

**AN ORDINANCE AMENDING
THE CODE OF ORDINANCES
OF THE TOWN OF COOLEEMEE**

**Appendix A
Zoning Ordinance**

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Cooleemee Zoning Ordinance Text Amendment Record

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**AN ORDINANCE AMENDING
THE CODE OF ORDINANCES
OF THE TOWN OF COOLEEMEE**

BE IT ORDAINED by the Town Board of Commissioners of the Town of Cooleemee, North Carolina, that the Code of Ordinances of the Town of Cooleemee is hereby amended by creating an Appendix A, Zoning Ordinance, to read as follows:

Appendix A, Zoning Ordinance

DIVISION I - ADMINISTRATIVE PROVISIONS

ARTICLE I-1.

Purpose and Authority

I-1.1 Purpose

The zoning regulations and districts as herein set forth are designed to promote and protect the public health, safety, general welfare and to enhance the quality of life and promote the economic vitality of the community.

They have been made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

I-1.2 Authority

The provisions of this ordinance are adopted by the Town Board of Commissioners of Cooleemee, North Carolina, under authority granted by the General Assembly of the State of North Carolina, particularly General Statutes Chapter 160A, Article 19.

I-1.3 Short Title

This ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Cooleemee, North Carolina.

I-1.4 Jurisdiction

The provisions of this ordinance shall apply within the corporate limits as now or hereafter established as shown on the official zoning map of the Town of Cooleemee, which is hereby adopted and made a part of this ordinance.

I-1.5 Separability

Should any section or provision of this chapter, for any reason, be held to be invalid, such decision shall not affect the validity of the remaining portions of the chapter.

I-1.6 Conflicting Ordinances Repealed

Any other ordinances, regulations or resolutions or any portions thereof, which are inconsistent with the provisions herein contained, are hereby repealed.

ARTICLE I-2.

Zoning and Permitting Procedures

I-2.1 Application of Regulations

No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this ordinance, or amendments thereto, for the district in which it is located.

No building shall hereafter be erected or altered so as to exceed the density regulations of this ordinance for the district in which it is located.

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family, or other requirements of this ordinance are not maintained. This prohibition shall not be construed to prevent the condemnation of narrow strips of land for public utilities or street right-of-way purposes.

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

A. Only One Principal Residential Building on One Lot

Only one (1) principal residential building and its customary accessory buildings may hereafter be erected on one lot, except as provided in Section II-2.5.SR1 of this ordinance.

B. Street Access

No building shall hereafter be erected on a lot, which does not abut a publicly dedicated, publicly approved, or publicly maintained street. However, buildings may be erected on lots platted prior to the effective date of this ordinance with access through a recorded easement.

C. Exemption

This ordinance shall in no way regulate, restrict, prohibit or otherwise affect the occupation of bona fide farms within the jurisdiction of this ordinance, now enacted or hereafter amended or revised.

This ordinance shall not regulate or restrict activities related to official festivals and special events declared as such by the Cooleemee Town Board of Commissioners.

I-2.2 Permitting Procedures

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a certificate of zoning compliance shall have been issued by the Zoning Administrator. No certification of zoning compliance shall be issued except in conformity with the provisions of this ordinance.

A. Application for Zoning Compliance Certificate

All complete applications for Zoning Compliance Certificates shall be accompanied by site plans and details showing the following (when applicable):

- a) the actual dimensions of the plot to be built upon;
- b) the locations on the lot of the building or structure proposed to be erected or altered;
- c) the size of the building to be erected;
- d) the location of any existing structures;
- e) the number of dwelling units the building is designed to accommodate;
- f) all setback lines;
- g) a description of the proposed use of land and structures;
- h) building materials and forms;
- i) landscape plan;
- j) lighting and sign type with dimensions;
- k) parking and utility service screening depicted;
- l) and such other information as may be necessary to provide for the enforcement of the provisions of this ordinance.

Upon determination by the Zoning Administrator that an application is complete, he shall review the Plans for compliance with this Ordinance. If the completed application and associated plans comply with the provisions of the Ordinance, then the application shall be approved and a Zoning Compliance Certificate shall be issued. If the completed application and associated plans do not comply with the provisions of this Ordinance, the application for a Zoning Compliance Certificate shall be denied. The Zoning Administrator shall provide in writing the reason(s) for the denial of the application.

Except for bona fide farms structures in accordance with Section I-2.1(C) and single-family dwellings and their customary accessory structures, no Zoning Compliance Certificate shall be issued until the Planning Board shall have reviewed a site plan of the proposed development for the following types of development:

- a) All new construction or additions that add heated floor space.

- b) Any development that requires or provides more than three (3) parking spaces.
- c) Any development that involves the grading of 3,000 square feet or more.

Nine (9) copies of the site plans shall be submitted at least seven (7) days prior to the Planning Board meeting at which review is scheduled.

B. Application Fee for Zoning Compliance Certificate.

All applications for a zoning compliance certificate shall be accompanied with an application fee based on the adopted fee schedule by the Cooleemee Town Board of Commissioners.

C. Requirements Prior to Issuance of a Building Permit

Prior to the issuance of a building permit, the applicant shall obtain the following approvals:

- a) If connection is to be made to a public water or sewer systems, the applicant shall obtain written approval by the Public Works Director for a connection to the system..
- b) If individual septic tanks and/or wells are to be used, the applicant shall obtain approval from the County Health Department.

Upon receiving a certificate of zoning compliance, a building permit shall be obtained from the County Building Inspections Office for the construction or alteration of any building, structure or manufactured home, pursuant to the procedures of the County Building Inspections Office.

D. Permit Expiration

If six (6) months elapse without the issuance of a building permit, the zoning permit shall expire. Resubmission of plans and an application for a new zoning permit, including applicable fees, shall be required for any approved project that did not commence construction within the six (6) month period. If construction ceases for twelve (12) months or longer, the zoning permit is considered expired and resubmission of plans is required.

E. Zoning Compliance Certificate With Vested Rights

In any case where the applicant for a Zoning Compliance Certificate desires to obtain a vested right, as authorized by NCGS 160A-385.1, the applicant shall observe the following procedures:

1. Site Plan Required - The applicant shall submit to the Zoning Administrator seven (7) copies of a site specific development plan drawn to scale describing

with reasonable certainty the type and intensity of use for the specific parcel or parcels of land. Such plan shall include:

- a) The boundaries of the site;
- b) Significant topographical and other natural features affecting the development of the site;
- c) The location on the site of the proposed buildings, structures, and other improvements;
- d) The dimensions, including height, of the proposed buildings and other structures;
- e) The location of all existing and proposed infrastructure on the site, including water, sewer, roads and walkways; and,
- f) Such other information as the Zoning Administrator may determine to be necessary in order to determine the specifics of the plan.

2. Public Hearing; Notice Thereof

Upon receipt of a properly prepared site specific development plan the Zoning Administrator shall arrange to bring such plan before the Board of Adjustment in the manner of a public hearing. Completed plans shall be received a minimum of fourteen (14) days prior to the public hearing at which the proposed vested rights plan is scheduled to be considered by the Board. Notice of the public hearing shall be given in the same manner as that required for a variance.

In considering an application for a Zoning Compliance Certificate With Vested Rights the Board of Adjustment shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, that the proposed Permit should not be granted, such proposed Permit shall be denied.

In granting such Permit, the Board of Adjustment shall make the following affirmative findings:

- a) The use requested is among those listed as a Permitted Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable ordinances.
- b) The requested Permit is either essential or desirable for the public convenience or welfare.

- c) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- d) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Compliance Certificate With Vested Rights, the Board may impose such additional restrictions and requirements upon such Certificate as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance or modification be obtained shall not confer a vested right unless and until the necessary variance, or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Certificate, otherwise the Certificate shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Certificate.

3. Violations

Any violation of a term or condition involved in the granting of a Zoning Compliance Certificate With Vested Rights shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Board may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

4. Other Ordinances Apply

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

5. Changes or Amendments

No change or amendment to any Compliance Certificate With Vested Rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such Certificate. If, at the time of

consideration of proposed change or amendment to an existing Certificate, such Certificate or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, such proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which such development right is vested. Nothing herein shall exempt plans related to such Certificate from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

6. Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed. Upon issuance of a Building Permit, the provisions of G.S. 160A-418 and 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 vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Compliance Certificate With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this Ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Certificate shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other non-conformity.

7. Annexation Declaration

Any landowner who signs an annexation petition to the Town pursuant to G.S. 160A.31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A- 344.1. If the statement declares that such rights have been established, the Town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

ARTICLE I-3

Non-Conforming Situations

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform with the provisions of this Ordinance. However, this Article is also established to require that non- conforming situations be terminated under certain circumstances.

I-3.1 Continuation of Non-conforming Situations

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections I-3.2 through I-3.8 of this Article.

I-3.2 Non-conforming Lots of Record

Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted Uses and the Special Requirements.

I-3.3 Extension or Enlargement of Non-conforming Situations

1. Except as specifically provided in this Section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.
2. Subject to Paragraph 4 of this Section, a non-conforming use may be extended through any portion of a completed building that, when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.
3. A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming.

4. The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming 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.
5. Physical alteration of non-conforming structures or structures containing a non-conforming use is unlawful if it results in:
 - a) An increase in the total amount of space devoted to a non-conforming use.
 - b) Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.
 - c) The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the non-conforming activity.
6. Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation - i.e., work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly Paragraph 5. In no case however shall work costing more than sixty percent (60%) of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

Provided, nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is non-conforming as to use, provided such is done in conformance with the dimensional requirements of the R-S Residential District.

I-3.4 Reconstruction Prohibited

Except as provided for I-3.6, any non-conforming building or structure or any building or structure containing a non-conforming use for which major repair or reconstruction is proposed in any amount equal to sixty percent (60%) or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use.

Provided, nothing herein shall prevent the reconstruction of a single-family dwelling that is non-conforming as to use provided such reconstruction conforms to the dimensional requirements of the R-S Residential District.

I-3.5 Change in Kind of Non-conforming Use

1. A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
2. A non-conforming use shall not be changed to another non-conforming use except upon a finding by the Board of Adjustment that the use is more in character with the uses permitted in the District than the previous use.
3. If a non-conforming use and a conforming use, or any combination of non-conforming uses exist on one lot, the use made of the property may be changed only to a conforming use.

I-3.6 Replacement of Non-conforming Manufactured homes

A. Replacement of Non-conforming Manufactured homes in the R-S District

A non-conforming manufactured home in the R-S district may not be enlarged or altered externally in any way. A non-conforming manufactured home on an individual lot may not be replaced except by a conforming dwelling or by a Class A manufactured home that meets the following standards:

- a) The home was constructed after June 15, 1976 and meets the Manufactured Home Construction Standards established by the U.S. Department of Housing and Urban Development (HUD).
- b) The manufactured home shall be multi-sectional and at least 24 feet by 40 feet excluding towing apparatus.
- c) The pitch of the manufactured home's roof shall have minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction
- d) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of glass white

- paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- e) A continuous, permanent masonry underpinning, unpierced except for required ventilation and access, shall be installed under the manufactured home.
 - f) The tongue, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.
 - g) Installation shall be in accordance with North Carolina Department of Insurance Standards.

B. Replacement of Non-conforming Manufactured Homes in the R-R District

A non-conforming manufactured home in the R-R district may not be enlarged. A non-conforming Class B or Class C manufactured home on an individual in the R-R district lot may be replaced by a conforming dwelling, a Class A manufactured home (multi-sectional) or Class B (single section) manufactured home that meets the following standards:

- a) The home was constructed after June 15, 1976 and meets the Manufactured Home Construction Standards established by the U.S. Department of Housing and Urban Development (HUD).
- b) The manufactured home shall be at least 8 feet by 40 feet excluding towing apparatus.
- c) The pitch of the manufactured home's roof shall have minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction
- d) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of glass white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

- e) A continuous, permanent masonry underpinning, unpierced except for required ventilation and access, shall be installed under the manufactured home.
- f) The tongue, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.
- g) Installation shall be in accordance with North Carolina Department of Insurance Standards.

If a lot that contained a non-conforming manufactured home remains vacant for more than 180 days, then only a conforming dwelling or Class A manufactured home (multi-sectional) may be placed on the lot.

C. Nonconforming Manufactured Home Parks

Existing manufactured home parks which provide manufactured home spaces having a width or area less than that herein described may continue to operate with spaces of existing width or area provided they meet the standards of the County Health Department and may continue to replace existing manufactured homes. In no event shall any non-conforming park be allowed to expand unless the entire park is improved to meet the requirements of this ordinance for the establishment of a manufactured home park.

