50 ft. 19A NCAC 02E.0203

⁶ Only monopole signs are allowed on U.S. 70.

⁷ Outdoor Advertising on controlled routes says 300 feet. 19A NCAC 02E.0203

⁸ *Id.*

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5. No sign may be located closer than one thousand (1,000) feet from any parcel of land containing a residential structure that is zoned in a residential zoning district.
6. Double-decking of sign faces so that one is on top of the other is prohibited.

Sec. 17-1111. Illumination.

- A. Illuminated signs are permitted only in non-residential zoning districts or where approved as part of unified signage in a non-residential Planned Unit Development.
- B. Illuminated signs erected in a non-residential district contiguous to a residential district shall be so shielded or directed so that light brightness shall not exceed one (1) foot-candle at the property boundary.
- C. No illumination or glare shall be emitted directly onto a public street or roadway so as to constitute a hazard or impediment to motorist or public safety.
- D. No revolving or rotating beam or beacon of light shall be permitted as part of any sign.
- E. Flashing signs and flashing lighting shall not be permitted upon a sign.
- F. Electronic message signs are allowed where permitted provided the message does not change more frequently than every eight (8) seconds and the message completes the change within 2 seconds. Only one electronic message sign per lot is allowed.
- G. No exposed reflective or incandescent bulb which exceeds eleven (11) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.
- H. Tube lights on the outside of windows are not allowed. Tube lights on the inside of windows are allowed, but are limited to the maximum window coverage of twenty-five (25) percent. They may not flash.

Sec. 17-1112. Signs Regulated by Other Agencies.

It is the responsibility of the sign owner to ensure that the requirements of signs regulated by other agencies, such as but not limited to NCDOT and the Johnston County Board of Elections, are satisfied. It is not the intent of this ordinance to regulate the standards of those agencies.

Sec. 17-1113. Election or Political Signs in the Rights-of-Way⁹

- A. Political Signs Permitted. --During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way of the Town or State highway system as provided in this section. Signs must be placed in compliance with subsection (B) of this section and must be removed by the end of the period prescribed in this subsection.
- B. Sign Placement. — Signs must be placed in accordance with the following:
1. No sign shall be permitted in the right-of-way of a fully controlled access highway.
 2. No sign shall be closer than three feet from the edge of the pavement of the road.
 3. No sign shall obscure motorist visibility at an intersection.
 4. No sign shall be higher than 42 inches above the edge of the pavement of the road.
 5. No sign shall be larger than 864 square inches.
 6. No sign shall obscure or replace another sign.
- C. Permission. Persons placing signs must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Persons must obtain permission to place signs on private property.

Sec. 17-1114. Discontinuation of use.

When a sign ceases use, the support structure may remain as long as it is in good condition and does not present a threat to public health, safety or welfare. Electronic signs are to be turned off. Sign faces shall either be reversed to the blank side or painted a solid color. A boot or sock may be used to cover the sign face for a period not to exceed six months.

Sec. 17-1115 – 17-1199. Reserved.

⁹ N.C. Gen. Stat. Ann. § 136-32 (f) Application Within Municipalities. --Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. In the absence of an ordinance prohibiting or regulating the placement of political signs on the rights-of-way of streets located within a municipality and maintained by the municipality, the provisions of subsections (b) through (e) of this section shall apply.

ARTICLE XII - OPEN SPACE

Sec. 17-1200. Purpose. 1

Sec. 17-1201. General Requirements..... 1

Sec. 17-1202. Usable Open Space. 1

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Sec. 17-1200. Purpose.

The Town Council finds that when land is developed for residential purposes, the public health, safety, and welfare are best served when substantial portions of the tracts so developed remain as usable open space. The preservation of usable open space serves the following important objectives to the benefit of the residents of such developments as well as the general public: the preservation of open vistas; pedestrian connections to community facilities; providing relief from urban and suburban landscapes; the preservation of environmentally sensitive lands; the preservation of habitat for wildlife; the preservation of historically or archaeologically significant areas; and the provision of areas for passive recreation, such as walking or jogging.

Sec. 17-1201. General Requirements.

Except as provided in this article, all residential development shall be required to provide usable open space. For the purposes of this article, “subdivision” shall refer to the entire project developed on a single tract or contiguous multiple tracts under common ownership or control, regardless of whether the subdivision is constructed in phases or stages.

Sec. 17-1202. Usable Open Space.

- A. Usable Open Space Required. Except as otherwise exempted by this section, all residential developments shall be developed so that, at a minimum, the following amounts of the development remain permanently as usable open space:

Type of Development	Minimum Open Space Required
Single-Family Residential ¹	20%
Manufactured Home Parks	20%

¹ For Planned Unit Developments – Residential see section 17-550 F., “Open Space and Recreation Facilities.” For “Planned Unit Developments–Business and Industrial,” see section 17-553.

B. Exemptions:

1. Existing lots developed for single family purposes shall be exempt from the requirements of this section. This exemption is intended to apply to infill development only and shall not exempt entire subdivisions, or any portion thereof, or any other development which otherwise would have to comply with the requirements of this section.
2. The following subdivisions shall be exempt from the requirements of this section:
 - a) Any subdivision that does not qualify as a "subdivision," as defined in Article II, Section 17-200 Definitions, "Subdivision"; and
 - b) Any subdivision that qualifies as a subdivision pursuant to section 17-652, "Special Purpose Subdivisions."
3. The open space requirement for multi-family developments (which includes the multi-family portions of developments that have both single-family and multi-family dwelling units), residential planned unit developments, and business and industrial planned unit developments are set forth in subsections 17-550, "Multi-Family Development," F. "Open Space and Recreational Facilities," 17-552, "Planned Unit Development-Residential," D. "Open Space and Recreational Facilities," and 17-553 Planned Unit Developments-Business and Industrial," C. "Designation of Permanent Common Open Space," respectively. Notwithstanding the foregoing sentence, the definition of "usable open space" set forth in subsections 17-1202 C. and D. below shall apply to multi-family developments and all planned unit developments.

C. For purposes of this section, "usable open space" refers to an area that:

1. Is not encumbered with any substantial structure;
2. Is not devoted to use as a roadway, parking area, or sidewalk;
3. Is not part of a roadway median;
4. Is not part of any privately owned lot that is used or intended for use for residential purposes;
5. Is legally and practicably accessible to the general public or to the residents of the development where the open space is located; and
6. Does not consist of multiple small, noncontiguous pieces of land which are, as a practical matter, inaccessible to all or most of the residents of development.

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- D. Narrow strips of common area that separate lots within a development from each other, from streets, or from adjoining tracts shall generally not be regarded as open space within the meaning of this section unless such areas:
1. Are at least fifty (50) feet in width and function or will function as a substantial visual buffer. Greenway trails are presumed to require a minimum fifty (50) foot wide parcel or strip of property; or
 2. Are configured or improved (e.g. through the installation of trails) in such a way as to be conducive to actual use for pedestrian connections to community facilities and for recreational purposes (i.e. walking or jogging) by the residents of the development where the land is located.
 3. The following areas shall be regarded as usable open space if such areas satisfy at least the criteria set forth in subsections C., 1., 2., 3., and 4. of this section:
 - a) Utility easements located outside of street rights-of-way;
 - b) Cemeteries located on a tract prior to its development; and
 - c) Areas used for the growing of crops, such as hay, corn, or vegetables, if and to the extent that such uses occur within an area that is subject to the control of a homeowner's association or similar organization and such uses are approved by that association or organization.
 4. Except as required by this subsection, the choice as to the areas to be set aside as usable open space shall remain with the developer.
- E. Water bodies, such as ponds or lakes, and wetland areas associated with recreational trail systems may also be counted toward open space requirements, provided that:
1. Such areas satisfy at least the criteria set forth in subsections C., 1., 2., 3., and 4. of this section; and
 2. The amount of open space comprising wetlands, riparian buffers or stream buffers shall comprise no more than one-third (33.3 %) of the twenty (20) percent common open space.
- F. No more than thirty (30) percent of usable open space may be devoted to active recreational uses (for example soccer fields and swimming pools) without approval of the permit-issuing authority.

Sec. 17-1203. Payment-In-Lieu Fees.

- A. When the Town Council determines (upon the recommendation of the town Parks and Recreation Director) that the open space and recreational needs of a development required by this section to set aside open space could also be adequately met by public open space and/or facilities constructed on town property that is located close enough to such development to reasonably serve its residents, the town may authorize the developer to pay a fee to the town's open space fund in lieu of providing some or all of the required open space. For purposes of this subsection, "town property" means property that is owned by the town or that the town has made plans to acquire within a reasonable time.
- B. The minimum amount of the fee paid under this section shall be determined by multiplying the acreage of open space that would otherwise be required of the development by the greater of the dollar value per acre established in:
 - 1. An appraisal accepted by the Town, including the Johnston County Tax Assessors calculation of the value of land per acre providing that the property has been appraised by Johnston County no more than four years before the date of application of the development; or
 - 2. Eight Hundred (\$800.00) Dollars per dwelling unit multiplied by the total number of lots or dwellings proposed per acre.

However, nothing herein shall prevent a developer from paying a fee that exceeds the minimum fee established pursuant to this section, and the town's willingness to allow a payment of fees in lieu of the on-site provision of open space may depend upon the developer's agreement to pay fees in excess of the minimum.

- C. With respect to any development that is authorized by this section to pay a fee in lieu of providing some or all of the required open space, no use may be commenced, lot sold, or building occupied unless the fee has been paid. If a development is intended to be sold or occupied on a phase-by-phase basis, payment of the fee relating to each phase must first be made.

Sec. 17-1204. Flexibility in Administration Authorized.

- A. The requirements set forth in this article concerning the amount, size, location and nature of usable open space to be provided in connection with residential developments are established by the Town Council as standards that presumptively will result in the provision of that amount of usable open space that the Council has determined to be reasonable and necessary for these developments. The Council recognizes, however, that due to the particular nature of a tract of land or other factors, the underlying objectives of this section may be achieved even though the standards are

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not adhered to with mathematical precision. Therefore, the permit-issuing body is authorized to permit minor deviations from these standards whenever it determines that:

1. The objectives underlying these standards can be met without strict adherence to them, and
 2. Because of peculiarities in the developer's tract of land, it would be unreasonable to require strict adherence to these standards.
- B. Whenever the Town Council or Planning Director authorizes some deviation from the standards set forth in this article pursuant to subsection A., above, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

Sec. 17-1205 through Sec. 17-1299. Reserved.

ARTICLE XIII - NONCONFORMING SITUATIONS

Sec. 17-1300. Intent. 1
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Sec. 17-1300. Intent.

It is the intent of this article to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformance with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses or structures that would violate the provisions of this chapter. It is also the intent of this article that any elimination of nonconformities shall be effected so far as to avoid any unreasonable invasion of established private property rights.

Sec. 17-1301. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. If any definitions in this section conflict with those in Article II, the definitions in Article II control.

- A. **Dimensional Nonconformity.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

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- B. **Effective Date of this Ordinance.** Whenever this article refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this ordinance if the amendment, rather than this ordinance as originally adopted, creates a nonconforming situation.
- C. **Expenditure.** A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.
- D. **Nonconforming Lot.** A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.
- E. **Nonconforming Project.** Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- F. **Nonconforming Sign.** A sign that, on the effective date of this chapter, does not conform to one or more of the regulations set forth in this chapter, particularly those of this article.
- G. **Nonconforming Situation.** A situation that occurs when, on the effective date of this chapter, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, or because land or buildings are used for purposes made unlawful by this chapter.
- H. **Nonconforming Use.** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)
- I. **Permit Issuing Authority.** Either the Town Council, Planning Director or other Board or Commission who has the authority to issue a development-related permit required by this Ordinance.

Sec. 17-1302. Continuation of Nonconforming Situations and Completion of Nonconforming Projects.

- A. Unless otherwise specifically provided in this ordinance and subject to the restrictions and qualifications set forth in sections 17-1303 through 17-1308, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.
- B. Nonconforming projects may be completed only in accordance with the provisions of section 17-1308.

Sec. 17-1303. Nonconforming Lots.

- A. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in section 17-432, "Minimum Lot Area," then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a conforming lot.
- B. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (see section 17-435, "Building Setback Requirements") cannot reasonably be complied with, then the entity authorized by this ordinance to issue a permit for the proposed use may allow deviations from the applicable setback requirements if it finds that:
 - 1. The property cannot reasonably be developed for the use proposed without such deviations,
 - 2. These deviations are necessitated by the size or shape of the nonconforming lot, and
 - 3. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.
- C. For purposes of subsection B., compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. Mere financial hardship, however, does not constitute grounds for finding that compliance is not reasonably possible.
- D. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot

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may be accomplished in accordance with section 17-1306.

- E. Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Sec. 17-1304. Extension or Enlargement of Nonconforming Situations.

- A. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
 - 1. An increase in the total amount of space devoted to a nonconforming use; or
 - 2. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.
- B. Subject to subsection D., a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, subject to section 17-1308 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- C. Subject to section 17-1308 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten (10) percent or more of the earth products had already been removed on the effective date of this ordinance.

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- D. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.
- E. Notwithstanding subsection A., any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in section 17-1307, "Abandonment and Discontinuance of Nonconforming Situations."
- F. Notwithstanding subsection A., whenever: (i) there exists a lot with one or more structures on it, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking or loading requirements of section 17-505, "Off-Street Parking and Loading," of this chapter that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with section 17-505 and Appendix C in regard to "Satellite Parking," if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

Sec. 17-1305. Repair, Maintenance and Reconstruction.

- A. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation (i.e., work estimated to cost more than sixty (60) percent of the appraised valuation of the structure to be renovated) may be done only in accordance with a zoning permit pursuant to this section.
- B. If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed sixty (60) percent of the appraised valuation of the damaged structure, then the damaged structure may be

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repaired or replaced only in accordance with a zoning permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a certificate of zoning compliance just as they may be enlarged or replaced as provided in subsection 17-1304 E.

C. For purposes of subsections A. and B.:

1. The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement;
2. The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work and no person may seek to avoid the intent of subsections A. and B. by doing such work incrementally; and
3. The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or a sealed appraisal or estimate determined by a professionally recognized property appraiser.

D. The Administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:

1. No violation of section 17-1304 will occur; and
2. The permittee will comply to the extent reasonably possible with all provisions of this ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

Sec. 17-1306. Change in Use of Property Where a Nonconforming Situation Exists.

- A. A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning or special use permit in accordance with section 17-600, "Permits Required," may not be made except in accordance with subsections B. through D. However, this requirement shall not apply if only a sign permit is needed.

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- B. If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this ordinance is achieved, the property may not revert to its nonconforming status.
- C. If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this ordinance to issue a permit for that particular use issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this ordinance, that:
1. The intended change will not result in a violation of section 17-1304; and
 2. All of the applicable requirements of this ordinance that can reasonably be complied with will be complied with.

Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

- D. If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this ordinance to issue a permit for that particular use issues a permit authorizing the change. The permit-issuing authority may issue the permit if it finds, in addition to other findings that may be required by this ordinance, that:
1. The use requested is one that is permissible in some zoning district with either a zoning or special use permit; and
 2. All of the conditions applicable to the permit authorized in subsection C. of this section are satisfied; and
 3. The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

Sec. 17-1307. Abandonment and Discontinuance of Nonconforming Situations.

- A. When a nonconforming use is (i) discontinued for a consecutive period of 180 days, or (ii) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.
- B. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (i) discontinued for a consecutive period of 180 days or (ii) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.
- C. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- D. When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this section begins to run on the effective date of this chapter.
- E. Exemption for Existing Single-Family Residential Uses. Notwithstanding the foregoing, so long as a lawful nonconforming single-family dwelling is not used for commercial purposes, it shall not lose its lawful nonconforming status, even if the dwelling is vacant for more than 180 days.

Sec. 17-1308. Completion of Nonconforming Projects.

- A. All nonconforming projects on which construction was begun at least 180 days before the effective date of this ordinance as well as all nonconforming projects that are at least ten (10) percent completed in terms of the total expected cost of the project on

Article XIII. Nonconforming Situations

the effective date of this ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

- B. Except as provided in subsection A., all work on any nonconforming project shall cease on the effective date of this chapter, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a zoning, special use, or sign permit issued in accordance with this section by the permit-issuing authority authorized by this chapter to issue permits for the type of development proposed. The Town Council shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land-use law as it existed before the effective date of this chapter and thereby would be unreasonably prejudiced if not allowed to complete his or her project as proposed. In considering whether these findings may be made, the permit-issuing authority shall be guided by the following, as well as other relevant considerations:
1. All expenditures made to obtain or pursuant to a validly issued and unrevoked building, zoning, sign or special use permit shall be considered as evidence of reasonable reliance on the land-use law that existed before this chapter became effective;
 2. Except as provided in subsection B. 1., no expenditures made more than 180 days before the effective date of this ordinance may be considered as evidence of reasonable reliance on the land-use law that existed before this chapter became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure;
 3. To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property;
 4. To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures;

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5. An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimated cost of the proposed project and (ii) the ordinary business practices of the developer;
 6. A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land-use law affecting the proposed development site could not be attributed to him; and
 7. Even though a person had actual knowledge of a proposed change in the land-use law affecting a development site, the permit-issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit-issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that: (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and (ii) the developer had legitimate business reasons for making expenditures.
- C. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection B. In addition to the matters and subject to the guidelines set forth in subsections B.1. through 7., the Town Council shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following, in addition to other relevant factors:
1. Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work;
 2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed; and
 3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.
- D. The permit-issuing authority shall not consider any application for the permit authorized by subsection B. that is submitted more than sixty (60) days after the effective date of

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this chapter. The permit-issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one (1) year.

- E. The Administrator shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than fifteen (15) days before the effective date of this ordinance.
- F. The permit-issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of this ordinance, so that construction work is not needlessly interrupted.

Sec. 17-1309 through 17-1399. Reserved.

**ARTICLE XIV – APPEALS, VARIANCES, REASONABLE ACCOMMODATIONS, SPECIAL EXCEPTIONS
AND INTERPRETATIONS AND HEARING PROCEDURES**

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PART 1. APPEALS, VARIANCES, REASONABLE ACCOMMODATIONS, SPECIAL EXCEPTIONS AND INTERPRETATIONS

Sec. 17-1400. Appeals.

A. Making an Appeal to the Board of Adjustment.

1. An appeal from any order, requirement, decision or determination of the Administrator, Town Manager or their designee made in the administration of the provisions of this Chapter may be taken to the Board of Adjustment by any aggrieved person. Persons who may appeal are:
 - a) The owner of the property.
 - b) The party who sought the decision.
 - c) Any person who has standing as described in section F. below.
 - d) The Town.
2. An appeal is taken by filing a written notice of appeal with the Town Clerk specifying the grounds of the appeal. A notice of appeal shall be considered filed with the Land Use Administrator and the Board of Adjustment when delivered to the Town Clerk, and the date and time of filing shall be entered on the notice by the Town Clerk.
3. This subsection shall not apply to appeals of the approval or denial of a minor subdivision plat, which decision must be appealed to the Johnston County Superior Court in accordance with G.S. §160A-377.

B. Notice of Appeal; Time to Appeal. The Administrator or official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. An appeal must be taken by the owner within thirty (30) days after the date of the receipt of the final written decision or order appealed from. The party who sought the decision (if not the owner) and any other person with standing to appeal under sub-section F. below must take their appeal within 30 days of actual or constructive notice of the decision. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" "Appeal" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

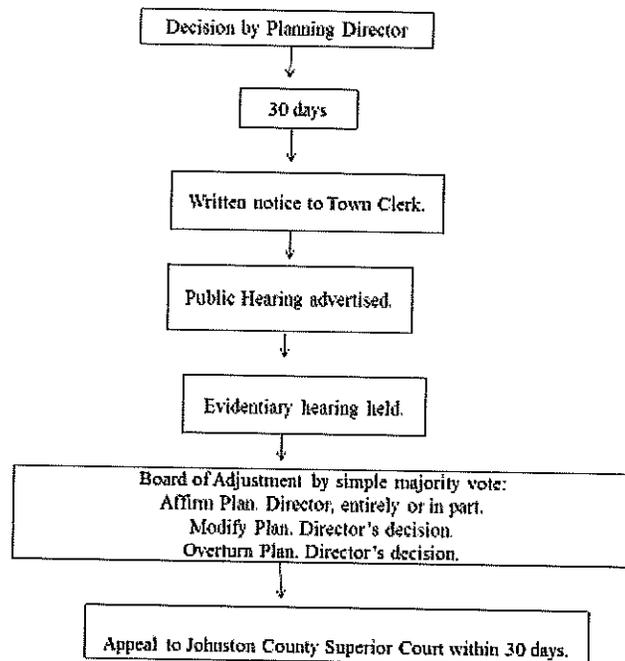
remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Additional Public Notice requirements for all quasi-judicial hearings are found in section 17-1451 "Notice of Hearing". An appeal must be taken within thirty (30) days after the date of the decision or order appealed from.

- C. Whenever an appeal is filed, the Administrator shall forthwith transmit to (i) the Board of Adjustment (ii) the person(s) making the appeal (the appellant) and (iii) the property owner (if the property owner did not make the appeal) all the documents and exhibits constituting the record relating to the action appealed from.
- D. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrator (or other official who made the decision being appealed) certifies in an affidavit to the Board of Adjustment, after notice of appeal has been filed with him, that because of facts stated in the affidavit a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- E. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made. To this end the board shall have all the powers of the Administrator or officer from whom the appeal is taken.
- F. Other Persons with Standing to Appeal:
 - 1. Any person meeting any of the following criteria:
 - a) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
 - b) Has an option or contract to purchase the property that is the subject of the decision being appeal.

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- c) Was an applicant before the decision-making board whose decision is being appealed.
2. Any other person who will suffer special damages as the result of the decision being appealed.
3. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
4. The Town when Town Council believes that an official made a decision that is otherwise inconsistent with the proper interpretation of this Unified Development Ordinance.

FLOW CHART APPEALS of Order of the Planning Director (Plan.), Requirement or Interpretation of the UDO



[Art. XIV – Appeals, Variances, Special Exceptions, Interpretations and Hearing Procedures, §17-1400 Appeals and §17-1402 Interpretations Conditional Zoning District Rezoning.]

Sec. 17-1401. Variances.

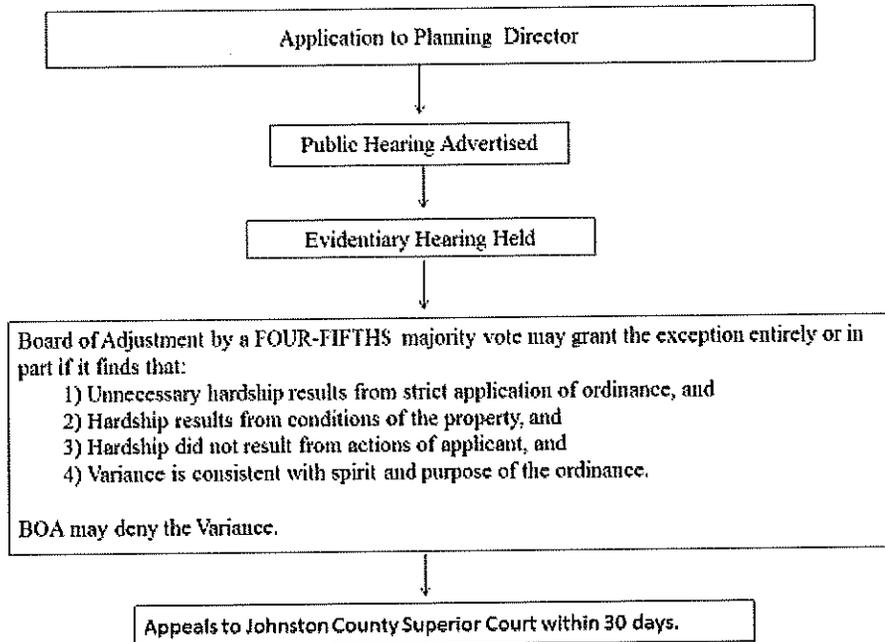
- A. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. Applications shall conform to section 17- 602, "Who May Submit Permit Applications," and section 17-603, "Applications to Be Complete."
- B. When presented to the Board of Adjustment at the hearing, the application for a variance shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with section 17- 503 and the other requirements of this chapter. If the staff proposes a finding or conclusion that the application fails to comply with section 17-603 "Applications to be Complete", the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- C. A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in unnecessary hardships for the applicant upon a showing of all of the following:
 - 1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and
 - 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; and
 - 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
 - 4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- D. An applicant need not meet the criteria of subsections (C)(1) and (2) if he or she can prove to the satisfaction of the Board that (i) the need for the variance arises out of an error by the town staff (i.e. the applicant relied in good faith upon an error made by the town staff), (ii) in the absence of the variance the applicant will suffer significant hardship, and (iii) the variance will not have an adverse effect on the surrounding properties.

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

- E. In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- F. A variance may be issued for an indefinite duration or for a specified duration only.
- G. The nature of the variance and any conditions attached to it shall be entered on the face of the certificate of zoning compliance, or the certificate of zoning compliance may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

FLOW CHART VARIANCES



[Art. XIV – Appeals, Variances, Special Exceptions, Interpretations and Hearing Procedures, § 17-1401 Variances]

Sec. 17-1402. Reasonable Accommodations.

- A. Authority and Purpose. The Town Council is authorized to grant reasonable accommodations under the Federal Fair Housing Act for the circumstances set forth in this section.
- B. Application Requirements and Pre-Hearing Procedures.
 - 1. Persons Authorized to File Applications. An application for a reasonable accommodation may be filed only by the owner of the land affected by the reasonable accommodation; an agent, lessee, or contract purchaser specifically authorized by the owner to file such application; or any unit of government that is not the owner of the lot but proposes to acquire the lot by purchase, gift or condemnation.
 - 2. Pre-Application Conference. Before filing an application for a reasonable accommodation, the applicant may request a pre-application conference with the Administrator under Section 17-1402.

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

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

C. Action by the Town Council, Hearing Procedures and Appeals.

1. The Town Council shall hold a quasi-judicial hearing on the proposed reasonable accommodation and shall decide the request upon a majority vote of the members.
2. The quasi-judicial hearing shall be conducted in accordance with the Procedures specified in Art. XIV, Part 2, beginning at Section 17-1450.
3. Action by the Town Council and notice of its decision shall be in accordance with the provisions of Section 17-1455, "Written Decisions)."
4. An appeal from the final decision of the Town Council shall be governed by the appeals provision in Amendment to and Modification of Permits (Section 17-619); or 17-1456, "Appeals of Quasi-Judicial Decisions."

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

1. "Reasonable." An accommodation will be determined to be reasonable if it would not undermine the legitimate purposes and effects of existing zoning regulations, and if it will not impose significant financial and administrative burdens upon the City and/or constitute a substantial or fundamental alteration of the City's UDO provisions; and
2. "Necessary." An accommodation will be determined to be necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap, and would afford handicapped or disabled persons' equal opportunity to enjoy and use housing in residential districts in the City.

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

E. Effect of Approval or Denial.

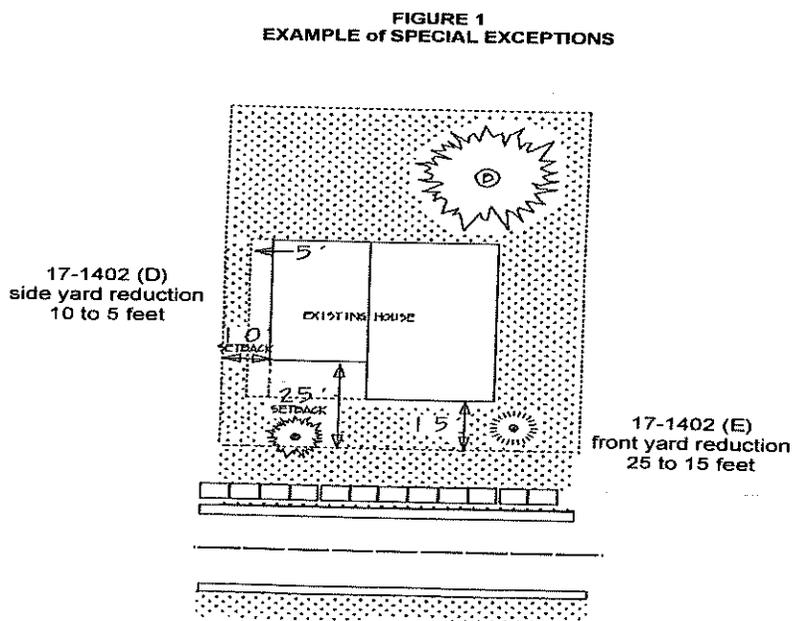
After the Town Council approves a reasonable accommodation, the applicant shall follow all applicable UDO procedures for the approval of any permits, certificates, or other approvals required in order to proceed with development or use of the property. All orders, decisions, determinations, and interpretations made by administrative officers under those procedures shall be consistent with the reasonable accommodation granted by the Council.

Sec. 17-1403. Special Exceptions.

- A. An application for a special exception permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator.
- B. All of the provisions of this article applicable to the processing of variance applications shall also apply to special exception permit requests, except the provisions of subsections 17-1401 C. and 17-1406 B. and C.
- C. The Board of Adjustment may issue a special exception permit for the purposes and under the circumstances set forth in the remaining subsections of this section if it concludes, in addition to any other findings required below, that issuance of the permit will not create a threat to the public health or safety.
- D. The Board of Adjustment may issue a special exception permit under this section to allow a reduction of up to fifty percent (50%) in the required distances that buildings must be set back from lot boundary lines under section 17-435, "Building Setback Requirements," provided that:
 - 1. The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts and where the building in question has existed for at least three (3) years prior to the application for the special exception permit;
 - 2. In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building separation requirement established by the North Carolina State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the North Carolina State Building Code; and
 - 3. Reductions may be allowed under this section only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

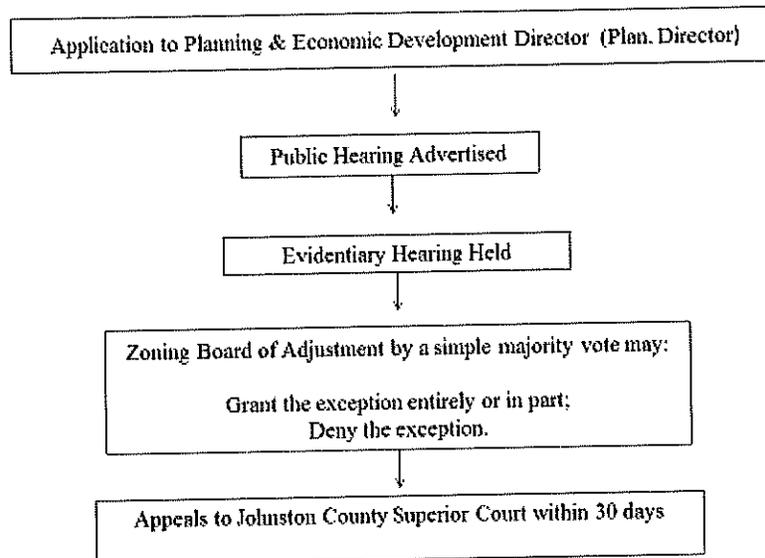
Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

- E. The Board of Adjustment may issue a special exception permit to authorize a structure to encroach upon a setback required under section 17-435, "Building Setback Requirements," if it finds that:
1. The proposed encroachment results from an addition to or an extension of an existing structure that already is nonconforming with respect to the requirements of section 17-435, "Building Setback Requirements"; and
 2. The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.
- F. See also Figure 1 for an example of a front yard and a side yard exception.



Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

FLOW CHART SPECIAL EXCEPTIONS



Sec. 17-1404. Interpretations.

- A. The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in section 17-1400, "Appeals."
- B. An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Town Clerk. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
- C. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - 1. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - 2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial boundary lines shall be construed as following such lines, limits or

- boundaries;
3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as following such shorelines;
 4. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Maps, the boundary shall be determined by measurement, using the scale of the Official Zoning Map; and
 5. Where any street or alley is hereafter officially closed or withdrawn, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added to the parcel by virtue of such closure or withdrawal.
- D. Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in Article X, "Flood Damage Prevention".

Sec. 17-1405. Requests to be Heard Expeditiously.

As provided in Art. VI, Section 17-621, "Applications to Be Processed Expeditiously," the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations or special exceptions as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with article VII of this chapter, and obtain the necessary information to make sound decisions.

Sec. 17-1406. Burden of Proof in Appeals and Variances.

- A. When an appeal is taken to the Board of Adjustment in accordance with section 17-1400, "Appeals," the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- B. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in subsection 17-1401 C. "Variances," as well as the burden of persuasion on those issues remains with the applicant seeking the variance.

Sec. 17-1407. Board Action on Appeals and Variances.

- A. With respect to appeals, interpretations and special exceptions, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify a staff decision on appeal is not made or fails to receive a simple majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by more than one-half of the Board's membership (excluding vacant seats).
- B. With respect to variances, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to grant a variance is not made or fails to receive the four-fifths vote necessary for adoption, then a motion to deny the variance shall be in order. This motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (excluding vacant seats).

A motion to deny a variance may be made on the basis that any one or more of the seven criteria set forth in section 17-1401, "Variances," are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.

1. Before granting a variance, the Board must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the four required findings stated in subsection 17-1401 C. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in subsection 17-1401 C. shall include a statement of the specific reasons or findings of fact supporting such motion.
2. A motion to deny a variance may be made on the basis that any one or more of the four criteria set forth in subsection 17-1401 C. are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (excluding vacant seats).

Sec. 17-1408. Fees for Appeals and Variance Requests.

A fee shall be paid to the town for each application for an appeal, special exception, interpretation or variance. The fee shall be adopted and periodically amended by the Town Council as needed to cover the administrative costs and advertising associated with the appeal or variance. A copy of the fee schedule shall be available for review in the office of the Town

Article XIV Appeals, Variances, Reasonable Accommodations, Special Exceptions and Interpretations

Clerk.

Sec. 17-1409 through 17-1449. Reserved.

PART 2. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Sec. 17-1450. Hearing Required on Appeals and Applications.

- A. Before making a decision on an appeal or an application for a special exception, special use permit, variance, or a petition from the planning staff to revoke a special use permit or a special use permit, the Town Council or Board of Adjustment, as the case may be, shall hold a hearing on the appeal or application.
- B. Subject to subsection C., the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- C. The Town Council or Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- D. The hearing Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six (6) weeks or more elapses between hearing dates.
- E. The official who made the decision appealed from (usually the Administrator) shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

Sec. 17-1451. Notice of Hearing.

The Administrator shall give notice of any hearing required by sections 17-1600 Town Council, 17-1614 "Powers and Duties of Planning Board", 17-1622 "Powers and Duties [of the Board of Adjustment]", 17-1631 "Powers and Duties [of the Appearance Commission]", 17-1642 "Powers and Duties [of the Historic Districts Commission]", 17-1400, "Appeals", 17-1401 "Variances", 17-1403 "Special Exceptions", 17-610 "Special Use Permits", and 17-1404 "Interpretations" as provided in section 17-1703 "Hearing Required, Notice [for Zoning Map or Text Amendments]".

Sec. 17-1452. Evidence.

- A. The provisions of this section apply to all hearings for which a notice is required by section 17-1451.
- B. All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.
- C. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (i.e. crucial findings) shall be based upon competent, material and substantial evidence.
- D. Competent evidence:
 - 1. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
 - 2. Competent evidence shall not include the opinion testimony of lay witnesses as to any of the following:
 - a) The use of property in a particular way would affect the value of other property;
 - b) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety; or
 - c) Matters about which only expert testimony would generally be admissible under the rules of evidence.

Sec. 17-1453. Modification of Application at Hearing.

- A. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Planning Board, Town Council or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- B. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Sec. 17-1454. Record.