I-3.7 Discontinuance of Non-conforming Uses

1. When active operation or occupancy of a non-conforming use is discontinued regardless of the purpose or reason for a consecutive period of one hundred and eighty (180) days, the property involved may thereafter be used only for conforming uses.
2. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this Subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment building or one space in a non-conforming manufactured home park for three-hundred and sixty-five (365) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use,

cessation of operation or occupancy of the non-conforming use for the required period shall terminate the right to maintain it thereafter.

I-3.8 Discontinuance of Non-conforming Adult Oriented Businesses

Notwithstanding the provisions of Section I-3.7 above, Adult Oriented Businesses shall be governed by the following:

1. Any Adult Oriented Business that fails to comply with the use and locational requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
2. Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and locational requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
3. Any Adult Oriented Business that is rendered a non-conforming use as a result of the conditions described in 1. and 2. above shall either cease to operate or meet all of the requirements of this Ordinance for the use no later than sixty (60) months from the date that the Adult Oriented Business becomes a non-conforming use.

I-4 BOARD OF PLANNING AND ADJUSTMENT

I-4.1 Establishment of Board of Planning and Adjustment

A Board of Planning and Adjustment is hereby established. Said Board shall consist of five (5) members and one (1) alternate member who shall be appointed by the Board of Commissioners and who shall be residents of the Town. All members shall serve terms of three (3) years. Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment. The term for each appointed member shall begin on the effective date of the adoption of this ordinance. Members may be appointed for any number of successive terms. All members shall vote on all matters except as otherwise provided for in this Article.

The Board shall meet within thirty (30) days after appointment and elect a Chairman and Vice-Chairman and create and fill such offices as it may deem necessary. The term of the offices of Chairman and Vice-Chairman shall be one (1) year, with eligibility for re-election. The Board may adopt rules of procedure not in conflict with this and any other town ordinances or policies. The Board shall keep a record of its members attendance and of its actions, which record shall be a public record. Such records shall be submitted to the Town Clerk and shall be on file at the Town offices for public inspection.

Regular attendance and interest shall be considered prerequisites of membership on the Board of Planning and Adjustment. Failure to attend three (3) consecutive meetings or four (4) meetings in any twelve (12) month period shall be considered as a resignation from the Board unless the Board determines by majority vote that good and sufficient reason has been given for the member's absence.

The Board of Planning and Adjustment is created to carry out the powers and duties of the Planning Agency as provided for in NCGS 160A-361 and the Board of Adjustment as provided for in NCGS 160A – 388 and to carry out the powers and duties of the Planning Board and the Board of Adjustment as provided for in this Ordinance; Appendix B, Subdivision Ordinance; and any other Ordinances or policies of the Town. In carrying out its function as a Board of Adjustment, the Board of Planning and Adjustment shall be bound by its rules of procedure and Sections I-4.2 through I-4.7 of this Article. In carrying out its function as a Planning Board, the Board of Planning and Adjustment shall be bound by its rules of procedure and by Sections I-4.8 and I-4.9 of this Article.

I-4.2 Rules of Conduct

Members of the Board may be removed by the Town Board of Commissioners for cause, including violation of the rules stated below:

1. No Board member shall take part in the hearing, consideration or determination of any case in which he is personally or financially interested. A board member shall have a “financial interest” in a case when a decision in the case will 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns any interest to experience a direct financial benefit or loss. A board member shall have “personal interest” in a case when it involves a member of his immediate family (i.e. parent, spouse or child).
2. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided however, that members may receive and/or seek information on that case from the Zoning Administrator or any other member of the board, its secretary or clerk prior to the hearing.
3. Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.
4. Members of the Board shall give notice to the chairman forty-eight (48) hours prior to the hearing of any potential conflict of interest, which he has in a particular case before the board. Conflicts of interest shall be disclosed as per NC General Statute 160A-388.

I-4.3 Proceedings of the Board of Adjustment

The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of Article 19, Chapter 160A of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

The Chairman of the Board of Adjustment, or in his absence the Vice-Chairman, may appoint alternates to sit for any regular members in case of the absence or disqualification of any regular members. In such case the alternate members shall have the same powers and duties of the regular members they are replacing during such time. In no case, however, shall more than five (5) regular members or combination of regular members and the alternate members be empowered to make motions or to vote on any matter that comes before the Board involving the Zoning Ordinance. A vacant or disqualified seat shall not be used in determining a vote. This does not include absences.

The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of this Ordinance or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to affect any variation of such Ordinance. In other Board business, such as procedural and by-law matters, a simple majority of those present and voting shall be required to pass on any matter. A quorum of the total three (3) regular members shall be required to act on general Board business whereas a quorum of four (4) regular members, or any combination of four (4) regular members or alternate members sitting as regular members, shall be required to act on any matter involving the Zoning Ordinance.

I-4.4 Appeals, Hearings and Notice

An appeal from the decision of the Zoning Administrator may be taken by the aggrieved party to the Board of Adjustment. Such appeal shall be taken within thirty (30) days by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall inform in writing all the parties involved of its decisions and the reasons therefor.

I-4.5 Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator, on due cause shown.

I-4.6 Powers and Duties of the Board of Adjustment

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
2. Zoning Compliance Certificate with Vested Rights. To hear and decide Zoning Compliance Certificates With Vested Rights in accordance with Section I-2.2.E of this Ordinance.
3. Variances. To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Conditions may be imposed by the Board of Adjustment to mitigate the effects created by granting the variance.

Such variance may be granted in such individual case of unnecessary hardship where the Board of Adjustment makes the following affirmative findings:

- a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance:
 - 1) If he complies with the provisions of the Ordinance, the property owner can secure no reasonable return from or make no reasonable use of, his property;
 - 2) The hardship results from the application of the Ordinance;
 - 3) The hardship is suffered by the applicant's property;
 - 4) The hardship is not a result of the applicant's own actions; and,
 - 5) The hardship is peculiar to the applicant's property.
 - b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - c) In granting the variance the public safety and welfare have been assured and substantial justice has been done.
4. Variance From Water Supply Watershed Overlay District Standards
 - a) Variances Generally: All requests for relief from the requirements of Watershed Overlay District Standards shall be decided by the Board of

Adjustment in accordance with the requirements of above, except for those variances that can be granted only by the North Carolina Environmental Management Commission. In addition, public notice shall be given to all other local governments having watershed regulation jurisdiction within the particular watershed and to each entity using that water for consumption.

- b) Variances to be Granted by the North Carolina Environmental Management Commission:

The following provisions of this Section may be varied only by the North Carolina Environmental Management Commission:

- (1) The complete waiver of any requirement of this Section; or
 - (2) The increase by ten percent (10%) or more of any numerical requirement of this Section. (For example: raising an impervious surface limit for a development from 24 percent to 26.4 percent or more.)
- c) Recommendation by Zoning Board of Adjustment to the Environmental Management Commission: If an application calls for the granting of a variance as listed in (b) above, the Zoning Board of Adjustment shall reach a recommendation on the variance in accord with the requirements of (3) above. If the Zoning Board of Adjustment decides in favor of granting the variance, the Zoning Board of Adjustment shall prepare a preliminary record of the hearing as soon as possible and forward it to the Environmental Management Commission. The preliminary record of the hearing shall include:
- (1) The variance application
 - (2) The hearing notices
 - (3) The evidence presented
 - (4) Motions, offers of proof, objections to evidence, and rulings on them.
 - (5) Proposed findings and exceptions
 - (6) The proposed decision including all conditions proposed to be added to the permit.

If the Zoning Board of Adjustment denies the variance, the variance is denied and may only be appealed to the Davie County Superior Court as provided for in Section I-4.8. of the Ordinance.

d) Decision by the Environmental Management Commission:

- (1) Approval: If the Commission approves the variance as proposed or with additional conditions, the Commission shall prepare a decision and send it to the Zoning Board of Adjustment. The Zoning Board of Adjustment shall prepare a final decision in accordance with the Commission's decision.
- (2) Disapproval: If the Commission denies the variance as proposed, the Commission will prepare a decision and send it to the Zoning Board of Adjustment. The Zoning Board of Adjustment shall prepare a final decision in accordance with the Commission's decision.

I-4.7 Appeals from the Board of Adjustment.

Any person or persons, jointly or severally, aggrieved by any decision of the Board, any taxpayer, or any officer, department, board or bureau of the jurisdiction of this Ordinance may, within thirty (30) days after the filing of the decision in the office of the Board, but not thereafter, present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of said Board shall be subject to review by certiorari as provided by law.

I-4.8 Planning Board – Composition

When acting as a Planning Board, four (4) of the five (5) members of the Board shall constitute a quorum and a simple majority of those voting shall be required to act favorably on any matter that comes before the Planning Board.

I-4.9 Planning Board – Powers and Duties

In addition to its specific duties set forth in this and other Town Ordinances and policies, the Planning Board shall have the following powers and duties:

1. To make studies of the Town and surrounding areas;
2. To determine objectives to be sought in the development of the Town;
3. To propose and recommend plans for achieving these objectives;

4. To develop and recommend to the Town Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
5. To advise the Town Board of Commissioners concerning the use and amendment of means for carrying out plans;
6. To exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this article or other ordinances of the Town ; and
7. To perform other related duties as may be assigned by this article or other ordinances.

ARTICLE I-5

AMENDMENT PROCEDURES; CONDITIONAL USE DISTRICTS

I.5 General

The Town Board of Commissioners may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional Use District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional Use District and simultaneously apply for Conditional Use Permit specifying the nature of his proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

I-5.2 Amendment Initiation

Applications to change, supplement or amend this Ordinance may be initiated by:

1. Textual Amendment.
 - a. The Town Board of Commissioners;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
2. Map Amendment.
 - a. The Town Board of Commissioners;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional Use Districts may only be initiated by the owner or authorized agent of the owner.

I-5.3 Submittal

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of ten (10) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.

All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning maps. The application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, a legal description of the property and a list of names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records. A statement regarding the consistency of the request with adopted Town plans and the surrounding area shall also be included with the application.

Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit request showing the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the request.

I-5.4 Planning Board Action

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting occurring at least ten (10) days after filing of such application with the Zoning Administrator.

The Planning Board shall have 30 days from the initial referral of the request by the Zoning Administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. The Planning Board shall include in their recommendation a statement of consistency. The Planning Board may also propose conditions to their recommendation for a Conditional Use District request. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board should fail to act on any proposed amendment within 30 days after it is referred to the

Board the request shall be forwarded to the Town Board of Commissioners without a recommendation.

I-5.5 Town Board of Commissioners Action

The Zoning Administrator shall present any proposed amendments to the Town Board of Commissioners at its next regular scheduled meeting, following the Planning Board review period. The Zoning Administrator shall transmit to the Town Board of Commissioners the Planning Board's record of action on the proposed amendments.

The Town Board of Commissioners shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held.

Notice of public hearing for map amendments shall be given as required by NC G.S. 160A-384 as follows:

- Notice shall be sent by first class mail to all adjacent property owners describing the proposed development plan at least 10 days prior to the public hearing.
- A notice shall be published in a newspaper having general circulation in the Town for two successive weeks with the first publication being at least 10 days but not more than 25 days prior to the public hearing.
- Adequate notice shall be posted prominently on the subject property on at least each public street that it fronts upon continuously for at least 10 days prior to the public hearing.

Notice of public hearing for text amendments shall be given as required by NC G.S. 160A-364 once a week for two consecutive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the public hearing date.

In taking action on a proposed amendment, the Town Board of Commissioners shall include in its decision a statement regarding the consistency of the proposed amendment with adopted Town plans and, if applicable, the surrounding area. Additionally, for Conditional Use Districts (see I-5.7) and small scale map amendments, a statement regarding the reasonableness of the request shall be included in the decision.

I-5.6 Protest Petition

A valid protest petition against a map amendment request shall be signed by the owners of twenty percent (20%) or more of the subject area or owners of five percent (5%) of the surrounding property extending 100 feet from the subject area. Where the subject area abuts a street right-of-way, the 100 feet shall be measured starting from the opposite side of the street right-of-way unless the right-of-way is greater than 100 feet. An amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Board of Commissioners. Excused members shall not be included in the vote. This does not include absences. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

No protest against any change in or amendment to the Zoning Map shall be valid or effective for the purposes of this Article unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturday, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. The protest petition must be valid at the time that the vote is taken and shall meet the requirements of North Carolina General Statutes 160A-385 & 386.

I-5.7 Special Provisions for Conditional Use Districts and Conditional Use Permits

Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered in a quasi-judicial manner.

A conventional rezoning proposal may be changed to the corresponding conditional use district rezoning proposal at any time during the process upon request by the applicant.

Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Town Board of Commissioners should determine that the property involved in the proposal

should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied.