- A. A tape or digital recording shall be made of all hearings required by section 17-1450, and such recordings shall be kept for at least two (2) years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
- B. A tape or digital recording shall be made of all hearings required by section 17-1450, and such recordings shall be kept for at least two (2) years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

Sec. 17-1455. Written Decision.

- A. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and conclusions of law and their application to the applicable standards.
- B. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

Sec. 17-1456. Appeals of Quasi-Judicial Decisions.

Every quasi-judicial decision shall be subject to review by the Johnston County Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with section 17-1407 "Board Action on Appeals and Variances". When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition

Sec. 17-1457 through 17-1499. Reserved.

ARTICLE XV. ENFORCEMENT AND REVIEW

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Sec. 17-1500. Complaints Regarding Violations.

Whenever the Administrator receives a written, signed complaint alleging a violation of this ordinance, he or she shall investigate the complaint, take whatever action is warranted.

Sec. 17-1501. Persons Liable.

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

Sec. 17-1502. Procedures Upon Discovery of Violations.

- A. If the Administrator finds that any provision of this chapter is being violated, he or she shall send a written notice to the owner or other person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.
- B. The final written notice (and the initial written notice may be the final notice) shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed to the Board of Adjustment in accordance with section 17-1400, "Appeals", except in the case of violations of Article X, Flood Damage Prevention, where the procedure outlined in the following subsection shall (C) also apply. In most cases the notice shall direct that the violation be corrected in fifteen (15) calendar days, unless a different period is warranted by facts or law. Nothing shall prevent the Administrator from ordering an immediate correction in cases of emergency or danger to life. Nothing in this paragraph shall prevent the Administrator from ordering a correction of temporary recurring violations by other reasonable deadlines.
- C. Actions in Event of Failure to Take Corrective Action for Violations of Art X only. The notice required in sub-section (B) above shall be sent by certified or registered mail to the owner's last known address or by personal service. The Administrator shall include in the written notice the following statements
 1. The building or property is in violation of Art X, Flood Damage Prevention; and
 2. A hearing will be held before the Administrator or designee at a stated time and place, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

3. That following the hearing the Administrator may issue an order to alter, vacate or demolish the building or to remove fill as applicable.
- D. If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of the Art. X, Flood Damage Prevention she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible. In addition, the Administrator may issue any penalty of fine authorized by Sections 17-1503 and/or 17-1504.
- E. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in section 17-1504.
- F. The Administrator shall issue stop work orders in accordance with section 17-1503.

Sec. 17-1503. Stop Work Orders.

- A. Whenever the Administrator determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this chapter and that injury to public health and safety will occur if the violation is not terminated immediately, the Administrator may order the specific part of the work that constitutes, creates, or results in a violation of this chapter to be immediately stopped.
- B. A stop work order issued under this section shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. A copy of the stop work order shall also be sent forthwith to the owner of the property where the work is taking place and the developer, if different from the owner.
- C. Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment pursuant to section 17-1400, "Appeals." However, notwithstanding subsection 17-1400(D), stop work orders shall remain in effect during an appeal, except as provided in subsection D. of this section.
- D. The Board of Adjustment shall meet and act upon the appeal within fifteen (15) working days after receipt of the appeal notice. If the Board fails to comply with this requirement, the stop work order shall be stayed automatically beginning on the day following the expiration of this fifteen (15) working-day period, and the stay shall remain in effect until the Board of Adjustment meets and acts on the appeal.

- E. The notice of hearing requirements set forth in section 17-1451 shall not apply to appeals of stop work orders. However, the staff shall orally notify the appellant of the date, time, and place of the hearing as soon as it has been scheduled and shall send to the appellant a written confirmation of this notice as soon as possible.
- F. Neither the person upon whom a stop work order is served nor an owner or developer served with a copy under subsection B. may thereafter cause, suffer, or permit a violation of the order while it remains in effect, except during a period in which the operation of the order is stayed under subsection D.

Sec. 17-1504. Penalties and Remedies for Violations.

- A. Violations of the provisions of this Chapter 17 or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances, special use permits, or conditional zoning districts and violations of stop work orders, shall constitute a misdemeanor, punishable as provided in N.C.G.S. 14-4.
- B. Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the issuance of variances, special use permits, or conditional zoning districts, shall also subject the offender to a civil penalty of up to Three Hundred dollars (\$300.00) per violation per day.
- C. The Administrator, code enforcement officer or any designee of the Administrator may issue civil penalties of violations of this Chapter as follows:
 - 1. First offense: One Hundred (\$100.00) dollars.
 - 2. Second offense: Two Hundred (\$200.00) dollars.
 - 3. Third offense: Three Hundred (\$300.00) dollars.
 - 4. The Town may seek reimbursement of the costs to remedy a violation, including the costs of abating nuisances. The minimum cost for reimbursement is Twenty-Five (\$25.00) dollars. Twenty-five dollars is the minimum administrative cost to remedy a violation. Additional costs will be based on the actual charges as documented by the Administrator of Administrator's designee.
- D. In the event of serious violations of this Chapter, the Administrator may assess the maximum penalty of \$300.00 at the first or second offense. In determining the amount of the civil penalty assessment, the Administrator shall consider the following factors, and the decision levying a civil penalty shall cite those factors deemed applicable:
 - 1. Whether the violation poses or could pose a threat to the public health or to private property;

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2. The duration and gravity of the violation;
 3. The cost of rectifying the damage;
 4. The amount of money saved by noncompliance;
 5. Whether the violation was committed willfully or intentionally, negligently, or as the result of an unforeseeable or unavoidable accident;
 6. Whether the violator promptly ceased the violation upon notice by the Town and took whatever steps were reasonably possible to limit or correct any damage caused by the violation;
 7. The prior record of the violator in complying or failing to comply with the provisions of this chapter or any of its requirements, including violations of any conditions and safeguards established in connection with the issuance of variances, special use permits, or conditional zoning districts;
 8. The cost to the Town of the enforcement procedures;
 9. The scope and the scale of the project where the violation occurs; and
 10. Whether the civil penalty is levied for a single day's violation or a single event or whether it is levied daily for a continuing violation, as authorized under subsection 17-1504 F. Civil penalties levied daily may cumulatively exceed the \$300.00 cap set forth in this subsection;
- E. A notice of civil penalty shall inform the violator that the penalty is due upon receipt of the notification and, if applicable, that successive civil penalties of a specified amount shall accrue each day that the violation continues. The notice shall also inform the violator that if the civil penalty is not paid within ten (10) days of receipt of the notice, the penalty may be recovered by the Town in a civil action in the nature of debt.
- F. Appeals.
1. A civil penalty may be appealed to the Board of Adjustment in accordance with section 17-1400, except that such appeal must be filed within ten (10) days after receipt by the violator of the notice of civil penalty.
 2. An appeal stays further efforts to collect a civil penalty but does not stay the accrual of daily civil penalties.

3. If a civil penalty is levied for a violation about which the violator was previously sent a final notice of violation in accordance with section 17-1502, and the violator did not appeal to the Board of Adjustment within the prescribed time the Administrator's determination as to the existence of the violation, an appeal of the civil penalty under this subsection presents only the issue of whether the Administrator erred in setting the amount of the civil penalty, not the issue of whether the violation occurred or the violator's responsibility for the violation.
- G. This chapter may also be enforced by any appropriate equitable action, including but not limited to injunction and orders of abatement.
- H. Each day's continuing violation shall be a separate and distinct offense.
- I. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

Sec. 17-1505. Permit Revocation and Denial.

- A. A zoning, sign, or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.
- B. Before a special use permit may be revoked, all the notice and hearing and other requirements of articles VI and XIV of this chapter shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- C. The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection A. shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
- D. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or finding of fact that support the motion.
- E. Except in cases of emergency or immediate danger to life and property, before a zoning or sign permit may be revoked, the Administrator shall give the permit recipient ten (10) days' notice of intent to revoke the permit. The Administrator shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

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- F. No person may continue to make use of land or buildings in the manner authorized by any zoning, sign or special use permit after such permit has been revoked in accordance with this section.
- G. Zoning permits required pursuant to G.S. § 160A-417 may be denied for lots that have been illegally subdivided. No Zoning permit may be denied, however, if the permit applicant can show that he or she purchased the lot in good faith (i.e. he or she did not know and had no reasonable way of knowing that the lot was illegally subdivided) and for value.

Sec. 17-1506. Judicial Review.

- A. Every decision of the Town Council granting or denying a special use permit and every final decision of the Board of Adjustment or Historic Properties Commission shall be subject to review by the Superior Court of Johnston County by proceedings in the nature of certiorari.
- B. The petition for the writ of certiorari must be filed with the Johnston County Clerk of Court within thirty (30) days after the later of the following occurrences:
 - 1. A written copy of the Council's or other decision-making bodies (see section 17-1455, "Written Decision") has been filed with the Town Clerk; or
 - 2. A written copy of the Council's or Board's decision (see section 17-1455) has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
- C. A copy of the writ of certiorari shall be served upon the Town of Selma.

Sec. 17-1507 through Sec. 17-1599. Reserved.

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PART 1. TOWN COUNCIL

Sec. 17-1600. Town Council

- A. Responsibilities of the Town Council. The Town Council shall have the following responsibilities in relation to the administration of this chapter:
1. Hear and decide applications for amendments to the text and zoning atlas map portions of this chapter;
 2. Hear and decide applications for conditional use zoning districts and special use permits;
 3. Establish rules and procedures for the conduct of hearings and other procedures before the Town Council;
 4. Make the necessary appointments to the Planning Board and Board of Adjustment; Appearance Commission and other boards and commissions; and
 5. Provide by appropriation funds for the administration of this chapter.
- B. In considering proposed amendments to the text of this chapter or to the zoning atlas, the Town Council acts in its legislative capacity and shall observe the procedural requirements set forth in Article XVII of this chapter.
- C. In considering special use permit and conditional zoning district applications, the Town Council acts in a quasi-judicial capacity and, accordingly, shall observe the procedural requirements set forth in Articles XIV of this chapter and shall also follow the rules of the Board of Adjustment set out in section 17-D. below.
- D. Unless otherwise specifically provided for in this chapter, the Town Council, in acting upon a conditional use zoning district, special use permit application or in considering amendments to this chapter or the zoning atlas, shall observe the quorum and other requirements set forth in the code of ordinances and Town Councils administrative policy.
- E. A failure to vote on a development permit found in this Chapter by a member of Town Council who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall not be recorded as an affirmative vote. ¹

¹ N.C. Gen. Stat. 160A-75, effective 8/1/2015

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Sec. 17-1601 through 17-1609. Reserved

PART 2. PLANNING BOARD.

Sec. 17-1610. Appointment and Terms of Planning Board Members.

- A. There shall be a Planning Board consisting of seven (7) members, and two (2) alternate members may also be appointed to the Board. Four (4) full members appointed by the Town Council shall reside within the town. Three members appointed by the Johnston County Board of Commissioners, shall reside in the town's extraterritorial jurisdiction. Two (2) alternates may be appointed by the Town Council. If either of the alternate positions is to be filled by a resident in the extraterritorial jurisdiction, the Johnston County Board of Commissioners must also approve the appointment. If, despite good faith efforts, enough residents of the extraterritorial jurisdiction cannot be found to fill the seats reserved for residents of that area, then the Johnston County Board of Commissioners may appoint other residents of the county (including residents of the Town) to fill these seats. If the Johnston County Board of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.
- B. Board members shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies shall be filled for the unexpired terms only.
- C. The alternates may sit in lieu of either in-town or out-of-town members. All members (including alternate members when sitting in lieu of a regular member) may participate in and vote on all issues before the Board regardless of whether the issue affects property within the Town or within the extraterritorial jurisdiction.
- D. Faithful attendance at the meetings of the Board is considered a prerequisite for maintenance of membership on the Board. No member may serve more than three (3) consecutive terms or a total of ten (10) years on the Planning Board. A former member may serve for another three (3) terms or a total of ten (10) years after a two (2) year consecutive waiting period. During the waiting period, the citizen may serve on another board, commission, committee or authority.

Sec. 17-1611. Meetings of the Planning Board.

- A. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with section 17-1405, "Applications to be Processed Expeditiously."
- B. When the Board acts solely in its advisory capacity (for example, when it considers rezoning applications), it need not conduct its meetings (or portions of meetings) strictly

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in accordance with the quasi-judicial procedures set forth in articles XIV and VI, Part 1 of this chapter. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

- C. When the Planning Board considers recommendations on special use permits, it acts in a legislative capacity and, accordingly, is not required to observe the procedural requirements set forth in articles VI and XIV of this chapter. When the Planning Board presents recommendations to the Town Council on quasi-judicial matters, such as special use permits, the presenters shall present sworn testimony and observe all of the requirements of a quasi-judicial proceeding.
- D. Minutes shall be kept of all Board proceedings.
- E. All Board meetings shall be open to the public, and whenever feasible the agenda for each Board meeting shall be made available in advance of the meeting.
- F. Whenever the Board is called upon to make recommendations concerning a conditional zoning request, notice shall be given in accordance with section 17-1703. Whenever the Board is called upon to consider a special use permit request, notice shall be given in accordance with section 17-1451.

Sec. 17-1612. Quorum and Voting.

- A. A quorum for the Planning Board shall consist of a majority of the board membership, excluding vacant seats. A quorum is necessary for the board to take official action.
- B. All actions of the Planning Board shall be taken by majority vote, a quorum being present.
- C. A roll call vote shall be taken upon the request of any member.
- D. Extraterritorial planning area members may vote on all matters considered by the board, regardless of whether the property affected lies within or without the Town.

Sec. 17-1613. Planning Board Officers.

- A. No later than its first meeting on August of each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as Chairman and preside over the board's meetings and one member to serve as Vice-Chairman. The people so designated shall serve in these capacities for terms of one year, unless their terms of appointment to the board expire sooner. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

- B. Chairman and Vice-Chairman shall take part in all deliberations and vote on all issues.

Sec. 17-1614. Powers and Duties of Planning Board.

- A. The Planning Board may:

1. **Studies.** The Planning Board may make careful studies of present conditions and probable future development of the town and its environs. Such studies may include but are not limited to land use surveys; population studies; economics base studies; schools, park and recreation studies; traffic and parking studies; pedestrian studies and master planning; and urban renewal studies;
2. **Plans.** At the direction the Town Council, the Board may formulate and maintain a comprehensive plan of the town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the municipality which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of its citizens; efficiency and economy in the process of development; convenience of traffic; safe and connected pedestrian access; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditure of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but are not limited to the following: a land use plan, a major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, and a community facilities plan;
3. **Develop and recommend to the Town Council policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;**
4. **Make recommendations to the Town Council concerning proposed conditional use rezoning, text amendments and proposed zoning map changes, as provided by sections 17-610, " Special Use Permit", and 17-1702, "Planning Board Consideration of Proposed Amendments";**
5. **Powers of Review.** The Board shall review and make recommendations to the Town Council upon the extent, location and design of all public structures and facilities; on the acquisition and disposal of public properties; on the opening, abandonment, widening, extension, narrowing or other change to streets and other public ways; on the construction, extension, expansion or abandonment of utilities whether publicly or privately owned. However, in the absence of a recommendation from the Board after the expiration of thirty (30) days from the date on which the question has been

submitted in writing to the Board, the Town Council may, if it deems wise, take final action;

6. Perform any other duties assigned by the Town Council.
- B. The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

Sec. 17-1615. Advisory Committees.

- A. From time to time, the Town Council may appoint one or more individuals to help the Planning Board carry out its planning responsibilities with respect to a particular subject area. By way of illustration, and without limitation, the Town Council may appoint advisory committees to consider a thoroughfare plan, pedestrian master plans, bikeway plans, housing plans, economic development plans, etc.
- B. Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. All formal recommendations to the Town Council, however, shall be made by the Planning Board.
- C. Nothing in this section shall prevent the Town Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue(s) directly to the Town Council.
- D. If an advisory committee provides direct advice to the Town Council (i.e. it does not report to the Planning Board), a member of that board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member.

Sec. 17-1616 through 17-1619. Reserved.

PART 3. BOARD OF ADJUSTMENT.

Sec. 17-1620. Board of Adjustment.

The powers and duties of the Board of Adjustment shall be exercised by the Planning Board. When the Planning Board acts in its capacity as the Board of Adjustment, it shall be bound by and shall follow the requirements of this part.

Sec. 17-1621. Composition.

- A. The Board of Adjustment shall consist of the seven members and two alternate members of the Planning Board.
- B. Tenure. Members of the Board of Adjustment shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.
- C. The Board of Adjustment shall elect one (1) member to serve as chair of the board and preside over its meetings and may create and fill such offices and committees as it may deem necessary. The term of the chair and other offices shall be for one (1) year, with eligibility for reelection to a second term. The chairman or any member temporarily acting as chairman is authorized to subpoena witnesses and to administer oaths to any witnesses in any matter coming before the board.
- D. Faithful attendance at the meetings of the Board is considered a prerequisite for maintenance of membership on the Board. No member may serve more than three (3) consecutive terms or a total of ten (10) years on the Board. A former member may serve for another three (3) terms or a total of ten (10) years after a two (2) year consecutive waiting period. During the waiting period, the citizen may serve on another board, commission, committee or authority.

Sec. 17-1622. Powers and Duties.

When sitting as the Board of Adjustment, the Board shall have the following powers and duties:

- A. Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrative officer in the carrying out or enforcement of any provision of this chapter. The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in

the premises. To this end, the Board shall have all the powers of the officer from whom the appeal is taken. An appeal to the Board of Adjustment shall be conducted in accordance with the provisions of Art. XIV, Part 1, section 17-1400.

- B. Variances. To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. Requests for variances shall be processed and considered in accordance with the provisions of Art. XIV, Part 1, section 17-1401, "Variances."
- C. Interpretations. The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions in accordance with section Art. XIV, Part 1, section 17-1404, "Interpretations."
- D. Special Exceptions. The Board of Adjustment is authorized upon appeal in specific cases special exceptions from the terms of this chapter as will not be contrary to the public interest in accordance with section Art. XIV, Part 1, section 17-1403, "Special Exceptions."
- E. Voting. The concurring vote of four-fifths of the members of the Board shall be necessary to grant a variance from the provisions of this chapter. The majority vote of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance. For the purposes of this subsection, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite supermajority. A failure to vote by a member who is physically present at the Board meeting and who has not been recused or excused from the voting shall be recorded as an affirmative vote.
- F. Conflicts of interest. A member of the Board 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. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. Impermissible violations of due process include, but are not limited to:
 - 1. When the member has a direct financial interest in the outcome of the matter at issue; or
 - 2. When the matter at issue involves the member's own official conduct; or

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3. When participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or
 4. When a member has such close familial, business or other ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest, or
 5. When a member has a fixed opinion prior to hearing the matter that is not susceptible to change, or
 6. When a member has undisclosed ex parte communications. ("Ex parte communication" means a communication with only one party or side in a disputed case.)
- G. Oaths. The Chairman or any member temporarily acting as Chairman is authorized in his or her official capacity to administer oaths to witnesses in any matter coming before the Board.
- H. Subpoenaing witnesses.
1. The Chair may subpoena witnesses: The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. (See section 17-1400 Appeals).
 2. Other parties may request a subpoena: To request issuance of a subpoena, persons with standing under section 17-1400 "Appeals" (F) "Other Persons with Standing to Appeal", may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled.

Sec. 17-1623 through 17-1629. Reserved.

PART 4. APPEARANCE COMMISSION

Sec. 17-1630. Composition.

- A. An Appearance Commission is hereby established consisting of nine (9) members; six (6) members who are residents of the town and are appointed by the Town Council, and three (3) members who reside within the town's planning jurisdiction, and shall be appointed by the Johnston County Board of Commissioners. The commission may invite individuals who have demonstrated special training or experience in a design field, such as architecture, landscape design, horticulture, city planning or a closely related field to join the commission in their discussions and duties.
- B. Tenure. Members of the Appearance Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the un-expired term only. Faithful attendance at the meetings of the Commission is considered a prerequisite for maintenance of membership on the Commission. No member may serve more than three (3) consecutive terms or a total of ten (10) years on the Commission. A former member may serve for another three (3) terms or a total of ten (10) years after a two (2) year consecutive waiting period. During the waiting period, the citizen may serve on another board, commission, committee or authority.
- C. Officers. The Appearance Commission shall elect one (1) member to serve as chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the chairman and other offices shall be one (1) year, with eligibility for reelection to a second term. Elections shall be held in August of each year.
- D. Meetings. The commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require. All meetings of the board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accordance with G.S. Section 160A-361 et seq. The board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations and actions.
- E. Attendance at meetings. Any member of the Appearance Commission who misses more than three (3) consecutive meetings, or more than half the regular meetings in a calendar year, shall constitute grounds for the loss of status as a member of the commission, and may be replaced by the town or county board of commissioners as appropriate. Absence due to a sickness, death, or other emergency of like nature shall be recognized as an excused absence, and shall not affect the member's status on the commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

- F. Quorum and voting. A quorum of the commission, necessary to take any official action, shall consist of five (5) members. The concurring vote of a simple majority of those members' present shall be necessary to take any official action.

Sec. 17-1631. Powers and Duties.

The commission, at the direction of the Town Council, is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in G.S. Chapter 160A, Article 19, Part 7, Sec. 160A-452, including, but not limited to:

- A. To initiate, promote, and assist in the implementation of programs of general community beautification in the Selma community;
- B. To review and make recommendations on the appropriateness of improvements to public facilities, including buildings, landscapes, and signs;
- C. To provide leadership and guidance in matters of community design and appearance to individuals and public and private agencies and organizations, and to develop programs to recognize those individuals and organizations making improvements to community appearance;
- D. To serve as a participating member of federal, state, and local organizations whose programs bear on community appearance;
- E. To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including private as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, public and private buildings and projects; and
- F. To formulate and recommend to the Planning Board and Town Council the adoption or amendment of any ordinance that may affect the appearance of the community.

Sec. 17-1632. Meetings.

The commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require. All meetings of the board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accordance with G.S. Section 160A-361 et seq. The board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations and actions.

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- A. Attendance at meetings. Any member of the Appearance Commission who misses more than three (3) consecutive meetings, or more than half the regular meetings in a calendar year, shall constitute grounds for the loss of status as a member of the commission, and may be replaced by the town or county board of commissioners as appropriate. Absence due to a sickness, death, or other emergency of like nature shall be recognized as an excused absence, and shall not affect the member's status on the commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- B. Quorum and voting. A quorum of the commission, necessary to take any official action, shall consist of five (5) members. The concurring vote of a simple majority of those members' present shall be necessary to take any official action.

Sec. 17-1633 through 17-1639. Reserved.

PART 5. HISTORIC PROPERTIES COMMISSION

Sec. 17-1640. The Historic Properties Commission.

There is hereby established a Selma Historic Properties Commission (the "Commission") under the authority of G.S. Chapt. 160A, Art. 19, Part 3C.

Sec. 17-1641. Composition.

- A. The Commission shall consist of nine (9) members appointed by the Town Council. All members shall reside within the corporate limits or extraterritorial jurisdiction of the Town of Selma. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The Town Council shall use its best efforts to appoint qualified members to the commission. However, if it is not able to get qualified members to serve who reside in the Historic District, it may appoint others who reside within the corporate limits or extraterritorial jurisdiction of the Town of Selma. The Commission may appoint advisory bodies and committees as appropriate.
- B. Members of the Commission shall serve terms of three (3) years. Terms shall be staggered. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Faithful attendance at the meetings of the Commission is considered a prerequisite for maintenance of membership on the Commission. No member may serve more than three (3) consecutive terms or a total of ten (10) years on the Commission. A former member may serve for another three (3) terms or a total of ten (10) years after a two (2) year consecutive waiting period. During the waiting period, the citizen may serve on another board, commission, committee or authority.

Sec. 17-1642. Powers and Duties.

The powers of the Historic Properties Commission are as follows:

- A. Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance;
- B. Recommend to the Town Council areas to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks";

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- C. Recommend to the Town Council that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause;
- D. Review and act upon proposal for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks;
- E. Conduct an educational program with respect to historic districts and landmarks within its jurisdiction;
- F. Cooperate with the state, federal and local government in pursuance of the purposes of this ordinance, to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the Commission when authorized by the Town Council, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;
- G. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof;
- H. Prepare and recommend the official adoption of a preservation element as part of the Town of Selma comprehensive plan(s);
- I. Make recommendations to the Town Council that the Town acquire by any lawful means fee simple or any lesser interest, including options to purchase properties within established districts or any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
- J. With the permission of the Town Council, restore, preserve and operate historic properties; and
- K. With the permission of the Town Council, negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonably necessary or appropriate.

Sec. 17-1643. Rules of Procedure.

Prior to any official action, the Commission shall adopt rules of procedure and bylaws governing its meetings and the conduct of official business and bylaws governing the

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appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall also prepare, adopt and amend as needed principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts. Said guidelines are not considered a part of the Unified Development Ordinance, and as such, do not require Planning Board review or the Town Council's approval before being adopted or amended.

Sec. 17-1644. Meetings, Notice.

All meetings or hearings of the commission shall be open to the public, in accordance with the North Carolina open meetings law, G.S. Chapter 143, Article 33C (Section 143-318.9 et seq.), and reasonable notice of the time and place thereof shall be given to the public.

Sec. 17-1645 through 17-1649. Reserved.

PART 6. STAFF.

Sec. 17-1650. Land Use Administrator.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned by the Town Manager to one or more individuals, and this individual or individuals shall be referred to herein as the "Land Use Administrator" or "Administrator." The terms "staff," "Planning Director" and "Director of Planning & Economic Development" are sometimes used interchangeably with the term "Administrator." Should the Town Manager not otherwise assign such responsibilities, the Director of Planning and Economic Development, and those to whom he or she has delegated responsibility, shall have the primary responsibility for administering and enforcing this chapter.

Sec. 17-1651. Planning and Economic Development Director.

The Director of Planning and Economic Development is the administrative head of the Planning Department.

Sec. 17-1652. Technical Review Committee.

A committee composed of representatives of various Town departments shall meet periodically to review site plans, development plans and other development-related documents for compliance with the Unified Development Ordinance, the Design Manual, the Standard Engineering Specifications and Details, and the N.C. Administrative Code. The Chair of the Committee is the Director of Planning and Development. The Town Manager may appoint members of the Committee including representatives of the police, fire and public works departments. The Town Manager or Planning Director may invite representatives from other organizations, such as the Johnston County Building Inspections Department.

Sec. 17-1653 through 17-1699. Reserved.

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PART 1. GENERAL USE DISTRICT REZONING AND TEXT AMENDMENTS.

Sec. 17-1700. Amendments in General; Non-Substantive Errors.

- A. Amendments. Amendments to the text of this chapter (i.e. Selma Municipal Code Chapt. 17, "Unified Development Ordinance") or to the Zoning Map may be made in accordance with the provisions of this part, or in the case of non-substantive editorial changes, may be made administratively by the Administrator, as described in subsection B.
- B. Non-Substantive Errors. The Administrator may correct typographical errors, numerical reference errors, spelling errors and errors in section or page numbering and may make other non-substantive editorial changes to the text of this ordinance without formal adoption by the Town Council, provided the changes necessary to correct such errors do not change the meaning of the ordinance. Any correction made pursuant to this section must be documented to the Town Council and made a part of the Town Council's regular meeting minutes.

Sec. 17-1701. Initiation of Amendments

- A. A request to amend this chapter may be initiated by:
 - 1. The Town Council on its own motion;
 - 2. The Planning Board, Board of Adjustment, Historic Properties Commission, Appearance Commission or Town Manager on the submittal of a request to the Town Council;
 - 3. Any other person on submittal of an application to the Planning Director. The application, among the information deemed relevant by the Planning Department:
 - (a) The name, address and phone number of the applicant;
 - (b) A description of the land affected by the amendment if a change in zoning district classification is proposed;
 - (c) A description of the proposed map changes or a summary of the specific objective(s) of any proposed change in the text of this chapter; and
 - (e) A concise statement of the reasons why the petitioner believes the proposed map or text amendment would be in the public interest and how the request is consistent with the Future Land Use Plan. If the request is not consistent with

the Future Land Use Plan, a statement explaining why the Plan should be amended; and

- (f) Any other information deemed relevant by the Planning Department and the fee set by the Town Council.
- B. Upon receipt of an application as provided in subsection A. above, the Planning staff shall prepare an amendment to the text (if one is requested) and a written report on the effects of the proposed text or map amendment to the Planning Board; unless the application:
- 1. Is from a private person under sub-section A.3. above; and
 - 2. The Planning Director believes the proposed text amendment does not have significant merit and would not benefit the general public interest; and/or
 - 3. The application requires the expenditure of significant staff time and resources or an amendment to the Planning Department's budget in order to analyze and prepare an amendment or report. In this case the Planning Director will forward the application to the Town Council with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection C. below.
- C. Upon initiation of a proposed ordinance as provided in subsection A.1. above, the Town Council may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection A. 2. or B. above, the Council may summarily deny the petition, or set a date for a public hearing on the requested amendment and order the attorney or the Planning staff to draft an appropriate ordinance and submit it to the Planning Board.

Sec. 17-1702. Planning Board Consideration of Proposed Amendments.

- A. If the Town Council sets a date for a public hearing on a proposed amendment as provided in section 17-1701, it shall also refer the proposed amendment to the Planning Board for its consideration.
- B. If the Planning Director receives an application directly as provided in Section 17-1701 A.3., the Planning Director shall refer the proposed amendment to the Planning Board and request that a public hearing date be set.
- C. The Planning Board shall endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Town Council at the public hearing on the amendment. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the Town Council to

delay final action on the amendment until such time as the Planning Board can present its recommendations.

- D. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Future Land Use Plan, any comprehensive plan that has been adopted by the town and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.
- E. If no written report is received from the Planning Board within thirty (30) days of referral of the amendment to that board, the Town Council may proceed in its consideration of the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.
- F. A member of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member or his or her immediate family.

Sec. 17-1703. Hearing Required; Notice.

- A. The Town Council has the discretion to decline to take any legislative action including holding a public hearing. However, no ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance. The City Council delegates setting the public hearing to the Town Manager or his designee for all applications received directly by the Planning Director under section 17-1701 B. 3.
- B. The Planning staff shall publish a notice of the public hearing on any ordinance that amends the text of this chapter or the zoning map(s) once a week for two (2) successive weeks in a newspaper having general circulation in the Selma area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. This period is to be computed in accordance with G.S. § 160A-364 and section 17-110, which provide that the date of publication is not counted but the date of the hearing is.
- C. With respect to all map amendments, the Planning staff shall mail, by certified mail, written notice of the public hearing to the record owners of all properties whose zoning classification would be changed by the proposed amendment as well as the owners of all parcels of land abutting the property rezoned by the amendment. For purposes of this section, the term "owners" shall mean the persons shown as owners in the

Johnston County tax records. This notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The staff member mailing such notices shall certify to the Town Council that the notices have been mailed, and such certification shall be deemed conclusive in the absence of fraud.

- D. With respect to all map amendments, the Planning staff shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Planning staff shall post sufficient notices to provide reasonable notice to interested persons.
- E. The planning staff may take any other action deemed by the Planning Director to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- F. The notice required or authorized by this section shall:
 - 1. State the date, time and place of the public hearing;
 - 2. Summarize the nature and character of the proposed change;
 - 3. If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 - 4. State that the full text of the amendment can be obtained from the Planning staff; and
 - 5. State that substantial changes in the proposed amendment may be made following the public hearing.
- G. The Planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Town Councils' intention that no failure to comply with any of the notice provisions, except those set forth in subsection 17-1703,B.,above, shall render any amendment invalid.
- H. Alternative Notice for Zoning Map Change if More Than Fifty (50) Property Owners Affected.

The certified mail notice required under subsection C. of this section shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners and the town elects to use the expanded published notice provided for in this subsection. In this instance, the town may elect to either make the mailed notice provided for in subsection C. of this section or may as an alternative elect to

publish notice of the hearing as required by G.S. § 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Johnston County land records system listing for the affected property, shall be notified by certified mail according to the provisions of subsection C. of this section. The person or persons mailing the notices shall certify to the Town Council that fact, and such certification shall be deemed conclusive in the absence of fraud.

- I. Fee. A fee shall be paid to the town for each application for an amendment. The fee shall be adopted and periodically amended by the Town Council as needed to cover the costs of advertising and other administrative expenses. A copy of the fee schedule shall be posted in the office of the Planning Department. If the Town Council, Planning Board, Board of Adjustment, Historic Properties Commission, Appearance Commission or town Administration initiate a change, they are exempt from this fee.
- J. Zoning Amendments Initiated by Someone Other than the Town or the Property Owner.
 - 1. Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the staff that the owner of the parcel of land as shown on the Johnston County tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The Planning staff shall present the certification to the Town Council at the public hearing.
 - 2. Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection J.,(1) of this section shall be by any manner permitted under G.S. § 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. § 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the town or the owner of the parcel of land to which the amendment would apply.

Sec. 17-1704. Town Council Action on Amendments.

- A. At the conclusion of the public hearing on a proposed amendment, the Town Council may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
- B. Prior to adopting or rejecting any zoning map or text amendment, the Council shall adopt a statement describing whether its action is consistent with any officially adopted

comprehensive plan and any other officially adopted applicable plan and explaining why the Council considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.

- C. A Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Sec. 17-1705. Ultimate Issue Before the Council on Amendments.

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and be excluded. In particular, when considering proposed general district rezonings:

- A. The Council shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification; and
- B. The Council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

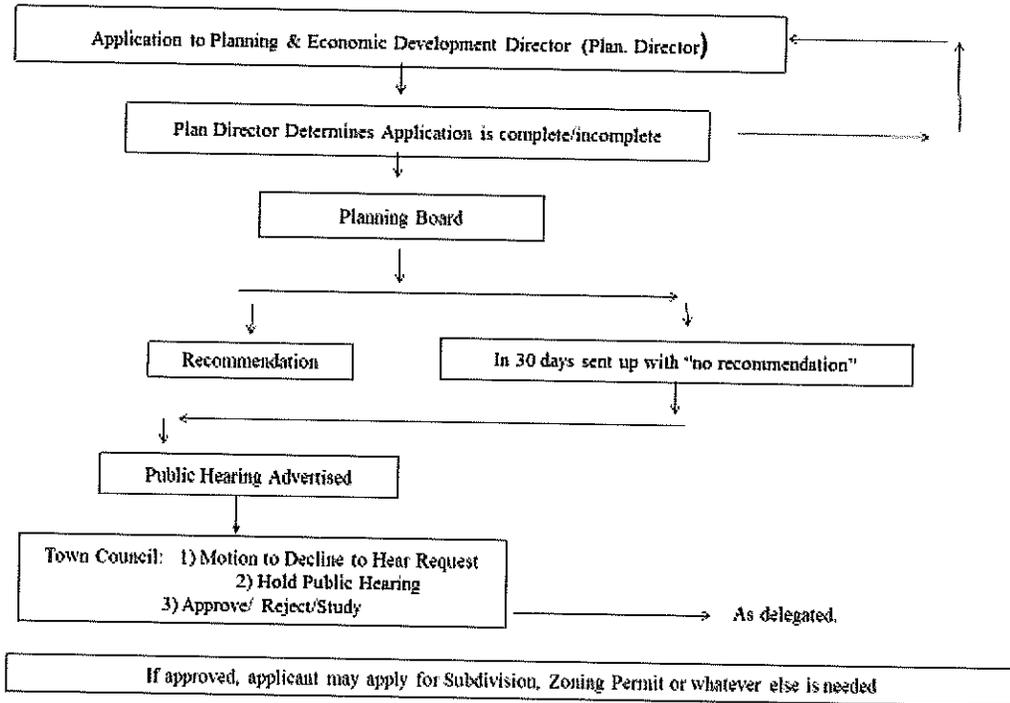
Sec. 17-1706. Reconsideration of Zoning Map Amendments.