In approving a Conditional Use District Rezoning, the Town Board of Commissioners shall make the following affirmative findings:

1. That the use(s) requested is among those listed as an eligible use in the Conditional Use District in which the subject property is located or is to be located.
2. The use limitations and conditions proposed and/or imposed for the conditional use permit meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding general use district.
3. That the use limitations and conditions as proposed and/or imposed for the requested conditional use permit can reasonably be implemented and enforced for the subject property.
4. That when implemented, the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general use zoning district.
5. That the applicant has agreed to accept the use limitations and conditions as proposed and/or imposed for the requested conditional use permit.
6. That the location and character of the Conditional Use District if developed according to the site specific plan will be reasonable and consistent with the surrounding area and with adopted plans of the Town and its extraterritorial jurisdiction.

In approving a Conditional Use District Rezoning, the Town Board of Commissioners may impose such additional restrictions and requirements upon such approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Town Board of Commissioners shall authorize the issuance of the Conditional Use Permit, otherwise the Permit shall be denied.

Any Conditional Use District so approved shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Town Board of Commissioners, as provided for in this Article.

The Town Board of Commissioners may change or amend any Conditional Use Permit, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional Use Permit.

No proposal to amend or change any Conditional Use District shall be considered within twelve (12) months of the date of the original approval of such District or within twelve (12) months of hearing of any previous proposal to amend or change any such request.

I-5.8 Maximum Number of Applications.

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of three (3) months from:

1. The date of final determination by the Town Board of Commissioners; or
2. The date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

Fees submitted for withdrawn cases shall not be refundable.

ARTICLE I-6

ADMINISTRATION, ENFORCEMENT AND PENALTIES

I-6.1 Administrative Officer

This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Board of Commissioners and is hereby empowered:

- A. To issue a Zoning Compliance Certificate prior to issuance of a building permit by the County Inspections Department;
- B. To collect the designated fees in the Administration of this ordinance.
- C. To investigate violations of the provisions of this ordinance and enforce actions necessary for correction thereof. To enter upon private property at reasonable times in the carrying out of the duties.
- D. To make and keep all records necessary and appropriate to the office including record of issuance and denial of all Zoning Compliance Certificate, Conditional Use Permits, Amendments, Variances, Appeals and of receipt of complaints of violations of this ordinance and action taken on the same.
- E. To appoint agents to act on his behalf.

I-6.2 Duties of Zoning Administrator, Board of Adjustment, Courts and Town Board of Commissioners to Matters of Appeal

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the Town Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Town Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

I-6.3 Violations; Remedies

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by State law.

A. Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

B. Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

C. Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the Town Board of Commissioners or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

D. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

E. Continue a Violation

Each days continuation of any of the above violations is a separate and distinct offense.

I-6.4 Penalties for Violation

Violations of this Ordinance shall constitute either a misdemeanor , with a fine not exceeding fifty (50) dollars or imprisonment not exceeding thirty (30) days, or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of

a citation for said violation as hereinafter provided. The civil penalty, if not paid to the Town within fifteen days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 (fifty dollars) for each violation and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provision of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Zoning Administrator shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation and the Board of Adjustment, in considering such appeal, shall, notwithstanding other powers as may be granted, have power only in the manner of administrative review and interpretation where it is alleged that the Enforcement Officer has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.

Where the Zoning Administrator determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Zoning Administrator may amend the warning citation to provide for additional time. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.

Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Subdivision Administrator and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the civil assessment in person within fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

ARTICLE I-7

GENERAL LEGAL PROVISIONS; DEFINITIONS

I-7.1 Interpretation, Purpose, Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern.

I-7.2 Effects Upon Outstanding Building Permits and Zoning Compliance Permits

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

I-7.3 Definitions

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein when not inconsistent with the context; words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The words "used for" shall include the meaning "designed for."

Accessory Dwelling. A single-family residential unit that is subordinate to the principal dwelling located on the same property and is used as a guest house or

as the residence of an immediate family member of the owner and occupant of the principal dwelling.

Accessory use or accessory building (non-residential). A subordinate non-residential use or building customarily incidental to and located on the same lot with the main use or building.

Accessory use or accessory building (residential). A noncommercial use or building customarily incidental and subordinate to but located on the same lot with the main residential use or building such as a private garage or carport, family garden, personal storage building, or workshop, all of which are totally for personal use.

Adult Establishment. Any place defined as an "Adult Establishment" as defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time, including Adult Cabarets, and except the definition of "Massage Business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult establishment specifically includes, however, any Massage Business where "massages" are rendered by any person exhibiting "Specified Anatomical Areas" and/or where "massages" are performed on any client's "Specified Anatomical Areas." "Specified Anatomical Areas" are those defined by North Carolina General Statutes 14-202.10 as such statute may be amended from time to time. Adult establishments shall be determined if a preponderance of uses or activities on the premises is for adult entertainment purposes.

Agricultural Use. A use that is not necessarily a bona fide farm but involves the keeping, or maintenance of plants and/or animals including but not limited to sod crops, grains, seed crops, vegetable crops, fruit orchards, livestock, tree farms, landscaping products, and forestry management. Uses which shall not be included in the definition are zoos and kennels.

Apartment. A room or suite of rooms in an multi-unit residential building, generally rented by the occupant, which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation in each separate unit.

Bed and breakfast. A dwelling in which lodging available for rent to the public, with or without meals, is provided for overnight guests for a fee.

Bona Fide Farm. Bona Fide farm purposes include production of and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Building. See "structure."

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

Building, main. The principal structure in which the primary use of the property is undertaken.

Building Occupancy. See "Use".

Building setback line. See "Setback".

Common open space. The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration or restrictive covenants and normally in common use.

Conditional Use. A use of land permitted in a Conditional Use District upon approval by the Town Board of Commissioners as part of the Conditional Use rezoning process.

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

Congregate care facility. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age who by reason of age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

Day care center. A facility providing care for six (6) or more non-handicapped children, more than four (4) hours per day, for payment of a fee, but without transfer or assignment of custody.

Distribution. A use in which products are brought in or manufactured on-site and are trucked off-site.

Dwelling, single-family (Conventional or Modular). A detached building constructed on-site or in industrialized modules in compliance with the North Carolina State Building Code and designed for or occupied exclusively by one family.

Dwelling, single-family attached. A single-family dwelling that except for corner units is connected on each side by means of a common dividing structural or load bearing party wall of at least ten (10) linear feet to another single-family dwelling, each on its own individual lot.

Dwelling, single-family detached. A single-family dwelling which is completely surrounded by permanent open space.

Dwelling, two family. A detached residential building arranged or designed to be occupied by two (2) families living independent of each other.

Dwelling, multifamily. A detached building constructed on-site in compliance with the North Carolina State Building Code and designed for three (3) or more dwelling units.

Dwelling unit. An enclosure of one or more rooms providing complete independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking and sanitation within the separate enclosure.

Family. Any number of persons related by blood, adoption or marriage or no more than four (4) persons not related by blood, adoption or marriage, living together as a single housekeeping unit sharing the same domestic facilities. It does not include congregate residential care facilities; family care and group care facilities; foster homes for children; homes for the aged and infirmed; family- care homes for the aged and infirmed; day care facilities; day care centers; and family day care homes; shelter homes for children and/or families including foster shelter homes and group shelter homes; adult day care centers; day nurseries; preschool centers; hospitals; nursing homes; sanitariums; and dormitories, fraternal organizations, or other organized social or institutional residential situations.

Family day care home. A building used as a residence for a family which is also used to provide day care services on a temporary basis without transfer of

custody for three (3) to five (5) unrelated children, for a fee. (The keeping of 1-2 children does not require a permit.)

Family care home. A home with support and supervisory personnel which provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons.

Family members, direct. Direct lineal descendents (children, grandchildren, and great grandchildren) and direct lineal ascendants (father, mother, grandfather and grandmother); and brothers, sisters, nieces and nephews.

Farmers Market. An open air market for the sale of agricultural products.

Flea Market. Any sales of items where booths or spaces may be rented to individuals or businesses that take place on the same property or by the same organizer(s) more than three (3) weekends per calendar year.

Frontage. The property abutting on one side of a street measured along the street right-of-way line.

Gross Floor Area. The total area of any buildings in the projects, including the basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the store such as boiler rooms and maintenance shops.

Group care facility. A facility licensed by the State of North Carolina, (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment.

Handicapped person. A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but does not include mentally ill persons who are dangerous to others as defined in section 122-58.2(1)b of the General Statutes of North Carolina, or any amendment thereto.

Home occupation. An occupation conducted incidental to the use of property as a dwelling unit, which does not adversely impact or change the residential character of the neighborhood.

Hotel or motel. A building which provides sleeping accommodations in six (6) or more rooms, commonly available for pay on a daily basis to transient or permanent guests.

Junk vehicle. A motor vehicle that does not display a current license plat and that is partially dismantled or wrecked and cannot be self-propelled or moved in a manner in which it was originally intended to move.

Junk yard (Salvage yard). A lot or group of contiguous lots where more than six hundred (600) square feet of area is used for the dismantling or the storage of wrecked or used automobiles or the storage, sale, or dumping of dismantled or wrecked cars or their parts, or for storage of appliances, machinery and other salvage goods.

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

Lot. A parcel of land, the boundaries of which are established by some legal instrument such as a deed or a recorded plat (but not tax maps) and which is recognized as a separate tract for purposes of transfer of title or lease of greater than three (3) years.

Lot, corner. A lot adjacent to or abutting on two (2) streets at their intersection.

Lot front. On a corner lot, the front is the frontage with the least dimension at the street. Where the dimensions are equal the front shall be designated by the owner.

Lot, interior. Any lot other than a corner lot.

Lot lines. The line forming the perimeter or boundary of the lot.

Lot, through. An interior lot having frontage on two (2) streets. Also called a double frontage lot.

Lot width. The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For lots with a radial side line(s), lot width may be measured at a front yard setback

greater than the minimum required front yard setback. In such case the point where the minimum lot width is measured shall become the front yard setback for that lot.

Lot of record. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the register of deeds, or a lot which is described by metes and bounds, the description of which has been so recorded, prior to the effective date of this Ordinance.

Manufactured home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty (40) feet in length and eight (8) feet in width.

Manufactured home, Class "A". A multi-sectional manufactured home that was built after June 15, 1976 and meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured home, Class "B". A single section manufactured home that was built after June 15, 1976 and meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured home, Class "C". Any manufactured home that is not a class "A" or "B".

Manufactured home park. A lot(s) or tract(s) of land used or intended to be used, leased or rented for occupancy by manufactured homes in conformity with the manufactured home park provisions of this Ordinance.

Manufactured home park, non-conforming. A lot or tract upon which two (2) or more manufactured homes are located. These homes do not qualify as individual manufactured homes on individual lots, and the park is not in conformance with all the requirements for the initial establishment for a manufactured home park as defined above.

Manufacturing, Heavy. The assembly, fabrication, production or processing of good and materials using processes that ordinarily have greater than average impacts on the surrounding environment and may include noise, smoke, fumes

odors, glare, health or safety hazards, or uses that otherwise do not constitute “light manufacturing”. There may be the outdoor storage of materials necessary to the operation.

Manufacturing, Light. The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke fumes, odors, glare, or health and safety hazards for the surrounding environment. Outdoor storage of materials is minimal compared to the overall operation.

Masonry. Units of structure made of natural or artificial mineral products bonded together with mortar. Examples of masonry include stone, brick, concrete, and concrete block.

Modular home; Building. Any building or structure which was premanufactured, all or in part, at some point other than the building site for assembly or installation later at the building site and which complies with the State of North Carolina Building Code. Further defined, such building may be assembled from premanufactured rooms, wall panels, frame units, or other factory manufactured parts, which may be fabricated of wood, concrete, metal or other materials, and anchored on a permanent foundation or foundation material at the building site. This definition does not include manufactured homes as defined in this Ordinance.

Net residential area (net land). That portion of a development or project site designated for residential lots and related common open space areas excluding dedicated public rights-of-way.

Nonconforming use. Any use which legally existed on the effective date of this Ordinance, and which does not conform with each regulation of the zoning district in which it is located, including any nonconforming use legally recognized under a prior zoning ordinance.

Open space. Any land area not occupied by buildings, structures, storage areas, open or enclosed balconies, patios, porches or decks, excluding, however, any land encroaching or located within a right-of-way or easement. Open area in any required setback or land used for sidewalks, landscaping and grassing shall be considered open space.

Overlay District. A zoning district which overlays and combines with one of the principal zoning districts established by this Ordinance. In such case the property involved is subject to the requirements of both districts.

Parking lot. An area or tract or partial tract of land used for the storage or parking of vehicles.

Planned unit development. A tract(s) of land under single corporation, firm, partnership or association ownership, or otherwise under unified ownership or control, planned and developed as integral unit in a single development scheme or a well defined series of development operations in accordance with an approved site plan.