Whenever the Town Council holds a public hearing on an application for a zoning map amendment initiated by a party other than the town itself (i.e. the Town Council, the Planning Board, Board of Adjustment or Town Administration), and on the day of or after the public hearing either the applicant withdraws the application or the Town Council approves or denies the rezoning, then the town will not accept an application for a zoning map amendment affecting the same property or any portion thereof submitted by any party other than the town itself within one (1) year from the date such application was withdrawn, approved or denied.

Sec. 17-1707. Public Comments.

Written statements received from the public by the Town Clerk prior to a public hearing for a text or map amendment shall be provided to the Town Council. If the amendment combines a legislative rezoning with any other quasi-judicial matter such as a conditional use district rezoning or special use permit, only the names and addresses of the commenters and not the substance may be provided to the board prior to the hearing.

FLOW CHART ZONING MAP OR TEXT AMENDMENT



Sec. 17-1708 through 17-1749. Reserved

PART 2. CONDITIONAL ZONING DISTRICT REZONING.

Sec. 17-1750. Plans and Other Information to Accompany Petition.

- A. Property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan that complies with the requirements of appendix A and a master plan that specifies any proposed rules, regulations, and conditions and any proposed ordinances that will govern the development and use of the property in conjunction with the requirements of this Unified Development Ordinance and/or in lieu of specified portions of this Unified Development Ordinance.
- B. The Town Council may require more information to be submitted according to the needs of a particular application, but the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in appendix A should be submitted.
- C. In the course of evaluating the proposed use, the Administrator, Planning Board or the Town Council may request additional information from the petitioner. This information may include the following:
 - 1. Proposed number and general location of all structures;
 - 2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - 3. Existing and approximate proposed topography, if available, at ten (10) -foot contour intervals or less;
 - 4. Scale of buildings relative to abutting property;
 - 5. Height of structures;
 - 6. Exterior features of proposed development;
 - 7. Proposed number and location of signs; and
 - 8. Any other information needed to demonstrate compliance with this chapter.
- D. The site plan and any supporting text shall constitute part of the petition for all purposes under this part.

- E. The Administrator or his or her designee may require the petitioner to submit more than one copy of the petition and site plan in order to have enough copies available to circulate to other town departments or other government agencies for review and comment.

Sec. 17-1751. Approval of Conditional Zoning District.

- A. Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.
- B. In considering any petition for a conditional zoning district, sections 17-1700 "Amendments in General; Non-Substantive Errors" and 17-1702 through 17-1706 shall apply. Section 17-1707 "Public Comments" shall apply to conditional zoning district petitions to the extent permitted by G.S. § 160A-385.

Sec. 17-1752. Conditions on Approval of Petition.

- A. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Town Council may request that reasonable and appropriate conditions be attached to approval of the petition.
- B. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to town ordinances and all relevant officially adopted plans. Conditions and site-specific standards may also address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Town Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The Town Council may approve conditions that vary or impose higher standards than those that would ordinarily apply were the property at issue rezoned to something other than a conditional zoning district.
- C. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council. Only those conditions mutually approved by the Town Council and the petitioner may be incorporated into the petition.

Sec. 17-1753. Effect of Approval.

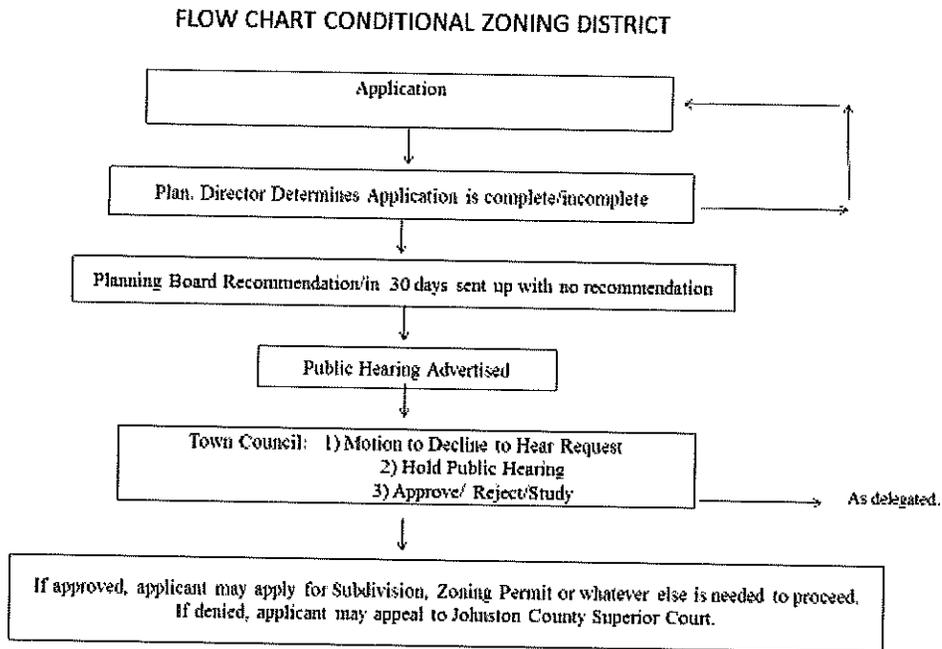
- A. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the town Zoning Map.
- B. If a petition is approved, the petitioner shall comply with all requirements of the Selma Town Code and General Statutes, including those for obtaining a zoning permit and a building permit and a certificate of occupancy or a certificate of compliance. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. The location of structures may be changed pursuant to section 17-1754 "Modification of Approval," provided that changes to the site plan layout will not increase the number of structures.
- C. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the town Zoning Map by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letter "C" (for example a General Commercial Conditional Zoning District would be designated as "GC-C").

Sec. 17-1754. Modification of Approval.

- A. Changes to an approved petition for conditional zoning or to the conditions attached to an approved petition for conditional zoning shall be treated the same as amendments to the text of this ordinance or to the official Zoning Map and shall be processed in accordance with the requirements of this article. Notwithstanding the foregoing, the Town Council may, as part of the conditions imposed on the conditional district, include the list of minor modifications in sub-section B. that may be approved by the Administrator or other appropriate town staff without further review by the Town Council.
- B. List of Minor Modifications:
 - 1. Changes to setbacks of less than 10%; or
 - 2. Increases in the number of parking spaces and vehicular use areas of no more than 10%. (Staff may not change any impervious surface ratio that changes a development from a low density to a high density development on any property in a Water Supply Watershed Overlay District.); or
 - 3. Changes to the amount or kind of landscaping, including the designated species; or

Article XVII - Amendments

4. Changes to the façade of buildings or structures (except in a designated Historical District.)



[Art. VI – Permits, Subdivision Plat Approval, Part 1. Certificates of Zoning Compliance and Special Use Permits, §17-609 thru §17-616 Special Use Permits

Sec. 17-1755 through 17-1799. Reserved.

APPENDIX A - Information Required With Applications

§ A-1. Information Required With Applications.

Prior to the issuance of a zoning compliance permit, special use permit, or a building permit for any use and prior to the approval of any conditional zoning district, the developer shall submit a site specific development plan for review by the Administrator and, where specified in the ordinance, by other Town Boards, including but not limited to the Planning Board and the Town Council.

The site plan may also be the “preliminary plat” for subdivision approvals if it contains all the information required for subdivision approval. Information required for subdivision plats begins on page 5.

All site plans and subdivision plats shall be drawn by a registered engineer, architect or surveyor and be sealed by the same and shall include the following information:

(A) Information Required for Both Site Plans and Subdivision Plats.

- (1) Site plans shall include a location map that shows the location of the project in the broad context of the town or planning jurisdiction.
- (2) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Large developments may require that plans show the development in sections. The objective may be accomplished by using different plans or plans drawn to different scales to illustrate different features. Also, an applicant may use a narrative or master plan to describe and define those site plan elements that cannot be readily depicted in a graphic format.
- (3) Development site plans shall show on the first page the following information:
 - (a) Name of applicant.
 - (b) Name of development (if any).
 - (c) North arrow.
 - (d) Legend.
 - (e) Scale.
- (4) Existing Natural, Man-Made and Legal Features.
 - (a) Tree line of wooded areas.
 - (b) Streams, ponds, drainage ditches, swamps, boundaries of flood ways and flood plains.

Appendix A - Information Required With Applications

- (c) Existing storm drainage patterns.
- (5) Existing man-made features:
- (a) Public streets, sidewalks and other walkways, all designated by the type of surface material.
 - (b) Curbs and gutters, curb inlets and curb cuts and drainage grates.
 - (c) Stormwater and drainage facilities.
 - (d) Underground utility lines, including water, sewer, electric, telephone, gas and cable.
 - (e) Above ground utility lines and other utility facilities.
 - (f) Fire hydrants.
 - (g) Buildings, structures (including dimensions).
 - (h) The location of any areas previously used for landfill or other waste disposal purposes that are known or reasonably should be known to the applicant.
- (6) Existing legal features:
- (a) Zoning of the subject property and surrounding properties.
 - (b) Property lines of the tract to be developed (with dimensions identified).
 - (c) Street right-of-way lines.
 - (d) Utility or other easement lines.
 - (e) Deed book and page reference demonstrating ownership of property. If the applicant does not yet own the property, the applicant shall include a written statement describing the applicant's legal authority to make application for the requested permit or conditional zoning.
- (7) Show all proposed changes in existing natural, man-made and legal features, including but not limited to the following:
- (a) Lot dimensions.
 - (b) The location, dimensions and footprints of all buildings on the property, including the distances of all buildings from property lines, streets or street right-of-way lines; (subdivisions may show building setback lines).

Appendix A - Information Required With Applications

- (c) The location and dimensions of all recreational areas.
- (d) The location and dimensions of all areas intended to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.
- (e) Street names (labeled by classification) showing linear feet, street paving widths and typical street cross-sections.
- (f) Curbs and gutters (constructed using the same specifications as used by the NC Department of Transportation), curb cuts and drainage grates as required by town policy;
- (g) If required, a stormwater management plan, as approved by the State of North Carolina, or Town in the Water Supply Watershed Overlay District and drainage facilities.
- (h) All new proposed storm drainage patterns.
- (i) Sidewalks and walkways, showing widths and surface material.
- (j) Bridges.
- (k) Underground utility lines or easement areas for said lines, including water, sewer, electric, telephone, gas and cable.
- (l) Above ground utility lines and other facilities.
- (m) Fire hydrants.
- (n) Vehicle accommodation areas including parking areas, loading areas and circulation areas, all designated by the type of surface material and dimensions of proposed parking spaces. The total number of parking spaces and the total number of parking spaces for disabled persons (i.e. handicapped spaces) shall be indicated;
- (o) For properties in the Water Supply Watershed Overlay District provide the proposed total impervious surface area and the calculations showing how the impervious surface area was found/
- (p) The location and description of all yards, buffers, screening, landscaping and plantings or devices (i.e. fences, berms, etc.) proposed for compliance with screening requirements of Appendix C, "Landscaping". Plans shall label trees and shrubbery by common or scientific name, show the distance between plants and indicate the height at the time of planting and expected mature height and width.

Appendix A - Information Required With Applications

- (q) Proposed phasing, if any. Phasing plans shall provide a description of the facilities to be built in each phase.
 - (8) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person, such as a Deed book and page reference demonstrating ownership of property. If the applicant does not yet own the property, the applicant shall include a written statement describing the applicant's legal authority to make application for the requested permit or conditional zoning.
 - (9) Certifications from the appropriate agencies that all necessary easements have been provided; and
 - (10) If any street or driveway is proposed to intersect with a State maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveways Regulation.
- (B) Additional Information Required for Site Plans.
- (1) Existing topography at ten (10) foot or other appropriate contour intervals, as approved by the Land Use Administrator.
 - (2) Individual trees twelve (12) inches in diameter or more, identified by common or scientific name.
 - (3) Other individual trees the applicants intends to preserve.
 - (4) Location of exterior light fixtures, with type and intensity of lighting fixtures sufficiently identified.
 - (5) The proposed use or uses of all land within the subject property.
 - (6) The scale of buildings relative to abutting property.
 - (7) The total number of residential units and the total square footage of any nonresidential development.
 - (8) Building elevations for all accessory structures, except for accessory structures to single family residences, duplexes and townhouses approved under the N.C. Single Family Building Code.
 - (9) All refuse facilities (including dumpsters and their screens), mechanical equipment and utility equipment.

Appendix A - Information Required With Applications

(10) Vehicle accommodation areas including parking areas, loading areas and circulation areas, all designated by the type of surface material and dimensions of proposed parking spaces. The total number of parking spaces and the total number of parking spaces for disabled persons (i.e. handicapped spaces) shall be indicated. SITE and SUBDIVISIONS in the Water Supply Watershed Overlay District.

(11) Building elevations for typical units of new buildings or exterior remodeling of existing buildings showing building heights, widths and materials (except single family, duplex or townhouse buildings approved under the NC Residential Building Code for One- and Two-Family Dwellings).

(12) The location and dimensions, including height, of all signs, including the distances of all signs from property lines, streets or street right-of-way lines. If applicable, this information may be included as part of a sign plan.

(13) Any other facilities to be constructed or otherwise provided as part of the development.

(C) Additional Information Required Only for Subdivision Plats.

(1) The number of square feet in every lot created by a new subdivision and the total number of lots created.

(D) Number of Copies of Plans and Documents.

(1) With respect to all site plans submitted pursuant to this appendix, the applicant shall submit a minimum of two (2) copies of full size plans (i.e. twenty-four (24) inches by thirty-six (36) inches) and two (2) copies of plans drawn on ledger size paper (eleven (11) inches by seventeen (17) inches). Other documents required by this appendix shall be submitted on letter size paper (8.5 inches by eleven (11) inches) or legal size paper (8.5 inches by fourteen (14) inches).

(2) The applicant shall submit a minimum of two (2) copies of all other documents required by this appendix.

(3) The applicant shall submit all documents in Adobe format or other software approved by the Planning Director

Appendix B

STREETS, SIDEWALKS, ACCESS AND CIRCULATION

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1. Required Access. All development shall be located on a zoning lot that has vehicular, and pedestrian access that abuts on a public street that is approved by the Town of Selma and following Town standards or State standards, where applicable, and is currently maintained by the Town or the State of North Carolina.

Nothing in the above definition of access shall be deemed to preclude the Town's authority to require improvement of substandard access ways to applicable standards.

2. General Standards.
 - a) Relationship to Town Plans: Streets, including associated bikeways, sidewalks, trails, and transit amenities, shall be arranged, designed, and located in conformance with the Land Use Plan, Thoroughfare Plan, and Street Classification Plan
 - b) Relationship to Surrounding Access Ways: Streets and sidewalks shall be arranged to and coordinated with surrounding existing and proposed roadways and transportation patterns. Roadways, and pedestrian ways shall connect where necessary to permit the convenient and safe movement of traffic. While street connections are encouraged, local connector streets should be designed to minimize their use by through traffic. If the scale of new improvements is small in relation to the amount of surrounding existing development, new improvements should be designed to blend with existing conditions wherever possible unless existing improvements are inadequate.
3. Relationship to Arterial or Collector Roads. Where a development is proposed adjacent to an arterial or collector road, appropriate turning, storage and/or deceleration lane(s) may be required.

Where a development is proposed adjacent to an arterial or collector road that has an inadequate right-of-way, the property owner shall dedicate such right-of-way along its property as is necessary to bring the right-of-way up to standard for that portion of the arterial or collector road. (In most circumstances, it is customary to require one-half of the total right-of-way, measured from the centerline, to be required along the subject property frontage.

4. Arrangement of Streets. Principal vehicular access points to the development shall be designed to encourage smooth traffic flow and minimize hazards to vehicular traffic and pedestrians. Accommodation of controlled turning movements into and out of the development and improvement of the approach street should be considered where existing or anticipated heavy traffic flows indicate need. Safe and convenient vehicular access and traffic flow shall be provided for emergency, school and service vehicles.

Subdivisions and all other developments located on an arterial or collector road shall be so designed so that no subdivided lot shall have a direct individual driveway access onto an

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arterial or collector road unless it can be determined that the proposed subdivision cannot be feasibly designed, or that no reasonable alternative exists, to prohibit direct driveway access onto an arterial or collector street.

5. **Roadway Design.** The arrangement, character, extent, width, grade and location of all roadways should be designed in relation to existing and proposed transportation patterns, topographical and other natural features, public convenience and safety, and proposed uses of lands to be served by such roadways and existing and potential uses in adjoining areas. All streets are required to be built to Town standards to ensure that fire, rescue, refuse collection and other utility vehicles will have adequate access. If the refuse collection access exceeds a grade of 15% or a length of one-hundred fifty feet (150') on any newly proposed lot the developer should contact the Town of Selma Public Works Department to determine if an alternative receptacle location can be determined that would permit residential refuse collection
6. **Appropriate Speed.** Local streets should be designed to discourage excessive vehicular speeds. Traffic calming techniques are encouraged whenever practical and appropriate, including curved and/or narrow streets, offsets at intersections, traffic islands, chokers, raised crosswalks, speed humps, traffic circles, chicanes, etc.
7. **Vertical Alignment.** Streets should be designed to provide gradual grade changes and to avoid a "roller-coaster" effect. Where possible streets should be designed to avoid deep cuts and fills.
8. **Horizontal Alignment.** Streets should be designed to provide long curves and to avoid sharp curves at the end(s) of straight sections or flat curves. Compound curves and "S" curves are to be avoided.
9. **Barriers.** Physical barriers (such as guardrails) should be provided along roadway edges and in medians where warranted due to potential roadway safety hazards such as structures, embankments, ditches, or bodies of water. Guardrails shall be constructed within the right-of-way wherever the Town Manager determines that guardrails are necessary for public safety.

Reflectorized barriers shall be installed at the end of pavement on all streets which are temporarily dead-ended or where "T" turnarounds are constructed.

10. **Intersections.** Intersections of streets should be designed to minimize the number of potential conflicts among vehicular movements; to give preference to the heaviest and fastest traffic flows; to coordinate the location and alignment of driveways; to discourage dangerous vehicular movements; to avoid multiple and compound merging and diverging maneuvers; and to provide adequate sight distances.

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11. Sight Line Triangles at Intersections. Sight line triangles at intersections should be designed to assure adequate visibility for vehicles and pedestrian using the intersection. Signs, trees, shrubs, etc. should not interfere with these sight lines. The property owner shall dedicate sight line easements as necessary (including driveways serving non-residential and multi-family developments).
12. Dead-End Streets. Street designed to be permanently dead-end shall terminate in a turnaround of adequate size to accommodate vehicles expected to use the street. Streets designed to be dead-end temporarily (such as in a phased development or where a street is to be extended) can terminate in a paved circular turnaround or a paved "T" turnaround. Under special circumstances, a "T" turnaround may be acceptable as a permanent improvement.

A separate, pole mounted "Dead End" sign shall be placed at the closest intersection to the dead end. Also, temporary dead end streets expected to be extended in the future shall include a sign located at the temporary dead-end stating "This Roadway is Subject to Future Extension".

Based on the results of soils investigations, previously observed conditions, and/or conditions encountered in the field; additional requirements for street construction may include increased pavement and/or base thickness, dewatering drain systems, excavation of unsuitable materials, installation of geotextile materials, and other enhancements as may be deemed necessary to assure that streets will not experience premature failure. The use of the curb and gutter section for street development has been determined to require the least amount of grading, clearing, right-of-way, and maintenance of all alternative roadway sections. Therefore, to preserve the natural environment and to minimize erosion and sedimentation, the Town will typically require the use of curb and gutter roadway section except as noted in the paragraph below. In areas where poor subsoil drainage and periodic flooding is determined to be a problem by the Town Manager, the developer may be required to use a roadside swale-type street construction. If curb and gutter is deleted, additional right of way may be required. Roll-type curbs may be considered under certain conditions on local streets, subject to submittal of technical support data and justification for approval by the Town Manager.

13. Phased Completion of Streets. The Developer shall synchronize the probable completion of houses or other building construction with the completion of the streets serving those buildings. The intent is to prevent unreasonable inconvenience to the building occupants from dust, mud, or hazardous conditions and to avoid unsightly appearance along the access to these buildings.

In all cases, streets will be accepted on as provided in the following three sections: 17-608 Authorizing Use or Occupancy Before Completion of Development Under a Certificate of

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Zoning Compliance; 17-657 Protection Against Defects and 17-658 Maintenance of Dedicated Areas Until Acceptance.

In all cases where construction is not completed, the developer will provide a performance bond until the streets are accepted by the City or NC DOT for maintenance.

14. **Grassing Within Rights-of-Way.** All portions of the roadway, including medians, remaining unpaved shall be grassed in accordance with Town specifications. Grass shall be installed in all rights-of-way at a time determined by the Town Manager, providing, however, that it shall be installed and established prior to the release of the performance bond.

All work herein referred to shall be maintained in accordance with Appendix B and shall be kept at a height no greater than six (6) inches (except on embankments) until the roadway has been accepted by the Town Council and the improvement bond has been released.

15. **Traffic Control Devices.** Where warranted to ensure motorist, or pedestrian safety and/or to control vehicular and pedestrian traffic; traffic signals, signs, and markings shall be provided in accord with the standards set forth in the Manual on Uniform Traffic Control Devices for Streets and Highways. Installation of all traffic devices shall be approved by the Town Manager (of his designee), and the North Carolina Department of Transportation where applicable.

16. **Extension and Completion of Access Ways.**

- a) **Extension to Boundaries.** Streets, and pedestrian ways to be extended onto adjacent property or into subsequent approved phase(s) of a single development shall be constructed to the common property line or phase boundary. Where necessary to facilitate traffic flow or accommodate emergency vehicles, a temporary turnaround may be required at the end of a street pending its extension.
- b) **Improvement of Substandard Access Ways.** Where a development impacts, abuts or contains an existing street, bikeway, or pedestrian way that provides required access but does not meet the standards contained herein, improvement of such access way to applicable standards may be required if the development is expected to increase traffic volume and/or affect the capacity of the existing facility. Partial width access ways are prohibited and abutting existing partial width access ways shall be completed to applicable standards.

17. **Public and Private Access Ways.**

- a) **Public Access Ways.** Public access ways are streets, bikeways, and pedestrian ways (greenways) located within publicly dedicated rights-of-way or easements and accepted for maintenance by the Town of Selma or the State of North Carolina. Public access ways shall not be accepted for maintenance unless they meet all applicable standards.

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- b) Private Access Ways Providing Required Access. Private access ways are bikeways, and pedestrian ways (greenways) other than the above. Where private access ways provide required access, they shall meet all applicable standards. Provision for their continued maintenance shall be approved by the Town Manager and recorded with the County Register of Deeds in a legally valid and binding instrument that describes the properties, which the private access way serves and which runs with the land. The maintenance agreement shall apply to all properties, which the private access ways serve.

18. Names, Identification and Addresses for Public Streets.

- a) Street Names - Names of streets shall reflect the continuity of streets (i.e., that a proposed street obviously in alignment with an existing street or planned as a continuation of an existing street be given the same name as the existing street) and shall be neither wholly or partially duplicative nor phonetically similar to the name of an existing street within the County.
- b) Street Identification Signs - Street identification signs shall be provided at all street intersections as part of street construction. The location and design of street identification signs shall be approved by the Town Manager as in accord with the standards set forth in the Manual on Uniform Traffic Control Devices for Street and Highways. The developer may purchase these signs from the Town and may have the Town install them with reimbursement.
- c) Street Addresses - Street addresses are assigned to properties by the Town Manager. Street identification signs shall include assigned block numbers in addition to street names.

19. Minimum Street Elevations. Minimum Elevations for crown of major and minor arterial pavements shall be two (2') feet above the one hundred (100) year flood elevation as shown in the FEMA Flood Boundary and Floodway Maps and Flood Insurance Report.

20. Guardrails and Barriers.

- a) Guardrails shall be constructed within the right-of-way wherever the Town Manager determines that guardrails are necessary for the protection of the public.
- b) Reflectorized barriers shall be installed at the end of pavement on all streets or drives which are temporarily dead-ended or when a "T" turnaround is installed. The type(s) of barrier required will be as necessary for public safety and shall be determined by the Town Manager.

21. Street Classifications and Geometric Standards.

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Introduction and Purpose Street classifications and geometric design standards are outlined in the following Table 1 and Table 2. Information regarding existing streets and their classifications is available in the Selma Planning Department. All streets within the Town limits are classified primarily by function and/or operational characteristics, rather than by specific geometric criteria.

The street design standards represent specific interpretations of the general intentions embodied in the Selma Unified Development Ordinance. Because the terrain of Selma varies from level to hilly, the standards have been written as broadly as possible. The notion of limiting cut and fill within the limits of public safety has been important in developing these standards.

The conscientious designer may occasionally find that street design in specific areas could be better accomplished in a manner, which does not coincide with every standard in Table 1 and/or Table 2. In such cases, the Town Manager will consider justification that strict adherence to all standards would create significantly undesirable conditions and/or that deviation from the standards would produce a significantly better improvement. Similarly, the Town Manager may not allow the use of every standard if public safety considerations dictate otherwise under specific conditions.

The standards in Table 1 and Table 2 are presumptive. They are intended to be valid in most cases, but it is understood that the public good may be better served in certain unique situations by allowing some flexibility in the standards. New streets should be designed in a manner that balances functional and safety needs with the objective of preserving as much of the existing terrain and vegetation as is practicable.

Street Classifications. Streets in Selma are classified by their functional relationship to through-traffic service and land-access service. The three street classifications are:

- a) **Arterial.** Arterial streets function primarily to serve through-traffic movement. Limited land-access service may be accommodated, but traffic controls and street design are intended to provide efficient through-traffic movement.
- b) **Collector.** Collector streets penetrate neighborhoods, public service areas, and districts. They are intended to provide both through-traffic and land-access services in relatively equal proportions, often linking the local street system to the arterial street system.
- c) **Local.** Local streets primarily serve land-access functions. They are intended to accommodate land parcel ingress and egress. Through-traffic movement is difficult and discouraged by traffic controls and street design.

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The relationship between functional street classifications is a continuous one, without specific clear-cut boundaries. Streets are classified by the Town Engineer based on technical judgment and observed function of the street.

Some existing streets are classified. They are shown in Table 1 below.

TABLE 1: STREET CLASSIFICATIONS

Arterial Streets

U. S. 70	U. S. 301	N. C. 96	Industrial Drive
U. S. 70A Bypass	N. C. 39		Buffalo Road

Collector Streets

U.S. 70A	East Preston Street	Old Beulah Road
Campground Road	Fire Tower Road	River Road
Crocker Street	Lizzie Mill Road	West Noble Street
East Anderson Street	North Webb Street	West Oak—US 70 to N.
Forest	East: West	Ricks Road
East Lizzie Street	North Noble Street	

Local Streets Outlet Center Drive

All other existing public streets, not included above in the Arterial and Collector street list, are classified as local streets.

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TABLE 2. MINIMUM STREET CLASSIFICATIONS and DIMENSIONS

	Arterial	Collector	Local
Design Volume (ADT)	20,000-40,000+	7,500-20,000	<7,000
Design Speed	45-55	35-45	25
Overall Length	Unlimited	< 2 miles	< 1 mile typical
No. Travel Lanes (1)	4 Typical	2 Typical	2 Typical
Right-of-Way Width	70-200 feet	60-100 feet	50-60 feet
Pavement Width			
Curb & Gutter	44-52 feet (6)	32-44 feet (6)	18-28 feet (6)
Non-Curb & Gutter	40-48 feet (6)	28-40 feet (6)	18-24 feet (6)
Cul-de-sac			70 feet (6)
Turnaround			
Turn Lanes	Right/Left @ Intersections & major driveways (12' width typ.) (9' min width)	As warranted by turning traffic volume & safety criteria (11' width typ.; 9' width min.)	As warranted by turning traffic volume & safety criteria (10' width typ. & 9' width min)
On-street Parking	Not permitted	As warranted- controlled adjacent to street/driveway intersections	Controlled adjacent to street/driveway intersections
4-Way Intersection Spacing (2)	1000' Minimum	400' Minimum	200' Minimum
Driveway Spacing (3)	750' Min. between driveways. 250' between driveway & street intersections.	200' Min. between driveways and between driveway & street intersections	50' Min between driveways and between driveway & street intersections (5)
Access Control	No access if alternative possible to street of a lower classification (4)	No access if alternative possible to street of a lower classification (4)	

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Notes to Table of Street Standards

- (1) The number of travel lanes necessary for each street classification may vary depending on traffic volumes.
- (2) Intersection spacing is measured along centerline of street between the v=centerline of intersecting streets.
- (3) Measured between the closest edges of driveway connections and intersecting roadways. Additional spacing may be required by the Planning Director under special conditions.
- (4) Non-residential uses may be restricted access to local streets under special circumstances if alternative access is possible.
- (5) Driveway spacing may be reduced in Planned Unit Developments.
- (6) Or as specified by the North Carolina Department of Transportation as appropriate.

TABLE 3. MINIMUM STREET CLASSIFICATIONS and DIMENSIONS
SIDEWALK CHART

Land Use (Roadway Classification)	New Streets	Existing Streets
Commercial & Industrial (All Streets)	In town-both Sides	Both sides. Every effort should be made to add sidewalks where they do not exist and to complete missing links.
Residential (Arterials)	Both sides	Both sides
Residential (Collectors)	Both sides	Multi-family-both sides. Single family- prefer both sides; require 1 side
Residential (Local) More than 4 units per acre	Both sides – in town	Prefer both sides; require 1 side
Residential (Local) 1 to 4 units per acre	Prefer both sides; require 1 side	1 side preferred; at least 4' level shoulder provided 1 side
Residential (Local) less than 1 unit per acre	1side preferred; 4' level shoulder on both sides	1 side preferred; 4' level shoulder on both sides
Residential Cul-de sac with 8 or more units	1 side	1 side
Residential Cul-de-sac less than 8 units	Not required	Not required

Sidewalks may be omitted on one side of new streets where that side clearly cannot be developed and where there are no existing or anticipated uses that would generate

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pedestrian traffic.

Where there are service roads, the sidewalk adjacent to the main road may be eliminated and replaced by a sidewalk adjacent to the service road on the side away from the main road. For rural roads, a shoulder of at least 4 feet in width, preferably 8 feet on primary highways should be provided. Surface material should provide a stable, mud-free walking surface.

Appendix C

LANDSCAPING

1. This Appendix is divided into topics, generally by location in the proposed site or development. Each topic corresponds to a different sub-section. Every development shall have all of the following kinds of landscaping as indicated in the sections below. Flexibility in administration of this Appendix is required. For example, if a commercial development provides exterior and street-side buffers, parking lot landscaping the Town Council may waive the requirement for foundation plantings.

The topics/subsections are:

Exterior Buffers and Street Yards

Parking Lot (Vehicular Use Area) Landscaping

Foundation Plantings

Fences and Walls

Loading Area Requirements

Miscellaneous – Combination Use

Plant Species / Planting / Maintenance

2. Exterior Buffers and Street Yards

Buffer Requirements: The following Tables indicate the minimum landscape planting requirements for a development site. Table 1 provides the required landscaped areas along streets. Table 2 shows the required buffers on all sides of a property except the street side. Table 3 shows the required width of each type of buffer and the number of trees and shrubs that must be planted or preserved in each 100 linear feet of buffer or street yard. The arrangement of plants within each landscaped area should be integral to the design concept of the project as a whole, as well as responsive to the landscapes of adjacent properties. The room required for plants to develop their natural form, especially large trees, should also be considered when determining plant spacing. Allowing greater than minimum planting widths can therefore provide more landscape design flexibility. To meet planting height requirements, the Town Council, in its discretion, may approve the use of a landscaped earthen berm, or fences or walls or a combination of berms fences and walls. The minimum size of plants at installation is shown in Table 4 and the expected height at maturity is shown in section 8.

TABLE 1: Required Landscaped Street Yards

	Landscape Area Types	Adjacent Street Type or Existing ⁽³⁾ Principal Uses			
		Railroad	Arterial Street	Collector Street	Local Street
Proposed Principal Uses:	Residential Subdivision in RA, R20, R 10	C	B	A	NONE
	Residential R8, TR, MHP, IN	C	C	B	A
	Automotive repair, Storage-supply yard	NONE	B	A	A
	Business use	A	B	B	A
	Industrial Use, Includes Solar Farms	NONE	C	B	A

TABLE 2: Required Landscape Buffers on All Property Boundaries except for Streets

Adjacent ⁽¹⁾ Existing ⁽²⁾ Principal Uses (Not on Street)							
		Residential, RA, R20, R10 (Except multi-family apartments)	Residential R8, TR, IN	Mobile Home Park, Multi- Family Apartments	Automotive repair, Storage- supply yard	Business Use	Industrial, Solar Farm
Proposed Principal Uses:	Residential Subdivision in RA, R20, R10 (Except multi-family apartments)	NONE	A	B	C	B	C
	Residential R8, TR, IN	A	NONE	A	C	B	C
	Mobile Home Park, Multi-Family Apartments	B	B	A	B	B	C
	Automotive repair, Storage-supply yard	C	C	B	NONE	A	A or none
	Business use	B	B	B	A	NONE	A
	Industrial Use	C	C	C	A	A	NONE

- (1) *Adjacent land uses and vacant lands include uses and land across a street from the proposed use.*
- (2) *Existing uses included uses approved as part of development for which Special Use Permit or Zoning Permit has been issued.*

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The landscape area locations shown in the following chart refer to whether the landscape areas are adjacent to a street or adjacent to some other property line (internal).

TABLE 3: Plants Per 100 Linear Feet of Landscape Area

Landscape Area Type	Landscape Area ⁽¹⁾	Location ⁽²⁾	Large Trees	Small Trees	Shrubs
"A:"	15'	Internal	2	4	8
	10'	Street	2	4	8
"B"	20'	Internal	4	8	20 ⁽³⁾
	10'	Street	3	6	20 ⁽³⁾
"C"	30'	Internal	4	10	30 ⁽³⁾
	15'	Street	3	12	30 ⁽³⁾

- (1) Minimum distance between property line and structure or parking lot/internal driveway to be used for landscape area. The minimum distance can be reduced depending upon the location of the property and the type of landscape and/or the utilization of an architectural treatments such as walls and earth berms.*
- (2) Refers to property line. "Internal" refers to Table 2 above. "Street" refers to Table 1 above.*
- (3) Can be combined with parking lot landscaping requirements adjacent to property line.*

TABLE 4: Size of Plants at Installation

Minimum planting sizes are listed below. Larger sizes may be required, however, for specific screening or landscaping applications:

Ground Cover: 2" pots Shrubs: 18" in height

Small Trees: 5' in height Large Trees: 2" caliper Trees planted 12' in height

- 3. Parking Lot (Vehicular Use Area) Landscaping.
 - a) Parking Lot Landscape Requirements and Standards: All parking lots shall be landscaped as set out in this Appendix.

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- b) Except for single- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements:

Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a building, exclusive of a paved pedestrian walkway or entranceway or loading area, by a landscape strip (park strip) at least five (5) feet in width, which shall be planted with a groundcover.

- c) Driveway and Median Requirements: Entry drives and medians separating lanes of traffic shall be a minimum of 4' in width measured from the back of paved roadway, or curb. Islands and medians within a public right-of-way must be approved by the Town or the North Carolina Department of Transportation where appropriate.

Trees and shrubs required for interior planting can be planted within required property line planting areas. These plants, however, cannot be counted to meet both property line and interior planting requirements.

- d) Landscaping Parking Lots (Vehicular Surface Areas).