Property. Means all property subject to zoning regulations and restrictions and zone boundaries within the zoning jurisdiction of the Town.

Private Outdoor Amusements. Any establishment which provides outdoor entertainment activities such as miniature golf, par 3 golf, batting cages, skate parks, BMX parks, arcades, carnival games, carnival rides, petting zoos, go-cart or ATV tracks, waterslides, drive-in movie theaters, and similar uses.

Public Sewage Disposal System. An approved sewage disposal system serving ten (10) or more connections, including municipal and sanitary district sewerage systems as well as "package" plants constructed in a location and to specifications approved by the Davie County Sanitarian in consultation with the NC Division of Health Services.

Public Water Supply System. An approved water supply system serving ten (10) or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions at full development and constructed to specifications approved by the Davie County Sanitarian in consultation with the NC Division of Health Services.

Recreation or travel trailer. A vehicular, portable, structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the unit. Includes motor home, recreational vehicle etc.

Residential care facility. A building or facility used primarily to provide residential, social and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service. It includes such uses as adult day care facilities, home for the aged and other like uses which are not otherwise specifically defined.

Screen. A device such as a fence or planting area used to visually separate property.

Service station. A lot or building where gasoline, oil, grease and automobile accessories are supplied and dispensed to the motor vehicle trade, or where battery, tire and other similar repair services are rendered.

Setback. The horizontal distance from the property line or street right-of-way line to the nearest part of the applicable building, structure, sign, or use, measured perpendicularly to the line.

Sign. Any object, placard, device, display or structure, or part thereof, made of any material, except live vegetation, including any surface, fabric or other background material which is designed, constructed and/or used for the purpose of relaying information from a fixed or mobile position to visually inform, advertise, identify, display, promote, direct or attract the attention of general or privileged persons to an object, person, institution, organization, corporation, business, profession, commodity, product, service, event or location by any means including, but not limited to, words, letters, phrases, sentences, emblems, trademarks, tradenames, insignias, numerals, figures, devices, designs, symbols, pictures, logos, fixtures, colors, illumination or projected images or any other attention directing device, displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, poles, trees, buildings or other structures or supports. The term sign shall include the terms advertisement, announcement, insignia, billboard, bill, billet, badge, display, brand, emblem, flyer, label, message board, poster, shingle, symbol, title and trademark. The term sign shall not include the terms television, telegraph, radio, signal or transmission. If the message is removed from a structure that was originally designed and used as a sign, this structure shall still be considered a sign.

A-Frame Sign (Sandwich board) - A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

Animation - The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having "chasing action" which is the action of a row of lights commonly used to create the appearance of motion.

Balloon - A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

Banner - A sign or outside advertising display having the character, letters, illustrations, ornamentations, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. National flags, state or municipal flags, or the official flag of any nonprofit institution shall not be considered banners.

Building Front - The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

Building Marker - Any sign indicating the name of a building, date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Building Sign - Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy - A protective cover over a door, entrance, window, or outdoor service area, which is attached to or cantilevered from a building. Also known as an awning. Permanent marquees and porticoes that are designed as a continuous or integral part of the structure shall not be considered canopies.

Canopy Sign - A sign that is suspended from, attached to, supported from, applied to, or constructed as part of a canopy or awning. A marquee is not a canopy.

Changeable Copy Sign - A sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial panels. Also known as a reader-board sign.

Combined Development - Two or more establishments or businesses occupying a common building or adjoining buildings which are designed and developed in a coordinated manner and which share parking, driveways and other common facilities.

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Electronic Message Board - A sign that displays messages, such as time and temperature, or advertising, in alternating light cycles.

Facade - The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

Facsimile Sign - An oversized, three-dimensional object, such as a chicken bucket, lettering, automobile (or automobile part), or human figure, which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

Fence Sign - A sign mounted on, attached to, or constructed as part of a fence or similar structure.

Festoon Lighting - A string of outdoor lights suspended between two or more points.

Flag - Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity.

Grade - The uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest City or state street curb.

Ground Sign - A free-standing sign with its base or its supports mounted directly to the ground. For the purposes of this ordinance, a ground sign shall be defined as two sign faces that are located back-to-back on a single structure. The maximum sign area as set forth in this Article 10 shall be applied to each of the sign faces independently.

Holiday Decorations - Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent in nature, and which contain no advertising material or commercial message.

Illumination, Indirect - Illumination which reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

Illumination, Internal - Illumination provided from a source located inside or within the face of the sign.

Individual Establishment or Business - A single establishment or business occupying one or more buildings and located on an individual parcel of land, designed to function as a single enterprise.

Inflatable Signs - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

Mansard - A steeply pitched roof, pitched at such an angle as to resemble a building wall.

Monument Sign – A ground sign that is mounted generally flush with the surrounding grade. It may not be attached to a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed 24 inches in height and are included in the measurement of sign height.

Off-Premise Sign - A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located. However, this definition shall include Outdoor Advertising or “Billboard” signs.

On-Premise Sign - A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

Outdoor Advertising (Billboard) Signs - A permanently installed sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

Panel - The primary surface of a sign that carries the identifying/advertising message.

Pennant - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Political Sign - A sign advertising a candidate or issue to be voted upon on a specific election day.

Portable Sign - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

Projecting Sign - A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

Pylon (or Pole) Sign – A ground mounted sign attached to one or more posts, whose base is greater than 24 inches above grade.

Roof Sign – Any sign erected and constructed wholly on and over the roof of a building, supported by the roof, and extending vertically above the highest portion of the roof.

Sign - Any display of letters, words, numbers, symbols, emblems, objects, pictures, or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display is made on, attached to, or constructed as part of a building, structure, vehicle, or object.

Spinner - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

Streamer - A string or strip of miniature or full size pennants or flags which may or may not be suspended between two points.

T-Shaped Sign - A portable sign comprised of one or more panels or faces joined at the bottom to a perpendicular base on which the sign stands.

Temporary Sign - A sign advertising a special event and not intended to be displayed on a permanent basis.

Vehicle Sign – See Portable Sign.

Wall Sign - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

Window Sign - A sign affixed to or placed within a window or other glazed surface of a building.

Site specific development plan. A plan which has been submitted to the Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Sludge. Any solid, semisolid or liquid waste generated from residential wastewater treatment plant.

Stacking Space. A space to store an automobile off-street while waiting in line for a drive-through service such as an automatic teller service, drive through restaurant etc.

Street, private. A vehicular travel way not dedicated as a public street or a dedicated but unaccepted vehicular travel way.

Street, public. A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by a municipality or the North Carolina Department of Transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular traffic for public use.

Structure. Anything constructed or erected which requires location on the ground or attached to something having location on the ground.

Structural alterations. Any change, except for the repair or replacement, in the supporting members of a building such as load bearing walls, columns, beams or girders.

Townhouse. A single-family dwelling unit constructed in a series or group of attached units with property lines separating each such unit.

Transmission Tower. A structure, either freestanding, supported by guywires, or attached to a building, and accessory equipment related to broadcast services, private radio services, including AM, FM, two-way radio, television and cable antenna television transmission, microwave transmission and facilities such as satellite dish receiving centers. This definition does not include electrical transmission distribution poles, towers, and line, personal satellite dishes, or structures not more than 35' in height.

Travel trailer parking area. A parcel of land in which two (2) or more spaces are designed, occupied or intended for occupancy by trailers for transient dwelling purposes.

Use. The primary purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

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

Warehouse use. A building or group of buildings for the storage of goods belonging either to the owner of the facility or to one or more lessees of space in the facility with access to contents only through management personnel. This does not include mini-warehousing or mini-storage.

Warehouse, Mini-. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis that does not include outdoor storage.

Wholesale. A commercial use primarily engaged in selling merchandise to retailers, industrial, institutional, or professional businesses or to other wholesalers. The majority of such businesses are for resale purposes. Wholesale clubs, and similar membership warehouses, where membership is easily available to the consuming public shall not be included in this definition.

Wireless Telecommunication Tower. A tower supporting licensed or unlicensed wireless telecommunication facilities including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the Amateur Radio Service, Public Safety Radio Service, or licenses assigned to non-profit organizations, such as the Red Cross, Civil Air Patrol, Military Affiliated Radio Service (MARS) that are licensed by the Federal Communications Commission.

Yard. An open space located on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or as otherwise provided herein. A yard is the area created by a setback.

Yard, front. A yard extending across the full width of the lot and extending from the closest front wall of the building to the property line or established edge of a right-of-way, whichever is closer.

Yard, rear. A yard extending across the full width of the lot and extending from the closest rear wall of the main building to the rear of the property.

Yard, side. A yard which extends from the closest side wall of a building to the nearest side property line or the established edge of the street right-of-way, whichever is closer, if the lot is a corner lot.

Yard sale. A sale conducted by civic or religious organization, an individual occupant of a residence, or in cooperation with neighbors for the purpose of selling surplus household items for profit or for charitable purposes. Yard sales are not conducted at the same location or by the same organizer(s) more than three (3) weekends per calendar year.

Zoning Administrator. An employee or agent of the Town who is assigned primary responsibility for the administration and enforcement of the Zoning Ordinance.

Zoning Compliance Certificate. A permit issued by the Town conferring the right to undertake and complete the development of and use of property.

Zoning Compliance Certificate with Vested Rights. A permit authorized by the Planning Board concerning the right to undertake and complete the development of and use of property under the terms and conditions of an approved site specific development plan.

DIVISION II REGULATORY PROVISIONS

ARTICLE II-1

Zoning District Categories Created

For the purposes of this Ordinance, three (3) categories of Zoning Districts are created.

II-1.1 General Use Zoning Districts Created

General Use Zoning Districts are created to provide comprehensive land use regulations throughout the jurisdiction of this Ordinance. There are seven (7) General Use Zoning Districts that provide for a variety of uses that are appropriate to the character of the individual districts throughout the jurisdiction of this Ordinance. See Article II-2.

II-1.2 Conditional Use Zoning Districts Created

Conditional Use Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to carry out the purposes of this Ordinance, proposes to impose special limitations and conditions on the use of the property proposed for rezoning. For each General Use Zoning District, there is a corresponding Conditional Use Zoning District. See Article II-3.

II-1.3 Overlay Zoning Districts Created

Overlay Zoning Districts are created to provide special additional development standards for specially identified areas. Overlay Zoning Districts combine with the regulatory provisions of the underlying General or Conditional Use Zoning Districts to provide additional or different standards. There is one (1) Overlay Zoning District. See Article II-4.

ARTICLE II-2

General Use Zoning Districts

For the purpose of this ordinance, the Town of Cooleemee is hereby divided into the following general use zoning districts:

R-R	Rural Residential District
R-S	Single-Family Residential District
R-MF	Multi-Family Residential District
R-MH	Manufactured Home Park District
O-I	Office / Institutional District
C-S	Commercial Service District
H-B	Highway Business District
L-I	Light Industrial District
H-I	Heavy Industrial District

R-R Rural Residential District

The R-R Rural Residential District as herein established is intended for a rural development pattern of low density single-family residential uses in addition to agricultural uses and bona fide farms.

R-S Single-Family Residential District

The R-S Single Family Residential District as herein established is intended for medium density single-family residential uses along with other residentially related facilities which serve the residents in these districts.

R-MF Multi-Family Residential District

The R-MF Multi-Family Residential District as herein established is intended to provide sites for higher density multi-family dwelling units which will serve as zones of transition between nonresidential uses and districts and single-family residential districts.

R-MH Residential Manufactured Home Park District

The R-MH Residential Manufactured Home Park District as herein established is intended to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land by providing for the planning and operation of manufactured home parks, and by providing for standards and regulations necessary to accomplish these purposes.

O-I Office – Institutional District

The O-I Office – Institutional District as herein established is intended to provide sites for service-oriented professions and community institutions, whereby very minimal retail sales occur on the site. Further, the uses generally found in the O-I District are most often provided for in individual, freestanding establishments not conducive to higher volumes of traffic which might discourage adjacent property improvements that may be either residential, commercial or industrial developments.

C-S Commercial Service District

The C-S Commercial Service District is intended to permit those uses which provide for a variety of retail stores and related activities, and or office uses and service establishments which occupy prime frontages in the business center of the community.

H-B Highway Business District

The H-B Highway Business District as herein established is intended to provide sites for automobile services and goods most often provided for in individual freestanding establishments not serving a pedestrian flow and are therefore intended for location along major traffic arteries so as to serve the automobile-oriented traffic pattern.

L-I Light Industrial District

The L-I Light Industrial District is intended primarily to accommodate wholesale, distribution, warehouse, and light manufacturing operations whose external and physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The L-I District is intended to permit, along with other specified uses, the manufacturing, compounding, processing, packaging, assembly or treatment of finished or semi-finished products from previously prepared material. The processing of raw material in an L-I District for shipment, in bulk form, to be used in an industrial operation at another location, is prohibited.