All vehicular surface areas containing more than four spaces shall be landscaped in accordance with the following minimum standards:

- 1) At least nine percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
- 2) Trees and shrubbery planted pursuant to this section shall include at least one tree a minimum of eight feet in height and six shrubs at least 18 inches in height at planting.
- 3) In support of the above, the following standards shall apply to interior plantings:
 - i. All plantings shall be evenly distributed throughout the parking facility so that no parking stall shall be located farther than 50 feet from the trunk of a tree.
 - ii. All interior plantings shall be curbed or otherwise physically protected.
 - iii. Consecutive parking spaces shall incorporate landscape peninsulas no more than 15 spaces apart and at least the ends of all parking rows. Peninsulas shall contain at least 100 square feet in area and at least eight feet in width, measured from back of curb/barrier to back of curb/barrier.

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- 4) For parking facilities containing five to 24 spaces or stalls, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:
 - i. The minimum width of such strip shall be five feet.
 - ii. For every 50 linear feet or fraction thereof the perimeter landscape strip shall contain one canopy tree of at least five feet in height, and a continuous row (at least six) of evergreen shrubs.
 - iii. Where a perimeter landscape strip overlays a street yard or buffer yard required elsewhere in this section, the more stringent requirements shall apply.

All perimeter landscaping strips shall be planted with a combination of live vegetation, groundcover, grass, trees, and/or shrubs. Vegetation planted pursuant to this section shall be maintained to ensure continued growth.

- 5) Where more than 200 parking spaces are required, planting areas may be interspersed throughout the site so that no parking stall shall be located farther than 75 feet from the trunk of a shade tree in a planting area with two or more trees, provided a minimum planting area of 400 square feet or more is provided.
 - 6) The Town Council may waive all or part of the requirements of this section for any facility which is limited to periodic or intermittent use for vehicular parking, such as parking lots for churches or recreational facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect.
 - 7) The Town Council may waive the requirements of this section for temporary parking lots when determined that a waiver is necessary to relieve hardship and will not violate the purposes of this section. Any such waiver shall not exceed one (1) year.
 - 8) In providing the landscaping required in this Appendix, the retention of existing significant vegetation is and shall be encouraged.
4. Foundation Plantings.

For all portions of buildings, which are adjacent to parking facilities or internal drive aisles, foundation plantings shall be required and located between the buildings face and the parking or drive isle curb. The minimum standards are required; however, it is encouraged that sites exceed the minimum whenever possible. The following minimum standard shall apply:

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- a) The area of the building face adjacent to the parking area or internal drive isle shall be calculated and multiplied by a minimum of 12%. The resultant total square footage shall be planted as landscaped areas of sufficient variety, height, and approved by the Planning Department.
- b) Exemptions from these requirements may be granted when the following circumstances exist or when any of the following conditions are proposed on the site:
 - 1) For those portions of buildings which have drive-up windows or services along any side or rear of the building. (Such examples would include but not be limited to Pharmacies, Banks, Fast Food Restaurants, Dry Cleaners, and Photo shops.)
 - 2) On the rear side of a building when less than 10% of the total required parking is in the rear of the building and the rear is not adjacent to any public right-of-way.

If the requirements of this section conflict with any other requirements from other sections of this Ordinance, the more stringent shall apply.

5. Fences and Walls.

- a) See Section 17-435 Building Setbacks for permissible structures in setbacks.
- b) A fence, wall or shrubbery screen (collectively referred to in this section as "fences") may be in any yard for the purposes of privacy and/or security, provided the requirements of this section are met. For the purposes of this section, lots located within a planned unit development shall be considered residential if the primary use of the lot is residential, and nonresidential if the primary use of the lot is nonresidential.
- c) The following types of fences are allowed:
 - 1) Open picket fence,
 - 2) Post and rail fence,
 - 3) Solid plank fence,
 - 4) Wrought iron fence,
 - 5) Brick or stone (solid or pierced) fence, and

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- 6) Open wire fencing (such as hurricane and chain link). Except as otherwise provided by this section, open wire fencing in a front yard or adjacent to a street in a residential zoning district shall be screened from view from nearby public streets using a planted hedge.
- d) Restrictions on placement and dimensions of fences.
- 1) Solid plank, brick or stone fences in front yards may not exceed four (4) feet in height.
 - 2) Solid plank, brick or stone fences in side or rear yards may not exceed six (6) feet in height.
 - 3) Open picket, post and rail, wrought iron or open wire fences in front, side or rear yards may not exceed six (6) feet in height.
 - 4) Notwithstanding the provisions of this section, a solid fence up to eight (8) feet in height shall be permitted between any residential use and any business, commercial or industrial use.
 - 5) Notwithstanding the provisions of subsections (C)(3) and (4) of this section, an open wire fence up to ten (10) feet in height shall be permitted for safety reasons around towers, electrical substations, and similar uses. At a minimum, the bottom four (4) feet of such fencing shall be screened from view from nearby public streets using a planted hedge.
 - 6) No fence, post or required hedge shall be installed to obstruct visibility at a street intersection or driveway entrance. See also Section 17-435 "Building Setback Requirements."
 - 7) A fence used primarily for recreational purposes (for example golf driving ranges) may exceed the height limits established in this section, but a special use permit will be required for any such fence.
 - 8) No open wire fencing of a type that could inflict injury from casual contact (such as barbed wire fencing) is permitted below a height of seven (7) feet in any zoning district.
 - 9) The height of a fence and vegetative screen shall be measured from the average level of the ground adjacent to the fence or screening.
 - 10) Fences shall be maintained, level and plumb.

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- i. Fences must be erected with the posts, supports, stringers and all unfinished materials facing the owner's property and residence or other primary structure.
 - ii. A zoning permit is required before erecting a fence.
 - iii. A fence must be completed within ninety (90) days of the issuance of the certificate of zoning compliance.
 - iv. Minimum Berm Size and Slope: Earth berms used for screening shall have a minimum crown width of 2', maximum side slopes of 3:1, and be covered with approved vegetation.
6. Loading Area Requirements.
 - a) All loading areas shall have a minimum width of 12' and be screened from public rights-of-way and all adjacent properties.
 - b) All standards applicable to landscaping parking lots shall be required of loading area screening, and the screening height shall be a minimum of 6' above existing grade.
7. Miscellaneous – Combination Use.
 - a) In determining the screening requirements that apply between a combination use and another use, the permit-issuing authority shall proceed as if the principal uses that comprise the combination use were not combined and reach its determination accordingly, relying on Table 1 above and interpreted in the light of Table 4.
 - b) When two or more principal uses are combined to create a combination use, screening shall not be required between the component principal uses unless they are clearly separated physically and screening is determined to be necessary to satisfy the standard set forth in Table 1.
 - c) Utility Service Area Requirements: All utility service areas, adjacent to, or affixed to buildings, shall be screened from public right-of ways and all adjacent properties.
 - d) All standards applicable to landscaping parking lots shall be required of utility service areas, and the screening height shall be equal to or greater than the structure to be screened.
 - e) Landscaping shall be located to provide adequate access and work space for the utility structure. The installation of plants with thorns or pointed leaves is discouraged adjacent to the service area.

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- f) Existing vegetation can be used to satisfy some or all of the landscaping requirements. In these cases, the existing vegetation shall be in good health and be protected during the development process.

8. Plant Species / Planting / Maintenance.

- a) Large Trees: All trees reaching a mature height of thirty-five (35) feet or more shall be planted a minimum of:
 - 1) 3-1/2 feet from back of curb, or edge of street pavement and driveways (allow for any proposed future street widening);
 - 2) 3-1/2 feet from sidewalks and other paved pedestrian surfaces except where urban conditions would prohibit any planting;
 - 3) 10 feet from all buildings;
 - 4) 15 feet from street lights, utility poles and above-ground utility wire;
 - 5) 10 feet from all underground utilities; and
 - 6) 10 feet from utility vaults and ground level utility surfaces.
- b) Small Trees: All trees reaching a mature height of less than 35 feet shall be planted a minimum of:
 - 1) 10 feet from back of curb, or edge of street pavement, and driveways (allow for any proposed future street widening);
 - 2) 2-1/2 feet from sidewalks and other paved pedestrian surfaces;
 - 3) 5 feet from all buildings;
 - 4) 10 feet from street lights and utility poles;
 - 5) 5 feet from all underground utilities; and
 - 6) 5 feet from utility vaults and ground level utility structures (10 feet from door side).
- c) Tree Species Restrictions:
 - 1) Above Ground Utility Wire: The following tree species, due to the brittleness of their wood, shall not be planted within 25 feet of any existing or proposed above-ground utility line:

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Acer saccharinum - Silver Maple
Populus alba - White Poplar
Ulmus pumila - Siberian Elm

Catalpa speciosa - Northern Catalpa
Paulownia tomentosa- Royal Paulownia

- 2) Public Rights-of-Way: No trees, which by the nature of their fruit, root system, brittleness of wood or susceptibility to disease are deemed undesirable by the Town, shall be planted on any public right-of-way. Those trees included in the preceding list along with the following represent the majority of restricted trees:

Asimina triloba – Pawpaw
Diospyros virginiana – Persimmon
Juglans nigra - Black Walnut
Salix babylonica – Weeping Willow

Carya illinoensis - Pecan
Ginkgo biloba - Ginkgo (female)
Liquidambar styraciflua – Sweetgum

- 3) Sewer Lines and Retention/Detention Basins: The following tree species shall not be planted within 25 feet of any stormwater or wastewater sewer line:

Acer spp. - Maples
Salix spp. - Willows
Ulmus spp. - Elms

No woody plant material of any kind shall be planted or be permitted to become established in any retention or detention basin. In addition, an area free of woody plants shall be maintained to provide service access to all retention and detention basins.

d) Recommended Species

The following list includes trees and shrubs hardy in Johnston County. However, because of the large number of site-specific variables (exposure, moisture, soils, etc.), all plants on this list may not prosper on any given site. The Town recommends that applicants contact a landscape professional for assistance with plant selection. In addition, there are many plants not included in this list that are suitable for Johnston County landscapes if they are appropriately sited, and the Town encourages their use. Whatever plants are selected, sources for the plants should be located during the site/development design process to assure that when a plan is approved, it can be realized.

The list is broken down into three sections: 1) large trees; 2) small trees; and 3) shrubs, that correlate with the categories found in the Town's landscape requirements. Small trees are particularly well suited for planting where there are space limitations (such as under utility lines, near buildings, and in undersized planters). In the list of shrubs, those plants preceded with an asterisk (*) are evergreens that routinely will reach six feet in height within two growing seasons if properly sited, and therefore are for

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fulfilling the County's landscaping requirements, such as between parking lots and residential properties, and around loading zones.

Shrubs listed with two asterisks (**) are typically somewhat smaller and are generally appropriate components of a planting plan to fulfill the County's landscaping requirement between parking lots and public rights-of-way. Most un-designated shrubs need to be used with fences or on earth berms to satisfy specific landscaping requirements, but can be considered as a part of required landscape areas when planted along with larger materials.

LARGE TREES

Acer rubrum Red Maple	Liriodendron tulipifera Tulip Tree	Quercus palustris Pin Oak
Acer saccharum Sugar Maple	Magnolia grandiflora Southern Magnolia	Quercus phellos Willow Oak
Cedrus deodora Deodora Cedar	Nyssa sylvatica Black Gum	Quercus rubra Red Oak
Cercidiphyllum japonicum Katsura Tree	Pinus taeda Loblolly Pine	Quercus virginiana Live Oak
Cryptomeria japonica Cryptomeria	Pinus virginiana Virginia Pine	Sophora japonica Scholar Tree
Fraxinus americana White Ash	Platanus x acerifolia London Plane tree	Taxodium distichum Bald Cypress
Fraxinus pennsylvanica Green Ash	Platanus occidentalis Sycamore	Tilia cordata Little-leaf Linden
Ginkgo biloba (male only) Ginkgo	Quercus acutissima Sawtooth Oak	Tsuga canadensis Canadian Hemlock
Gleditsia tricanthos inermis Thornless Honey Locust	Quercus alba White Oak	Ulmus parviflora Chinese Elm
Ilex opaca American holly	Quercus coccinea Scarlet Oak	Zelkova serrata Zelkova

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Juniperus virginiana Easter Red Cedar	Quercus laurifolia Laurel Oak	
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SMALL TREES

Acer campestre Hedge Maple	Ilex deciduas Possumhaw	Prunus serrulata Japanese Flowering Cherry
Acer palmatum Japanese Maple	Common Myrtle	Prunus subhirtella Higan Cherry
Amelanchier arborea Serviceberry	Lagerstromia x faurei Hybrid Crepe Myrtle	Ilex latifolia Lusterleaf Holly
Carpinus caroliniana Ironwood	Magnolia x soulangiana Loebner Magnolia	Ilex x "Nellie R. Stevens" Nellie Stevens Holly
Cercis Canadensis Eastern Redbud	Magnolia x soulangiana Saucer Magnolia	Koelreuteria paniculata Golden Raintree
Chionanthus virinicus White Fringetree	Magnolia virginiana Sweet bay	Lagerstroemia indica Crape Myrtle
Cornus florida Flowering Dogwood	Ostrya virginiana American Hophornbeam	Prunus x edoensis Yoshino Cherry
Cornus kousa Kousa Dogwood	Oxydendrum arboretum Sourwood	Stewartia psuedocamellia Japanese Stewartia
Cornus mas Cornelian Cherry	Parrotia persica Persian Parrotia	Styrax japonicas Japanese Snowbell
Halesia Carolina Carolina Silverbell	Persea bourbonia Red Bay	Vitex agnus-castus Lilac Chastetree
Ilex x attenuate "Fosteri" Foster's Holly	Pinus thunbergiana or thunbergii Japanese Black Pine	

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Ilex x cassine Dahoon Holly	Prunus caroliniana Carolina Cherry Laurel	
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SHRUBS

**Abelia grandiflora Glossy Abelia	Gardenia jasminoides Gardenia	**Nandina domestica Nandina
**Aucuba japonica Japanese Aucuba	Hammamelis vernalis Early Witchhazel	*Osmanthus x fortune Fortune's Tea Olive
Aesculus parviflora Bottlebrush Buckeye	Hammamelis virginiana Common Witchhazel	Philadelphus coronarius Sweet Mock Orange
**Berberis julianae Wintergreen Barberry	Hibiscus syriacus Rose-of-Sharon	Pieris japonica Japanese Pieris
Berberis thunbergii Japanese Barberry	Hydrangea quercifolia Oakleaf Hydrangea	Punica granatum Common Pomegranate
Buddleia davidii Butterfly Bush	Hypericum calycinum Aaronsbeard St. Johnswort	*Prunus laurocerasus Common Cherrylaurel
Buxus sempervirens Common Box	**Ilex cornuta 'Rotunda' Dwarf Horned Holly	**Raphiolepis umbellata Indian Hawthorn
Calycanthus floridus Carolina Allspice	**Ilex crenata Japanese Holly	Rhododendron x Hybrid Rhododendrons
Callicarpa dichotoma Beautyberry	*Ilex cornuta 'Burfordii' Burford Holly	Spiraea bumalda Bumald Spiraea
*Camellia japonica Common Camellia	**Ilex glabra "nana" Dwarf inkberry	Spiraea cantoniensis Double Reeve's Spiraea
*Camellia sasanqua Sasanqua Camellia	**Illicium floridanum Florida Anise-tree	Spiraea prunifolia plena Bridalwreath Spiraea
Chaenomeles speciosa Common Flowering Quince	*Illicium parviflora Anise	Spiraea thunbergii Thunberg spiraea

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Chimonanthus praecox Wintersweet	Itea virginica Virginia Sweetspire	Spiraea vanhouttei Vanhoutte Spiraea
Clethra alnifolia Summersweet	Jasminum nudiflorum Winter Jasmine	Punica granatum Common Pomegranate
*Cleyera japonica Cleyera	Juniperus chinensis Chinese juniper (cultivars)	*Prunus Laurocerasus Common Cherrylaurel
Cornus sericea Red Osier Dogwood	Kerria japonica Japanese Kerria	**Thuja occidentalis Arborvitae (cultivars)
Cotinus coggygria Common Smokebush	Kalkwizia amabilis Beauty Bush	Viburnum burkwoodii Burkwood Viburnum
Deutzia gracilis Slender Deutzia	*Ligustrum japonicum Japanese Privet	Viburnum carlesii Korean Spicebush
Euonymus alatus Burning Bush	*Lonicera fragrantissima Winter Honeysuckle	Viburnum dentatum Arrowwood Viburnum
*Euonymus japonicas Evergreen Euonymus	**Loropetalum chinense Loropetalum	Viburnum plicatum tomentosum Double file Viburnum
Exochorda racemosa Common Pearlbush	Magnolia stellata Star Magnolia	*Viburnum rhytidophyllum Leatherleaf Viburnum
Forsythia intermedia Border Forsythia	Mahonia bealei Oregon Grape Holly	Weigela florida Weigela
Forsythia suspense Weeping Forsythia	*Myrica cerifera Southern Waxmyrtle	

e) Landscape Installation and Maintenance Specifications

1) Materials Requirements. The American Standard for Nursery Stock published by the American Society of Nurserymen shall be used for determining caliper, heights, widths and ball sizes, unless otherwise specified for all plants. Plant material shall be free of any diseases, funguses or insect infestations.

2) Planting Requirements:

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- i. Planting Seasons. Trees and shrubs should be planted prior to May 15 and after September 15.
 - ii. Weather Conditions. Digging and planting operations shall be performed only when the soil temperature at each planting area and of all backfill materials is above 32 degrees F.
 - iii. Following a period of precipitation, planting operations shall resume only when the full depth of the planting pits top twelve has satisfactorily drained.
- 3) Handling Plant Materials. Provide shade and a light watering to all delivered material during dry weather and mulch the balls of B&B materials if they are to remain unplanted for over 24 hours. Heel in bare root plants immediately upon delivery.
 - 4) Excavating Planting Pits. Excavate and completely remove all soil from planting pits. Prevent water from entering excavated areas. If water does collect remove it immediately to maintain a dry condition always.

Depth of planting pit should be equal to or slightly less than the height of the planting ball.

Loosen and roughen the sides of the planting pit to facilitate the movement of roots into the surrounding soil.

Do not place gravel in the bottom of the planting pit to provide extra drainage unless a drainage outlet is provided.