H-I Heavy Industrial District

The H-I Heavy Industrial District is intended primarily for heavy manufacturing operations and raw material extraction and processing whose external and physical effects may affect in a detrimental way the surrounding districts. The Heavy Industrial District shall only be considered as a Conditional Use District.

II-2.1 District Boundaries

The boundaries of the general use districts are hereby established as shown on a map entitled "Official Zoning Map, Town of Cooleemee, North Carolina," adopted by the Town Board of Commissioners and certified by the Town Clerk. Said map and all explanatory matter thereon accompany and are hereby made part of this ordinance. Said map shall be retained in the office of the Town Clerk.

II.2.2 Rules Governing Boundaries

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

- (1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or railroad right-of-way lines or such lines extended, such center lines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by use of the scale shown on said zoning map.
- (4) Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line.
- (5) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if further uncertainty exists as to the location of boundaries or applicability of zoning districts, the Board of Adjustment shall interpret the intent of

the Zoning Map as to the location of such boundaries, and the applicability of such districts.

II-2.3 General Use District Standards

The General Use Districts as established by this Article shall comply with all of the general and specific requirements of this Ordinance and in particular shall comply with the following standards and requirements:

- A. Uses. See Section II-2.4 entitled Table of Permitted Uses.
- B. Special Requirements. See Section II-2.5 entitled Special Requirements to the Table of Permitted Uses.
- C. Conditional Use Permits. See Section II-2.6 entitled Conditional Use Permits.
- D. General and Dimensional Standards. See Section II-2.7 entitled General and Dimensional Standards.
- E. Off-Street Parking and Loading. See Section II-2.8 entitled Off-street Parking and Loading.
- F. Signs. See Section II-2.8 entitled Sign Regulations.
- G. Landscaping. See Section II-2.10 entitled Landscaping.
- H. Lighting. See Section II-2.11 entitled Lighting.
- I. Soil Erosion. See Section II-2.12 entitled Soil Erosion and Sedimentation Control.

II-2.4 Table of Permitted Uses

The Table of Permitted Uses which follows contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance. Uses are listed in alphabetical order in nine functional categories. The categories in the order of listing are:

Residential	Religion
Education	Retail Trade & Services
Government	Industrial
Health	Other
Recreation	

The listings of Permitted Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Zoning Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Table of Permitted Uses, the Zoning Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Zoning Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted.

II-2.4.1 Compliance with Other Laws

The listing of a use in the Table of Permitted Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use.

II-2.4.2 Meaning of Entries

The meanings of the entries in the Table are as follows:

1. “X” indicates the use is permitted by right and a Zoning Compliance Certificate may be obtained after approval of a site plan by the Planning Board.
2. “C” indicates the use is permitted with the issuance of a Conditional Use Permit by the Town Board of Commissioners in accordance with Section II-2.6.
3. The column on the far right, labeled “SR” (Special Requirements) means there are special additional performance requirements that the use must comply with in its development. See Section II-2.5.

II-2.4.3

TABLE OF PERMITTED USES

RESIDENTIAL	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Dwelling units, accessory	C	C								23
Dwelling units, single-family	x	x		x						
Dwelling units, two-family			x							
Dwelling units, multi-family			x							1
Family care home & family day care home	x	x	x	x						2
Class A Manufactured Homes	x									11
Class B Manufactured Homes				x						12
Class C Manufactured Homes	Not permitted									
Manufactured home parks				x						3
EDUCATION	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Business colleges, barber and beauty colleges, & art schools					x	x	x			
Community colleges/technical institutes	C				x	x	x	x		
Day care facilities	C				x	x	x			
Industrial trade schools and research laboratories	C							x		
Libraries, museums, art galleries	C				x	x	x			
Public schools (K-12), colleges, universities & private schools housing a curriculum approximately the same as ordinarily given in public schools	x				x	x	x			
GOVERNMENT	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Public buildings, (administrative & service)	x	x	x	x	x	x	x	x	x	
Public safety facilities	x	x	x	x	x	x	x	x	x	
Public works & public utility yards & facilities	x							x	x	
Water, sewer & other public utility & services lines and in-line facilities	x	x	x	x	x	x	x	x	x	
HEALTH	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Hospital					x	x	x			
Medical laboratories					x	x	x			

Medical offices & clinics (including dental)					x	x	x			
Residential Care Facilities	C				x					
RECREATION	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Family campgrounds	C									
Private, outdoor amusements including go-cart tracks, miniature golf courses, batting cages, carnival games and rides							C			4
Private, recreational facilities including parks, playgrounds, golf courses, swimming pools, and club houses	x	x	x	x	x	x	x			4
Public recreational facilities, including parks, playgrounds, community centers, clubs, & lodges, golf courses, swimming pools, fishing lakes, and similar recreational uses.	x	x	x	x	x	x	x			
Social & fraternal organizations	C				x	x	x			
RELIGION	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Cemeteries as a principal use	x	x		x	x					13
Religious institutes & customary related uses excluding cemeteries.	x	x		x	x	x	x			
Religious institutes & their customary related uses including cemeteries	x	x		x	x					13
RETAIL TRADE, OFFICES & SERVICES	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Adult entertainment								C		5
Assembly halls, armories, etc. (public assembly facilities)					x	x	x	x		
Auction sales	C					C	C	x		
Auto parking lots as a principal use (does not include trucking or salvage operations)						x	x	x	x	
Auto sales, new & used						C	x			
Auto service and repair						C	x			18
Auto washing establishments						C	x			
Banks					x	x	x			
Barber & beauty shops						x	x			

	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Bicycle, motorcycles, lawn mowers, & power saw sales & service						C	x			
Boat, motor, & boat trailer sales & service						C	x			
Building supplies stores							C	x		
Cabinet, woodworking, & upholstery shops						C	x	x		
Drive-through uses						C	C	C		
Dry cleaning & laundry services (max. 1,000 square ft.)						x	x	x		
Exterminators						x	x			
Farm machinery, sales & service	x					C	x	x		14
Flea Markets							C			20
Food stores, fruit stands & produce markets						x	x	x		
Funeral homes & mortuaries					x	x	x			
Greenhouses, commercial	C						x	x		15
Industrial supplies & equipment, sales & service,							C	x	x	
Laundromats						x	x			
Locksmiths & gunsmiths						x	x			
Medical & dental clinics & laboratories						x	x			
Motels, hotels, tourist cottages, inns						x	x			
Personal service uses						x	x			
Pet shops & veterinarians with outside runs	C						C	C		17
Pet shops & veterinarians without outside runs						x	x			
Pharmacy						x	x			
Physical culture & reducing salons; tattoo & body piercing parlors						C	C			6
Pool hall , game room, bowling						C	x			7
Printing, publishing, & reproduction establishments						x				
Real estate, sales & rental offices						x	x			
Repair shops-(within fully enclosed building excluding automotive/boat/heavy equipment)						x	x	x		
Restaurants						x	x			
Retail uses (less than 30,000 square feet)						x	x			
Retail uses (more than 30,000 square feet)						C	C			
Taxicab stands						x	x			
Theaters, indoor						x	x			

<u>INDUSTRIAL</u>	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Air conditioning & heating equipment manufacturing								x	x	
Amusement, recreational sporting goods manufacturing								x	x	
Apparel & clothing manufacturing, including hosiery								x	x	
Automobile parts & accessories manufacturing								x	x	
Bedding & carpet manufacturing & cleaning establishments								x	x	
Bookbinding								x	x	
Bottling works								x	x	
Business machines manufacturing								x	x	
Cabinet, woodworking, & upholstery shops						x	x	x		
Candy & confectioneries & manufacturing								x		
Coffee, tea & spices manufacturing								x		
Concrete & asphalt products plant									C	21
Dairy products finished processing & distributing facilities (excluding dairy farming operations)									x	
Drugs, medicines, & cosmetics manufacturing								x	x	
Distribution							C	x	x	
Electrical appliances & electronic equipment manufacturing								x	x	
Farm machinery assembly								x	x	
Feed & seed stores						x	x	x		
Felt & sandpaper manufacturing								x	x	
Foundries									C	21
Freezer lockers & ice plants								x	x	
Furniture manufacturing								x	x	
Glass, ceramic & tile manufacturing								x	x	
Grading, excavation & construction companies								x	x	
Hardware & housewares manufacturing								x	x	
Leather products, including luggage & shoe manufacturing								x	x	
Lumber processing and sawmills									C	21

Machine & welding shops							C	C	x	
Machine tool manufacturing								x	x	
Metal fabrication plants									x	
Mining, quarrying, and extraction									C	21
Mini-warehouses							C	x		
Manufactured home and trailer manufacturing									C	
Monument works & sales							x	x		
Musical instruments manufacturing								x	x	
Paper products manufacturing									x	
Plating works									x	
Plastic products manufacturing									x	
Pottery, porcelain, or china manufacturing									x	
Printing, engraving, and publishing								x	x	
Rubber products manufacturing									x	
Salvage yards									C	21
Sheet metal, roofing, plumbing, heating, and refrigeration fabrication									x	
Sign painting and fabrication								x	x	
Textile manufacturing								x	x	
Tire recapping									x	
Warehousing (not including mini warehouses)								x	x	
Wholesale operations								x	x	
<u>OTHER</u>	R-R	R-S	R-MF	R-MH	O-I	C-S	H-B	L-I	H-I	SR
Agricultural uses (other than Bona Fide farms)	x									
Airports									C	21
Bona Fide farms	x	x	x	x	x	x	x	x	x	
Customary accessory structures	x	x	x	x	x	x	x	x	x	8
Home occupation, customary	x	x	x	x						9
Home occupation, rural	C									9
Junked vehicles	x						x	x	x	18
Outdoor Storage							C	C	C	16
Signs, associated with a principal use	x	x	x	x	x	x	x	x	x	
Temporary Uses	x	x	x	x	x	x	x			22
Wireless telephone towers & facilities								C	C	10
Yard Sales	x	x	x	x	x	x	x			19

II-2.5 SPECIAL REQUIREMENTS TO THE TABLE OF PERMITTED USES

The Table of Permitted Uses contains a column on the far right labeled "SR" for Special Requirements. In any case where a use listed in the Table of Permitted Uses has a number in the SR column opposite the use, the use must comply with the additional "Special Requirements" contained in this section corresponding to the Special Requirements number. For example, the use "Manufactured Home Park" has the number "3" in the SR column opposite the use, therefore, the development of a Manufactured Home Park must meet the special requirements for SR "3" Manufactured Home Park of this section.

SR 1. Multi-Family Dwelling

- (a) No multi-family dwellings or series of attached single-family, multi-family buildings or other such arrangements shall exceed a length of one hundred fifty (150) feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment.
- (b)
 - (1) No multi-family development shall contain more than sixteen (16) dwelling units unless the development shall have frontage along and direct primary access on a major or minor thoroughfare as shown on the Thoroughfare Plan.
 - (2) Any multi-family development with more than sixteen (16) dwelling units shall meet the requirements of 1. above and shall submit a certified traffic engineering report evaluating the capability of the adjoining street system to carry the traffic generated by the development.
- (c) An individual multi-family building, or a single series of attached dwelling units to be located on an individual lot shall be developed in accordance with the area, yard and height requirements of the district in which located the same as any other individual building on an individual lot. The conveyance of ground space for single-family attached units or for common area or similar purposes shall not preclude development under this subsection. Such conveyances however shall be subject to the requirements of the Subdivision Ordinance and may be subject to the North Carolina Unit Ownership Act.

- (d) In any case where more than one multi-family building, or more than one series of attached dwelling units are proposed to be constructed on one lot, such development shall be in conformance with the following residential group development standards.
1. **Site Plan.** No zoning permit shall be issued for any construction in a group residential development except in accordance with a site plan approved by the Planning Board, in accordance with the standards herein. In any case where land is to be dedicated in a group residential development, a Subdivision Plan may be required by the Subdivision Ordinance. Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer, shall first comply with the Subdivision Ordinance.
 2. **Density.** The number of dwelling units per unit of land area shall not exceed the number of dwelling units per unit of land area permitted in the district in which the development is located.
 3. **Yard Requirements.** The following yard requirements are hereby established:
 1. Exterior. Along each exterior property line or public street, the minimum front, rear and side yard setback of the Zoning District shall be maintained.
 2. Interior. For each building erected along a private street or accessway, a minimum setback of twenty (20) feet shall be maintained from the nearest edge of street or accessway pavement.
 3. Distance Between Buildings. A distance of at least twenty (20) feet shall be maintained between all buildings within the development.
 4. **Streets or Accessways.** All private streets or accessways providing ingress and egress from the development to an existing public street system shall comply with the current

standards being required by the subdivision regulations then in effect, including street drainage, except that no curb and gutter is required and a pavement width of only 20 feet shall be required.

5. **Sidewalks.** Sidewalks shall be installed in the same manner and under the same criteria as that established in the subdivision regulations.
6. **Storm Drainage Improvements.** Storm drainage improvements shall be made in the same manner and under the same criteria as that established in the subdivision regulations.
7. **Sanitary Containers.** Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container.

SR 2. Family Care Home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer persons may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half (1/2) mile radius of any other family care home as defined by NCGS 168-21.

SR 3. Manufactured Home Parks

Manufactured Home Parks shall be constructed in conformance with the following design standards:

- | | |
|--|---|
| 1. Minimum site area in acres | 5 |
| 2. Minimum number of manufactured home spaces | 5 |
| 3. Maximum number of manufactured home spaces per acre | 8 |

Twenty percent (20%) of the permitted number of spaces may be occupied by recreation vehicles, including travel trailers

4.	Minimum lot and/or parcel width for site at front Building line in linear feet	100
5.	Minimum area per manufactured home space Class B Manufactured home (sq. ft.) (RV Units) Class A Manufactured home (sq. ft.)	4000 6000
6.	Minimum area per manufactured home space width Class B (linear ft.) (RV Units) Class A Manufactured home (linear ft.)	45 60
7.	Maximum number of manufactured homes per mobile home space	1
8.	Minimum number of parking spaces per mobile Home space (located on each space)	2
9.	Minimum area of landing/patio per manufactured home Space (located on each space (sq. ft.))	1
10.	Minimum area of landing/patio per manufactured home Home space (sq. ft.)	32
11.	Hard surface walk required to connect each patio to parking space (min. three (3) ft. width)	Yes
12.	Street paving required in conformance with DOT standards for minor streets	Yes
13.	Maximum slope permitted on site	3:1
14.	Maximum number of driveways connecting to streets (other than private street)	0
15.	Maximum number of private street connections to street per manufactured home park	2

16. Minimum distance between private street connections to street (linear ft.)	150
17. Maximum length of dead end and/or cul-de-sac private street (linear ft.)	800
18. Minimum turning circle (paved) diameter at end of each dead end and/or cul-de-sac private street (linear ft.)	70
19. Manufactured home park identification sign conforming Section II-2.8.9 required.	Yes
20. Minimum separation between entrance/exit point of private street to street and nearest street intersection (linear ft.)	150
21. Street light required at all private street intersections	Yes
22. Water supply and sewage disposal facilities required	Yes
23. Minimum open space required per manufactured home space (in acres)	0.04
24. Private street names required (subject to approval)	Yes
25. Maximum number of manufactured home spaces with vehicular access from one-way private streets	20
26. Garbage collection and disposal by owner/operator in accordance with applicable codes required	Yes
27. Heating oil and/or LP gas tanks with foundation permitted	Yes
28. Minimum capacity of heating fuel tanks (gallons)	150
29. Wood burning heat sources permitted	Yes
30. Screening of fire wood required (no minimum height)	Yes
31. Minimum separation between each unit (linear ft.)	24

32. Vehicle speed control devices required	Yes
33. Number of accessory buildings per manufactured home space	1
34. Minimum separation of accessory building from other manufactured home on same space and other accessory buildings (linear ft.)	10
35. Minimum separation of accessory building from other manufactured homes (linear ft.)	20
36. All manufactured homes meet HUD construction standards and bear HUD tag and/or date plate	Yes
37. Towing apparatus removed from all manufactured homes	Yes
38. All manufactured homes set up in accordance with the standards established by the North Carolina Dept. of Insurance. In addition, a continuous brick underpinning shall be installed under the perimeter of each home, unpierced except of required ventilation and access.	Yes

SR 4. Private Recreation Uses

- a. There shall be a fifty (50) foot minimum setback between all activity areas or structures and adjacent residentially zoned property.

SR 5. Adult Establishments

- a. No person shall knowingly keep, maintain, or operate an adult bookstore, adult movie house, massage parlor, topless dancing establishment or any other adult establishment:
 - (1) Within a minimum distance of five hundred (500) feet from any R-S single family residential district.
 - (2) Within a minimum distance of fifteen hundred (1500) feet from any preschool, elementary, or secondary school;
 - (3) Within a minimum distance of one thousand (1000) feet from any other adult establishment; or

- (4) Within any zoning district other than the L-I District.
- b. All measurements shall be taken by drawing straight lines from the nearest point of the property line where the proposed adult establishment is to be located to the nearest point of the property line of the closest single family residential district, preschool, elementary or secondary school or adult establishment.

SR 6. Tattoo and Body Piercing Parlors

- a. No person shall knowingly keep, maintain, or operate a business establishment which performs tattooing, body piercing or both:

- (1) Within a minimum distance of one thousand (1000) feet from any preschool, elementary, or secondary school; or

All measurements shall be taken by drawing straight lines from the nearest point of the property line where the proposed tattoo or body piercing parlor is to be located to the nearest point of the property line of the closest preschool, elementary or secondary school.

- - b. Tattooing and body piercing rooms and tattooing and body piercing activity shall not be visible from the exterior area of the building and the public right-of-way.
 - c. For the purpose of this Ordinance, tattoo and body piercing operations shall not be considered home occupations.
 - d. For the purpose of this Ordinance, the term "tattoo" shall have the definition set forth in North Carolina General Statutes § 130A-283, and "body piercing" shall be that activity described in North Carolina General Statutes § 14-400(b), provided, however, that ear piercing as a principal or accessory use shall not be subject to this classification and these provisions.

SR 7. Pool Hall, Game Room, Bowling

- a. Such uses shall conform to the requirements of Chapter III, Amusements of the Code of Ordinances of the Town of Cooleemee.

SR 8. Customary Accessory Structures

- a. Where the accessory structure is structurally attached to a main structure, it shall be subject to and must conform to all regulations of this chapter, applicable to main structures.
- b. Accessory structures shall not be erected in any front yard whether required or provided.
- c. In the R-R district an accessory structure shall not exceed 10 percent of the lot on which it is located. In all other districts, an accessory structure may occupy not more than 25% of a required rear yard, plus 20% of any non-required rear or side yard, provided that in no instance shall the accessory structure exceed 1/2 of the ground floor area of the main building.
- d. In the R-R district, no accessory structure shall be located closer than 15 feet to any side or rear lot line. In all other districts, no detached accessory structure shall be located closer than 10 feet to any side or rear lot line.
- e. No detached accessory structure in an R-R, R-S, R-MF or R-MH District shall exceed 14 feet in height or the height of the principal structure, whichever is greater. Accessory structures in all other districts may be constructed to equal the maximum height of the district.

SR 9. Home Occupation

The following shall apply to Customary Home Occupations in the R-R, R-S, R-MF, and R-MH districts:

- a. Customary home occupations such as dressmaking, cooking and baking, hairdressing, music instruction, the practice of such professions as insurance and accounting may be permitted within the dwelling unit in the Zoning District indicated.
- b. Only one person other than those residing in the home shall be engaged in the occupation.
- c. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

- d. There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one non-illuminated sign not exceeding four (4) square feet.
- e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

The following shall apply to Rural Home Occupations in the R-R, district:

- a. Minimum lot size is 2 acres.
- b. The Rural Home Occupation shall be incidental to the use of the property for a principal dwelling.
- c. The occupation activity may take place either in the principal dwelling or an approved accessory building.
- d. The operator of the rural family occupation must reside on the property. No more than three (3) persons who do not reside on the premises shall be employed at the occupation.
- e. If located in a separate structure from the principal dwelling, then the structure shall meet the principal structure setbacks for the zoning district.
- f. Rural home occupations shall be limited to small personal service uses, repair shops (excluding automotive/boat/heavy equipment repairs), professional offices, homemade product sales, produce sales, and similar uses.

SR 10. Wireless Telecommunication Towers and Facilities

A site plan shall be submitted containing the name of the tower owner, property owner, scale, north arrow, and latitude/longitude coordinates.

Existing site conditions, including contours, any unique natural or man-made features such as vegetation and ground cover. Exact boundary lines of the property containing the proposed tower construction, fall radius and any associated guide wires. Description of adjacent land use and all property owners(s) and their addresses. A front and side elevation profile, drawn to scale, of all existing and proposed towers and their antennas to be located on the property.

Wireless telecommunication towers and facilities located on property owned by the Town of Cooleemee shall not be subject to the standards of this Special Requirement.

- (a) Towers shall have a setback of one foot for each one foot in height of tower, plus twenty-five (25) feet from all property lines and rights-of-way, as measured from ground level.
- (b) Towers shall not be located within a one-half (1/2) mile radius of any other wireless telecommunication tower, unless concealed in a church steeple, farm silo, or other architecturally designed encasement. Furthermore, towers located beyond a one-half (1/2) mile radius and not exceeding three (3) mile radius from other wireless telecommunication tower shall not be permitted, unless the applicant can prove that co-location is not a viable option and no stealth location is possible.
- (c) Towers shall be no closer than five hundred (500) feet from any existing residential dwelling, excluding any dwellings located on the same parcel of land as the tower.
- (d) Towers shall not exceed three hundred and fifty (350) feet in height as measured from ground level.
- (e) Towers with a height greater than one hundred-fifty (150) feet shall be constructed to permit the capability for the co-location of additional provider antennas as follows:
 - 151 feet to 200 feet - two additional antennas
 - 201 feet to 250 feet - three additional antennas
 - 251 feet to 300 feet - four additional antennas
 - 301 feet to 350 feet - five additional antennas
- (f) The applicant shall be required to provide written documentation showing that no proposed tower lies within a thirty (30) foot to one (1) foot run to

rise ratio from the nearest point of the nearest runway of a private airstrip or airport registered with the Federal Aviation Administration (FAA).

- (g) No business signs, billboards, or other advertising shall be installed on a tower, nor shall any tower be painted or have a color that is not muted.
- (h) No offices or outdoor storage of equipment or materials are permitted on tower sites located in a residential district.
- (i) Accessory or component buildings shall be setback fifty (50) feet from all property lines and rights-of-way.
- (j) All structures shall be enclosed by a chain link fence at least eight (8) feet in height and screened with a six (6) foot high, ninety percent (90%) opaque screening.
- (k) The applicant shall be required to provide written documentation stating that the tower is in compliance with all applicable Federal and State regulations.
- (l) Notice shall be provided to the Zoning Administrator when any telecommunication tower is placed out of service. Towers not used for a period of six (6) months or more shall be removed by the owner within one hundred and twenty (120) days of receipt of notification to that effect. The applicant shall also provide the Town with written documentation substantiating that the applicant has and will sustain the financial ability to disassemble and remove the tower, once no longer in operation.
- (m) Additional provider antennas and equipment shelters associated with an approved telecommunication tower site are permitted, provided said changes do not increase the setback- requirement beyond the allowable limit according to tower height.
- (n) Tower lighting shall not exceed the minimum for obstruction lighting as administered by the Federal Aviation Administration (FAA).
- (o) All permits, for the construction of a wireless telecommunication tower are issued in reliance upon a presumption that the tower will in fact conform to the plans, which are submitted as the basis for the permit. Once constructed, the tower must continue to be maintained in compliance with the provisions of this ordinance.

- (p) The applicant shall be required to notify all property owners within a one-half (1/2) mile radius of a proposed tower with a height greater than two hundred-fifty (250) feet. The notice shall be by certified mail and shall include tower height and design type and date, time, and location of proposed meeting.
- (q) The applicant shall be required to provide written documentation stating that it is not viable to co-locate on existing facilities within the coverage area. Facilities include other towers, elevated tanks, electrical transmission lines, or other structures.
- (r) The applicant shall provide the Town with proof of liability insurance, which protects against losses due to personal injury or property damage resulting from the construction or collapse of the tower, antenna, or accessory equipment. Such proof shall be supplied to the Town by the applicant at the time of application.
- (s) The applicant shall provide to the Zoning Administrator an inventory of its existing antennas and towers that are either within the jurisdiction of the Town or within three (3) miles of the border thereof, including specific information about the location, height, and design type of each tower and antenna. The applicant shall also provide an inventory of potential future tower sites within the jurisdiction of the Town. The Zoning Administrator may share such information with other applicants; however, that by sharing this information, it is not in any way representing or warranting that such sites are available or suitable.