- 5) Setting Balled-and-Burlapped and Container Plants. The top of the plant root ball should be set level with the finished grade after settlement. All plant material greater than 3 feet in height should be set plumb regardless of the slope of finished grade. Plants smaller than 3 feet in height may be set perpendicular to the slope.
- 6) Setting Bare Root Plants. Prune all large roots which are bruised or broken with a clean cut before planting. Place bare root plants in proper position in the center of the pit on compacted backfill. Carefully work loose, friable backfill in among roots and thoroughly settle with water.
- 7) Staking Trees. Provide support for all trees 10 feet high or taller unless planted in sheltered environments.

Do not use ground-to-tree guy wires to secure a tree.

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Secure trees using vertical stakes. Drive the stakes into the ground outside the planting pit.

Webbing, hose-protected wire or other material that will not abrade or become imbedded in trunk shall be used for constraining line. Provide slack in each constraining line.

Maintain tree support for a period of one year after planting. Support should be removed after one year unless tree is excessively weak.

8) Pruning Requirements.

- i. General Pruning. Pruning shall consist of the removal of dead, dying, diseased, interfering, obstructing and weak branches and selective thinning to lessen wind resistance and improve the appearance of trees and shrubs.
- ii. The following pruning specifications are recommended:

All cuts shall be made close to the trunk or parent limb without leaving a protruding stub and without cutting into the branch collar or the branch bark ridge. Clean cuts shall be made always.

Directional pruning and drop-crotch pruning shall be used to prune live branches.

Trees limbs too heavy to handle by hand shall be precut above the final cut to prevent splitting or peeling of the bark. Where necessary to prevent tree or property damage, branches shall be lowered to the ground with ropes or equipment.

Treatment of cuts and wounds with tree wound dressing is discouraged except for cosmetic purposes in highly visible areas. If such treatment is made, materials non-toxic to the cambium layer must be used and care shall be taken to treat only the exposed wood with a thin coat of dressing.

Climbing spurs shall not be used unless the tree is dead or is to be removed.

9) General Maintenance Requirements.

- i. Plant Establishment. All newly planted trees and shrubs shall receive water at a minimum rate of one inch per week from a combination of natural rainfall and irrigation between June 1 and October 1 for a minimum of one year after planting.

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- ii. Landscape Maintenance Schedule. To assure healthy plant growth, the property owner shall provide services necessary to maintain and enhance the grounds. This should include weeding edging, watering, removal of dead/unattractive plant materials, and general clean-up of the grounds.

Appendix D

WATER, SEWER and ELECTRIC UTILITIES AND EASEMENTS

1. **Interrelation of Utility Lines.** The installation and location of any utility line shall be integrated with that of all other utility lines in the vicinity so as to avoid cross-connections, minimize trenching and tunneling, and keep incompatible systems separate. Notwithstanding, sufficient preparation shall be provided as possible to minimize digging that would result in customer service interruption and to minimize adverse operating environments for other utilities.
2. **Underground Lines.** Where underground utility lines are to be provided beneath street roadways, sidewalks, or other paved access ways, all such lines shall be consolidated, where practical, in a contiguous area so as to optimize excavation for installation consistent with good operations and maintenance. Where underground utility lines are to be located within a street right-of-way, lateral lines shall be provided from the trunk lines to the right-of-way line for all lots and/or development sites along the street, and shall be installed concurrent with the installation of the trunk line to minimize cutting and repairing of street sub surfaces, base courses and paving.
3. **Surface Appurtenances.** Surface appurtenances such as pump stations, transformer boxes, pedestal-mounted thermal boxes, and meter cabinets shall be located so as to minimize safety hazards, visual impact, and noise effects.
4. **Sewage Collection System.** A system of sanitary sewers, together with all necessary pumping station and appurtenances, shall be provided to serve all parcels of the subdivision or principal building of the development. The system shall be designed to accommodate all reasonably anticipated future construction and occupancies. The collection system shall conduct the sewage in sewers of adequate capacity to an approved treatment facility. Where connection to public sewer system is infeasible as determined by the Town Manager. Provisions for Future Service Areas Where adjacent property is in the same drainage basin as the property being developed, lines shall be designed to accommodate development of other properties in the same drainage basin. Easements or other rights-of-way should be consistent with the potential needs for future extensions as well as the project under consideration.

Design and Construction Standards and Materials. The sewage collection system shall conform to all requirements and minimum standards of the Town and of the applicable County and State regulatory agencies, unless more stringent standards are provided herein.

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5. Water Distribution System. A water distribution system, providing potable water from an approved treatment facility, shall be provided to serve all parcels of the subdivision or principal buildings of the development. The pipes shall be sized to provide fire protection and an adequate supply of domestic water for all reasonably anticipated construction and occupancies.

- a) Provisions for Future Service Areas. Developers may be required to install additional linear footage of water mains and/or of larger size to provide for water service to property outside the project under consideration. Easements and rights of ways should be provided for lines installed by the developer and provisions shall be available for extensions to other adjacent properties.
- b) Design and Construction Standards. The water distribution system shall conform to all requirements and minimum standards of the Town and of the applicable State and County regulatory agencies, unless more restrictive standards apply.

Final determination of required fire flow rate(s) will be determined by the Town Fire Chief based on size, type, location, use, etc. of each proposed development. If the required flows cannot be obtained from the existing Town systems, it is the developer's responsibility to make improvements to the system, with Town approval, as necessary to comply with Town fire flow requirements.

- c) Fire Hydrants. Fire hydrants shall be spaced at the more restrictive of (i) the NC State Building Code or (ii) so that the furthest portion of all principal buildings, divisions thereof or dwelling units therein, and all building areas of site plan and parcels within five hundred feet (as a fire hose would normally be deployed) of a hydrant.

Fire hydrants shall be located on loop main line systems with two (2) sources of flow when reasonably possible as determined by the Town Manager.

- d) Location of Valves. All intersections of lines shall be adequately valved as determined by the Town Manager.
- e) Water Meters- Residential. All single family, two-family, triplex, fourplex or quadraplex residential dwelling units, or structures, shall be served by an individual water meter to each dwelling unit. Multifamily owner occupied residential dwellings shall be served a by an individual water meter. Multifamily residential developments for rental shall be served by one meter with the property owner, or property management company of the development responsible for billing from the Town of Selma.

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- f) Automatic Sprinkler Systems - Non-Residential. An automatic fire sprinkler-system meeting the requirements of NFPA Standard #13 may be required to be installed in non-residential construction if:
- i. the building has more than 6,000 square feet of floor area, or
 - ii. 20% or more of the total floor area is more than 200 feet of travel distance from the nearest access point for a fire truck, or
 - iii. the building exceeds two stories or 24 feet in height from the height from the average grade of the lot to the windows on the topmost occupied floor. In addition, all connections shall be located on the street side of each building, and activation of the sprinkler system shall activate both a local building alarm and a supervisory alarm at a twenty-four (24) hour certified and licensed alarm-monitoring service.

Upon the occupancy of any new, renovated or expanded structure subject to this Section, no person shall shut off or disable such automatic fire sprinkler system and no owner or resident of such building shall fail to prevent the shutting off or disabling of such a system. Provided, however, that a sprinkler system may be shut off to perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall only be conducted after notice to and approval by the Town and the Fire Chief.

Multi-Family. An automatic fire sprinkler system meeting the requirements of NFPA Standard #13 or #13R may be required to be installed in new multi-family construction, renovations and additions of ten or more attached housing units if:

- i. the building has more than 12,000 square feet of floor area, or
- ii. 20% or more of the total floor area is more than 200 feet of travel distance from the nearest access point for a fire truck, or
- iii. the building exceeds two stories or 24 feet in height from the average grade of the lot to the windows on the topmost occupied floor.

In addition, all connections shall be located on the street side of each building, and activation of the sprinkler system shall activate both a local building alarm and a supervisory alarm at a twenty-four (24) hour certified and licensed alarm-monitoring service.

Upon the occupancy of any new, renovated or expanded structure subject to this Section, no person shall shut off or disable such automatic fire sprinkler system and no owner or resident of such building shall fail to prevent the shutting off or disabling of such a system. Provided, however, that a sprinkler system may be shut off in order to

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perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall only be conducted after notice to and approval by the Town Fire Department.

6. Sewage Collection – Private Septic Tank System. In areas within the Town of Selma’s extraterritorial planning jurisdiction where no municipal sewer is available, private septic tank and sewage drainage fields are allowed. All septic tank – drainage field collection systems shall be approved by the Johnston County Department of Environmental Health prior to the approval of a subdivision or property Final Plat, and prior to the issuance of a building permit. The Town of Selma does not allow “off-site” septic tank or drainage fields to service any lot(s). In addition, no septic tank drain field can be more than 500 feet from a septic tank. If a drain field cannot be located within 500 feet of the septic tank and can be placed on the same lot, a determination can be made by the Planning Director consistent with the purpose and compliance provisions as set out in Article 1 of this Chapter.
7. Easements. All utility infrastructure shall be located on Town-owned property or on easements approved by the Town Manager and accepted by the Town Council. Easements shall be in a form acceptable to the Town Attorney and shall be recorded in the Johnston County Register of Deeds office following acceptance by the Town Council

Appendix E

LIGHTING

1. Street Lighting Service Levels.

It is the Town's objective to provide street lighting in accordance with the Illumination Engineering Society (IES) standards for various classes of streets. These nationally recognized standards acknowledge such key variables as use of streets, prevalence of entering and exiting right-of-way, parking and existing physical conditions on or near the streets. Standards relate to amount of light, noted in terms of foot candles, and uniformity of light, stated as a ratio of average to minimum foot candles along a given distance. These standards result in service levels that increase according to use. Higher levels of lighting correspond to higher usage by motorists and/or pedestrians.

Allowances are made for differences in the intensity of use and safety needs. Selective reduction of service levels for certain classes of streets, primarily those classed as residential, is necessary because of high costs involved with conversion to full IES standards.

2. Street Classifications.

IES's "Illumination Guide" groups streets into different classes -- expressway, commercial, intermediate and residential. These area classes are further subdivided into major, collector and local categories with standards established for each. These categories correspond to Selma street classifications with the IES "major" category corresponding to our "arterial" classification.

3. Street Lighting Guidelines.

Provision of lighting along Town streets enhances the safe movement of motorists, pedestrians and other users of public right-of-way. The Town's street light system is designed to support the following guidelines:

IES standards should be used town wide as the basis for establishment of lighting levels for new lighting installation along non-residential streets. These streets should be lighted to 100% of IES standards. Residential streets should be lighted at 220-foot intervals, with amendments as needed to consider local conditions such as topography, traffic volumes, number of intersections, crime rates and other factors. Town streets are being classified based on operational definitions of lighting by IES and consistent with street classifications within this Design Manual. Conversion to IES standards for existing non-residential streets and to spacing at 220-foot intervals for residential streets town wide will be phased over several years. Priority for implementation will be based on use, with commercial, intermediate and residential area classes being converted in that order.

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High-pressure sodium luminaries should be installed on all streets, with lamps suggested by IES according to classification. The Town standard for residential street lighting is a typical 9,500 lumen economical traditional luminaries, mounted on a 12-foot fiberglass pole or a 9,500-lumen cut-off cobra luminary, mounted on a 25-foot wood pole. Exceptions to this standard may be approved by the Town Manager when a duly authorized officer of a neighborhood group requests another configuration of hardware, provided any additional hardware costs are paid by the developer or representative prior to installation of the lights; and provided the alternative configuration results in the same operational costs to the Town as the Town standard fixtures. Underground wiring should be provided for all new fixture installations.

The Town Manager will determine those circumstances in which implementation guidelines will be waived. Examples include, but are not limited to, adjustments for areas with particularly high incidence of crime; significant public demand for additional services; and physical conditions associated with conversion of existing lighting. If there are permanent overhead utility lines, the Town Manager may waive the requirement for underground lines for new lights.

4. Street Lighting Standards.

The following standards and specifications are to assist developers in the placement and selection of street lights for use on streets classified as residential only. For information on lighting for streets with higher classifications, contact the Public Works Department. Where appropriate, a street lighting plan should be prepared as a part of a development application for approval by the Town Manager.

a) Placement.

- 1) Street lights should be located an average of 220' apart. A minimum of one street light should be located at every intersection and at the end of every cul-de-sac.
- 2) Where possible any street light not located at an intersection should be located on a property line.
- 3) On streets with a width of 44' or greater (back of curb to back of curb), street lights should be staggered on either side of the street.
- 4) On streets with a lesser width, street lights should be located on the side with a sidewalk if only one sidewalk exists. They should be staggered if sidewalks do not exist or if there are sidewalks on both sides of the street.
- 5) Street lights should be located within the road right-of-way a minimum of 3 feet from the back of curb or edge of road pavement.

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- 6) Street lights should be located a minimum of 3' from the edge of any paved sidewalk.
- b) Fixture selection.
 - 1) The Town's standard residential lighting fixture is the 9,500 lumen "economical traditional" luminaire provided by Duke Power Company. The luminaire should be mounted on a 12' black fiberglass pole.
 - 2) A 9,500-lumen cut-off lens cobra fixture can also be used when mounted on a 25' wooden pole.
 - 3) Other ornamental fixtures may be selected if they provide a comparable lighting level and are approved by the Town. If there are any additional costs for installation and maintenance, the developer will pay "up front" such costs.
5. Outdoor Lighting. All multi-family buildings and projects, including outparcels, shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed to enhance the visual impact of the project on the community and, where practicable, should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes onsite lighting needs without intrusion on adjoining properties.
 - a) Lighting Plan. A site lighting plan shall be required as part of the application and site plan review for all multi-family developments exceeding four (4) dwelling units per multifamily development.
 - b) Site Lighting Design Requirements. Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material, or color. All lighting fixtures designed or placed to illuminate any portion of a site shall meet the following requirements:
 - 1) Fixture (Luminaire). The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards toward the sky. Under-canopy lighting fixtures should be completely recessed within the canopy.
 - 2) Fixture Height. Lighting fixtures shall be a maximum of thirty (30) feet in height within the parking lot and shall be a maximum of fifteen (15) feet in height within

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non-vehicular pedestrian areas. Pedestrian scale lighting at a height not exceeding twelve (12) feet is encouraged. All light fixtures located within fifty (50) feet of any adjacent residential use or residentially zoned property boundary shall not exceed fifteen (15) feet in height.

- 3) Light Source (Lamp). Incandescent, florescent, metal halide, or color corrected high-pressure sodium are preferred. The Administrator shall have the authority to approve other lamp types (including light emitting diodes [LEDS] and fiber optics) provided the color emitted is similar to the preferred types. Non-color corrected high pressure sodium lamps are prohibited. The same light source type must be used for the same or similar types of lighting on any one site throughout any development.
- 4) Mounting. Fixtures shall be mounted in such a manner that the cone of light is contained onsite and does not cross any property line of the site.
- 5) Limit Lighting to Periods of Activity. Where practicable, the use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Administrator to conserve energy, provide safety, and promote compatibility between different land uses.

c) Illumination Levels. All site lighting shall be designed so that the level of illumination as measured in foot candles (fc) at any one point meets the standards in the table below, with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level) measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

Light Level (Foot Candles)			
Type of Lighting	Minimum	Average	Maximum
Multi-Family Parking Lot	0.2	1.0	8.0
Multi-Family Entrances	1.0	5.0	15.0
Storage Area (Security Lighting)	0.2	1.0	10.0
Walkways, Landscape, or Decorative Lighting	0.2	0.8	5.0

*The maximum level of illumination at the outer perimeter of the site or project shall be 0.5 foot-candles when abutting a residential zoning district and 5.0 foot-candles when abutting all other districts and/or streets.

d) Excessive Illumination. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this subsection.

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- 1) All outdoor lighting shall be designed and located such that the maximum illumination measured in foot candles at the property line does not exceed 0.2 on neighboring residential uses, and 0.5 on neighboring commercial sites and public rights-of-way.
 - 2) Lighting shall not be oriented to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.
 - 3) Fixtures used to accent landscaping or art shall be located, aimed, or shielded to minimize light spill into the night sky.
 - 4) Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature.
6. Nonconforming Lighting. Lighting fixtures existing as of the date of adoption of this ordinance, may remain, and shall be considered lawful nonconforming structures. Modifications, replacement or expansions shall conform to the standards of this Ordinance.

E. SIGNS AND MARKINGS STANDARDS

The following standards and specifications are to assist developers in the placement and selection of signs, traffic signs and markings on all public streets. Where appropriate, a sign and marking plan should be prepared as part of a development application for approval by the Town Manager. This plan should include a note indicating that prior to the installation of any street or traffic sign, the developer will contact the Traffic Program Supervisor in the Department of Public Works for approval of final sign design and placement.

Placement

Where warranted by the need to ensure motorist or pedestrian safety and/or to control vehicular, and pedestrian traffic, traffic signals, signs, and markings shall be provided in accord with the standards set forth in the Manual on Uniform Traffic Control Devices for Streets and Highways. Installation of all traffic devices shall be approved by the Town Manager, and NCDOT where applicable.

The developer of any new street is required to install all necessary signs prior to Town acceptance of the street. If the required sign(s) are deemed necessary prior to the acceptance of the street for Town maintenance and damage occurs to them in the interim, the developer will be responsible for repairs and/or replacement.

Standards

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The Town standard for a traffic sign (stop sign, speed limit, etc.) pole is a twelve foot 3 lb./ft. U-channel post. Town standard street name sign posts are ten and half foot round aluminum. If other styles of poles and sign hardware are desired, they must be approved by the Town Manager prior to installation.

For information about the specific design and size of required signs, contact the Public Works Department. Signs that do not meet Town design and size requirements will need to be replaced with approved signs prior to acceptance of any new street for Town

Maintenance.

All pavement markings shall be of a thermoplastic material with a minimum thickness of 0.125 mils and should be installed by the developer. Placement for such markings should be approved by the Town. If the Town elects to install the markings, costs will be assessed to the developer. If markings are necessary prior to the acceptance of the street for Town maintenance and damage occurs to them in the interim, the developer will be responsible for repairs and/or replacement.