SR 11. Class A Manufactured Homes

A Class A Manufactured Home (multi-sectional) shall meet the following standards:

- a) The home was constructed after June 15, 1976 and meets the Manufactured Home Construction Standards established by the U.S. Department of Housing and Urban Development (HUD).
- b) The manufactured home shall be multi-sectional and at least 24 feet by 40 feet excluding towing apparatus.
- c) The pitch of the manufactured home's roof shall have minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run and the roof

shall be finished with a type of shingle that is commonly used in standard residential construction

- d) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of glass white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- e) A continuous, permanent masonry underpinning, unpierced except for required ventilation and access, shall be installed under the manufactured home.
- f) The tongue, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.
- g) Installation shall be in accordance with North Carolina Department of Insurance Standards.

SR 12. Class B Manufactured Homes

A Class B Manufactured Home (single section) shall meet the following standards:

- a) The home was constructed after June 15, 1976 and meets the Manufactured Home Construction Standards established by the U.S. Department of Housing and Urban Development (HUD).
- b) The manufactured home shall be at least 8 feet by 40 feet excluding towing apparatus.
- c) The pitch of the manufactured home's roof shall have minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction
- d) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of glass white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

- e) A continuous, permanent masonry underpinning, unpierced except for required ventilation and access, shall be installed under the manufactured home.
- f) The tongue, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.
- g) Installation shall be in accordance with North Carolina Department of Insurance Standards.

SR 13. Cemeteries

- a) Cemeteries shall be set back at least 20 feet from any property line.

SR 14. Farm Machinery sales and service

- a) Such uses shall be set back at least 50 feet from adjacent residentially zoned property.

SR 15. Greenhouses, commercial

- a) All commercial greenhouse structures shall be set back at least 100 feet from any property line.

SR 16. Outdoor Storage

- a) All outdoor storage areas shall be screened by an opaque fence of at least six (6) feet in height.

SR 17. Pet shops and veterinarians with outside runs

- a) No outdoor containment of animals shall be located less than 500 feet from any existing residential structure.
- b) Kennel areas shall be surrounded by an opaque fence of at least six (6) feet in height.

SR 18. Junked vehicles

- a) In residential districts, the repair of no more than one (1) junked vehicle per household for personal use is exempt from requirements (b) through (d).

- b) Junked motor vehicles shall not be stored in the front yard of a lot, within 30 feet of any adjoining property, or within 50 feet of the edge of the street right-of-way.
- c) No more than five (5) junked vehicles not in an approved salvage yard are permitted outside of an enclosed building.
- d) All junk vehicles shall be screened from view with a minimum six (6) foot tall opaque fence that meets the requirements of Section II-2.9.1, and no junk vehicles shall be stacked higher than the screen.

SR 19. Yard Sales

- a) A yard sale may be conducted by civic or religious organization, an individual occupant of a residence, or in cooperation with neighbors for the purpose of selling surplus household items for profit or for charitable purposes.
- b) Yard sales shall not be conducted at the same location or by the same organizer(s) more than three (3) weekends per calendar year.
- c) A total of one (1) on-premises sign and three (3) off-premises signs that are no greater than 6 square feet each may be displayed for the yard sale provided that the signs are not located within the street right-of-way, on street signs, or on utility poles. Such signs may be displayed no more than 24 hours before the yard sale and shall be taken down no more than 24 hours after the yard sale.
- d) A Zoning Permit for a yard sale shall be obtained from the Zoning Administrator for tracking purposes only. There shall be no fee for a yard sale permit.

SR 20. Flea Markets

- a) Any sales of items where booths or spaces may be rented to individuals or businesses that take place on the same property or by the same organizer(s) more than three (3) weekends per calendar year shall be considered a flea market.
- b) All sales shall take place under cover of an approved permanent structure.

- c) Adequate restroom facilities shall be provided. These facilities shall not be located between the flea market structure and the street right-of-way and shall be screened from view.
- d) Trailers for delivery or pick-up may be stored temporarily on-site for not more than three (3) days at a time and shall be to the rear of the permanent structure.
- e) When the flea market is not open for business all items shall be removed or screened from view of the street and any adjacent residentially zoned properties.

SR 21. High Impact Uses (Conditional Use only)

High impact uses such as concrete and asphalt plants, lumber processing and sawmills, salvage yards, mining and quarrying, airports, and chemical manufacturing and storage facilities are allowed as Conditional Uses only in the Heavy Industrial district, shall be subject to approval by the Town Board of Commissioners, and shall meet at minimum the following requirements:

- a) The minimum setback for the high impact activity shall be 500 feet from the zoning district line.
- b) The minimum buffer yard shall be 75 feet from the property line. No parking or other structures shall be located in this area. This buffer yard shall also include an opaque screen in the form of fencing and/or landscaping. A buffer plan shall be submitted for review by the Town.
- c) For any new or expanding high impact use, information regarding the dust, fumes, noise, and traffic shall be provided and mitigated as much as possible.

SR 22. Temporary Uses

The following temporary structures and uses shall be permitted:

- A. Construction trailers used in conjunction with construction projects provided that the following conditions are met:
 - 1. Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential subdivision, a valid building permit for at least one of the residential units being constructed.

2. All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.
 3. In addition to construction trailers, at any construction site for a construction project valued at one million dollars or more, one or more security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.
- B. Structures located in a subdivision containing 25 or more lots and used as sales offices for the subdivision development provided that the following conditions are met:
1. Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district.
 2. At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.
 3. If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes.
 4. Sales trailers shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.
 5. At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Zoning Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the subdivision. In such case, one or more extensions (each not to exceed one year in duration) may be so authorized by the Zoning Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.
- C. Manufactured homes may be allowed on a temporary basis in a zoning district in which such use is not listed as a permitted use, if a disaster occurs which results in an occupied, single-family dwelling being destroyed (i.e., it receives damage greater than 60 percent of its tax value as indicated on the most current tax listings). In this instance a manufactured home may be

placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing such manufactured home on said lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired. If a manufactured home is used for such an occurrence, it is subject to the following conditions:

1. Such manufactured home shall not be placed in the front yard and shall be located no closer than 15 feet to another principal residential structure on another lot and no closer than 10 feet to any lot line.
2. The Zoning Administrator shall be given the authority to issue a zoning permit for such temporary use on a one-time basis only for a period of up to one (1) year. Such permit may be renewed on a one-time only basis for a period of up to one (1) year by the Board of Adjustment if it is determined that:
 - Construction of a new dwelling unit is proceeding in a diligent manner; and,
 - The granting of such permit will not materially endanger the public, health, welfare or safety; and,
 - The location of the manufactured home on the site does not have a negative effect on abutting properties.

D. Certain uses of a temporary nature may be permitted. The Zoning Administrator may grant a Zoning Compliance Permit for the following temporary uses:

1. Christmas Trees Sales & similar temporary retail sales-up to 45 days per calendar year
2. Produce Stands (temporary)-up to 6 months per calendar year
3. Civic organization events-up to 30 days per calendar year
4. Public school mobile units-up to 2 years (renewable)

E. Temporary Uses are subject to the following conditions:

1. Truck trailers and flat beds are not permitted except for short-term delivery services.
2. Temporary uses shall present proof of property owner approval prior to the issuance of a permit.
3. The proposed use will not materially endanger the public, health, welfare and safety.

4. The proposed use will not have a substantial negative effect on adjoining properties.

SR 23. Accessory Dwellings

Accessory dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

- A. The accessory dwelling shall be used as a guest house or a residence for an immediate family member of the owner of the principal dwelling.
- B. The principal dwelling shall be owner occupied.
- C. The accessory dwelling shall not exceed one-half (1/2) of the total area of the principal dwelling.
- D. Accessory dwellings shall meet the setbacks of the principal structure as set forth for the zoning district in which it is located.

II-2.6 CONDITIONAL USE PERMITS

II-2.6.1 Purpose and Applicability

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a conditional basis subject to the issuance of a Conditional Use Permit by the Town Board of Commissioners. The purpose of having such uses being "conditional" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as Conditional in the Permitted Uses Table in Section II-2.4.3 shall be subject the requirements and review process of in this Section.

II-2.6.2 Approval Process

- A. An application shall be filed with the Zoning Administrator and shall be accompanied by a site plan meeting the requirements of Section I-2.2(A).
- B. A complete application and site plan shall be submitted by the Zoning Administrator to the Planning Board for review and recommendation.

- C. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other appropriate conditions. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
- D. Following Planning Board review and recommendation, the Town Board of Commissioners shall hold a quasi-judicial public hearing and consider the application in accordance with the findings-of-fact in Section II-2.6.3 below.

II-2.6.3 Conditions, Evidence, & Findings-of-Fact

- A. In approving an application for a Conditional Use Permit, the Town Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district.
- B. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.
- C. The Town Board of Commissioners shall issue a Conditional Use Permit if it has evaluated an application and determined that:
 - 1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
 - 2. The use meets all required conditions and specifications, and
 - 3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
 - 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted land

use plans and other plans for physical development of the Cooleemee area as adopted by the Town Board of Commissioners.

II-2.6.4 Effect of Approval & Expiration of Approval

- A. If an application for a Conditional Use Permit is approved by the Town Board of Commissioners, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the Conditional Use Permit or develop any other use listed as a "permitted use" for the general zoning district in which it is located. Any Conditional Use Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town Board of Commissioners.
- B. Unless the Town Board of Commissioners issues a Conditional Use Permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a one (1) year period from date of issuance of the conditional use permit. In addition, if the project for which a Conditional Use Permit was issued is not complete and a valid building permit is not in place at the end of said twelve month period, the Zoning Administrator shall notify the applicant of either such finding, and within 60 days of said notification, the Planning Board shall make a recommendation concerning the rescission of the conditional use permit to the Town Board of Commissioners. The Town Board of Commissioners, after having conducted a public hearing to consider the rescission, may then rescind the Conditional Use Permit, or extend the life of the Conditional Use Permit for a specified period of time.

II-2.6.5 Alterations to Site & Amendments to Conditional Use Permit

Minor changes in the detail of the approved site which:

- will not alter the basic relationship of the proposed development to adjacent property, and
- will not increase the gross floor area of any non-residential use by the smaller of 10 percent or 10,000 square feet, and
- will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet

may be made with the approval of the Zoning Administrator on a one-time basis only. Further changes to the development may only be made by the Town Board of Commissioners by amending the Conditional Use Permit. Any request to materially change the Conditional Use Permit once it has been issued shall be reviewed in entirety through the Town Board of Commissioners approval process.

II-2.6.6 Reapplication Following Denial

If a request for Conditional Use Permit is denied by the Town Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a one (1) year period from the date of the most recent denial by the Town Board of Commissioners. This waiting period shall not be applicable where the application for a Conditional Use Permit is substantially different from the original application. The term "substantially different" as herein applied shall mean:

- The proposed principal use is different than the use contained in the original application; or
- The gross floor area of the proposed development is 50 percent or more smaller than contained in the original application.

II-2.7 GENERAL AND DIMENSIONAL STANDARDS

II-2.7.1 General Provisions

A. Zoning To Apply To Every Building and Use

1. No building or land shall be used or occupied and no building or part shall be erected, moved, or altered, except in conformity with the regulations for the district in which it is located.
2. No building shall be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to occupy a greater percentage of the lot area, or to have narrower or smaller rear front, or side yards than are required as specified in the regulations for the district in which it is located.
3. No part of a yard or other open space required about any building for the purposes of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

B. Only the Principal Building To Be On Any Lot; Lot Must Abut on a Street

1. Every building erected or structurally altered shall be located on a lot, and with the exception of group developments, there shall be not more than one principal building and its customary accessory building on a lot.
2. No dwelling shall be erected on a lot or tract of land which does not have access to at least one public street or road.

C. Reduction of Lot Prohibited

No lot shall be reduced in size so that lot width, yard requirements, lot area per dwelling unit, or other requirements of this chapter are not maintained.

D. Obstruction to Vision at Street Intersections

1. In any district within the triangular area formed by joining points (with a straight line) on the center lines of intersection or intercepting

streets 60 feet from their intersection, there shall be no obstruction to vision by structures, grade, or foliage other than power or utility poles between a height of three feet and a height of ten feet, measured above the average elevation of the existing surface of each street at the center line.

E. Lot of Record; Date and Permitted Use

1. In any district where residences are permitted, a lot having an area or width less than the required area or width and having been a lot of record on or before the effective date of this chapter, may be occupied by a single-family dwelling. However, the minimum front, rear, and side yard requirements for the district in which it is located shall be met.
2. In the commercial districts, a lot having an area or width of less than the required area or width and having been a lot of record on or before the effective date of this chapter, may be occupied by a permitted use. However, all other requirements of the district shall be met.

F. Same, Adjoining and Vacant Lots

1. If two or more adjoining and vacant lots of record are in a single ownership after the effective date of this chapter and each lot individually has less area or width than the minimum requirements of the district in which such lots are located, these lots shall be considered as a single lot which meets the minimum requirements of this chapter.

G. Front Yard Setbacks

1. The front yard requirements for the various districts shall not apply to any lot where the front yard coverage on neighboring developed lots is less than the minimum required front yard. This applies only if the developed lots are located wholly or in part within 100 feet of each side of such lot and within the same block and zoning district and fronting on the same street or road as such lot. In such cases, the front yard on this lot may be less than the required front yard, but not less than the average of the existing front yards on the developed lots, provided that the front yard on such lot shall not be less than $\frac{1}{2}$ of the required front yard.

2. All measurements for front yard and corner side yard shall be made from the state road right-of-way line.

H. **Exceptions to Height Limits**

Roof structures for the housing of communication towers, elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, skylight, towers, steeples, flagpoles, chimneys, wireless masts, water tanks, silos, or similar structures may be erected above the height limits specified in this chapter, but no roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential or commercial use.

I. **Allowable Encroachments Into Required Yards**

The following may encroach into required setbacks:

- 1) The ordinary projection of sills, belt course, cornices, buttresses, ornamental features and eaves; provided, however, that none of the above mentioned projections shall project into a minimum yard setback more than two (2) feet.
- 2) Uncovered and unenclosed stairs and steps may encroach up to six (6) feet into any required setback but may not be closer than five (5) feet to any property line.
- 3) Bay windows, balconies, open or enclosed fire escapes, fireproofed outside stairways, handicap accessibility ramps and similar features projecting into a minimum yard setback not more than three (3) feet, and the ordinary projections of chimneys and flues may be permitted by Zoning Administrator where same are so placed as not to obstruct the light and ventilation.
- 4) Awnings may encroach into a required setback up to six (6) feet but shall not encroach into any street planting area or vertically inhibit pedestrian ways such as sidewalks.
- 5) Fences and yard walls may encroach into required setback yards but if higher than three (3) feet, may not be placed within, or obstruct, the site triangle of any public street, private street or driveway. Terraces may encroach into any required setback yard.

J. **Flood/Hazard Areas**

All new development and substantial improvements in a flood hazard area as designated on the Federal Emergency Management Agency's map 370308 0001-0005 December 17, 1993, as amended, shall comply with the county flood damage prevention provisions the same as if such maps and provisions were set forth herein.

K. **Access to NC 801**

Street or driveway access to NC 801 for development shall be limited as follows:

- less than 500 feet of frontage - 1 access point
- 500 to 1000 feet of frontage - 2 access points
- more than 1000 feet of frontage - 3 access points

Access points shall be separated by 300 feet from each other centerline to centerline and shall be no closer than 30 feet to a side property line except where developed as a mutual joint access point.

L. **Underground Utilities**

Utility and service lines to new development shall be placed underground.

M. **Equipment Screening**

Facilities such as solid waste containers, electrical equipment, HVAC equipment, utility equipment of any kind, outside storage areas for commercial or industrial establishments, etc., which are located on the lot, but which are not contained within the principal building, shall be screened from public view by a 90% opaque screening device. No chain link fencing shall be permitted to fulfill this requirement. Screening shall not apply to one and two-family homes on individual lots.

N. **Water and Sewer Requirements**

The lot sizes required for the various Districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

O. **Double Frontage Lots**

In all Zoning Districts, Double Frontage lots shall provide the minimum yard requirements for front yards along both street fronts.

P. **Projections into Front Yards in Commercial and Industrial Districts**

In commercial and industrial districts, open, unenclosed gasoline pump canopies, gasoline filling and related equipment and similar facilities may project into one-half (1/2) the front yard setback requirement for the district.

Q. **Class C Manufactured Homes Prohibited**

After the effective date of this Ordinance, no Class C manufactured homes shall be placed in the jurisdiction of this Ordinance nor shall any Class C manufactured home that is existing within the jurisdiction of this Ordinance be moved, and placed at any other location within the jurisdiction of this Ordinance.

R. **Use of Manufactured Homes for Storage Prohibited**

The use of manufactured homes, travel trailers or truck trailers for storage purposes shall be expressly prohibited in all zoning districts.

S. **Temporary Buildings**

Temporary buildings, including mobile structures, incidental to a construction project may be permitted to be used concurrent with the permit for permanent building(s) or construction. Such temporary building shall be removed promptly upon completion of construction. No such building shall be used for dwelling purposes. Temporary buildings shall be located at least 25 feet from any property used for residential purposes.

T. **Minimum Regulations**

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern.

U. Fees

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the Town Board of Commissioners in the Schedule of Fees and Charges.

II-2.7.2 District Dimensional Standards

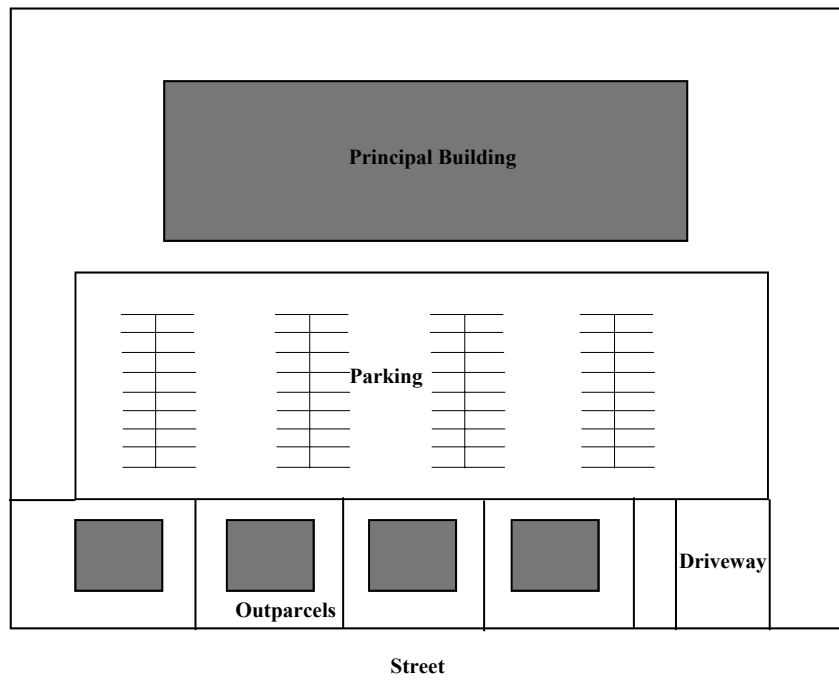
District	Minimum Lot Area (sq. ft.)	Land Area per Dwelling Unit (sq.ft.)	Lot Width (In Feet)	Minimum Yard Requirements			Maximum Building Height
				Front (feet)	Side (feet)	Rear (feet)	
R-R	20,000	20,000	100	30	15	30	40
R-S	12,000	12,000	80	35	10	20	30
R-MF	18,000	(a)	80	35	20	20	30
R-MH	-	See	Mobile	Home	Park	SR.3	20
O-I	12,000	-	80	35	10	20	30
C-S	-	-	-	40	20	40	30
H-B	20,000	-	100	30	10	20	30
L-I	43,560	-	200	50	15	30	40
H-I	217,800	-	200	50	25	40	40

- (a) 18,000 square feet for the first two (2) dwelling units. 4,000 square feet for each dwelling unit in addition to the first two (2).
- (b) In residential districts, the minimum width of the side yard along an intersection of streets shall be at least 25 feet from the road right-of-way line. Accessory buildings in the rear yard shall also comply with this requirement.

II-2.8 OFF-STREET PARKING AND LOADING

II-2.8.1 General Parking Standards

- A. Off-street parking space shall be provided in accordance with this subchapter in all districts.
- B. The off-street parking required by this subchapter shall be permanent space and shall not be used for any other purposes.
- C. All parking areas except for single-family residential uses, and developments in the L-I and H-I districts shall be located at either the rear or sides of the principal building. For large scale developments with large parking areas, parking may be screened with outparcel buildings as shown in the diagram below:



- D. Each parking space shall not be less than 10 x 20 feet, exclusive of adequate egress and ingress dries, landscaping, and maneuvering space.
- E. New parking areas on adjacent non-residential and non-industrial development sites shall be connected unless the county determines that topography or other natural features prevents it.
- F. All off-street parking shall be served by interior circulation drives. No private off-street parking spaces shall directly connect to public streets.

- G. All driveway and parking areas shall be paved with asphalt, concrete, or brick pavers except for areas used for overflow, special events, and peak parking. This standard does not apply to single-family detached residential lots and shall only apply to that portion of an industrial lot that is used for and serves employee and/or visitor parking.
- H. Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement or brick pavers. (This standard does not apply to single-family detached residential lots.)
- I. Any non-paved surface used for parking or driveways on industrial sites shall be maintained with crushed rock, stone, gravel, or similar material.
- J. Stacking spaces shall be located entirely outside of a required driveway or parking aisle needed to access required parking spaces.
- K. Vehicles in required stacking spaces shall not extend into any required parking spaces, parking aisles, public or private rights-of-way, or street access to the lot.
- L. Adequate onsite turnaround area shall be provided for all parking spaces.
- M. Pedestrian walkways (crosswalks or sidewalks), at least five feet in width, shall be installed to connect all required parking areas with public access to buildings.
- N. Vehicle circulation in a parking lot shall consist of vehicle turns no greater than 90 degrees. Vehicle turns shall be spaced no closer than 40 feet apart.
- O. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time.
- P. No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the area requirements for off-street parking required by the terms of this chapter.

II-2.8.2 Schedule of Parking Spaces

- A. Office uses shall have at least one space per 300 gross square feet of building area.
- B. Warehouse uses shall have at least one space per each employee on the shift with highest employment plus one space per each vehicle in business use.
- C. Senior high schools shall have at least one space per employee, one space per five students, and one space per each school bus kept on site.
- D. Shopping centers and retail shops shall have at least four spaces per 1,000 square feet of gross floor area.
- E. Industrial manufacturing uses shall have at least one space per 1,000 square feet of gross floor area. Warehouse storage associated with a manufacturing use shall have at least one space per each employee on the shift with highest employment plus one space per each vehicle in business use.
- F. Single-family and duplex residential units shall have at least two spaces per unit.
- G. Multi-family residential units shall have at least 1-1/2 spaces per unit.
- H. Civic, social and fraternal organizations shall have at least one space per 250 square feet of gross floor area.
- I. Auditoriums, churches and places of public assembly shall have at least one space per four seats in the largest assembly room or one space per 50 square feet of gross floor area if no seats are provided.
- J. Drive-thru facilities shall provide a minimum of five stacking spaces per drive-thru facility, window, or bay except for the following:
 - 1. Fast food restaurants shall have an additional five stacking spaces. A minimum of five of the total stacking spaces shall be located at or prior to the ordering stations.

2. Non-automated car washes shall only be required to have a minimum of two stacking spaces per bay, one of which is located for use as a dry-down area.
 3. Automated car washes shall be required to have an additional two stacking spaces per wash bay.
- K. Elementary schools and junior high schools shall have at least one space for each employee plus one space per classroom.

II-2.8.3 Parking Aisles

- A. Aisles shall be a minimum of 24 feet in width if serving two-way traffic and a minimum of 12 feet in width if serving one-way traffic.
- B. No parking aisle serving the general public that contains more than ten parking spaces shall deadend. Any parking aisle that deadends shall be provided a suitable turnaround.

II-2.8.4 Loading and Unloading

A. Area to be Required.

1. At the time of the erection or expansion of any main building or part which is uses or is to be used for any commercial or industrial use, the property owner or his or her authorized representative shall be required to provide off-street loading and unloading space as specified in this subchapter.
2. Off-street loading and unloading spaces shall be designed and constructed so that all-maneuvering to park vehicles for loading and unloading can take place entirely within the premises. These spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on the public right-of-way.

B. Schedule of Loading Spaces

1. For purposes of this section, an off-street loading berth shall have minimum dimensions of 12 feet by 30 feet and 14 feet overhead clearance with adequate means of ingress and egress.

2. For any structure containing less than 20,000 square feet of gross floor area, no berths shall be required. Larger structures, however, shall provide berths as specified below:
3. Schedule of loading spaces:

Square Feet of Floor Area of Commercial & Industrial Uses	Required Number of Berths
0 - 19,000	0
20,000 - 39,999	1
40,000 - 59,999	2
60,000 - 109,999	3
110,000 - 159,999	4
Above 160,000	Add one berth for each additional 80,000 sq. ft. or fraction thereof

II-2.9 SIGNS

It is the purpose of this subchapter to permit signs of a commercial, industrial, and residential nature in appropriate sites throughout the community. Although signs are a necessary part of the community, the size and placement of signs shall be controlled in order to protect property values, to protect the physical appearance of the community, and to prohibit signs that may contribute to traffic hazards.

II-2.9.1 Sign Descriptions

- A. Advertising sign. A sign which directs attention to a business, commodity or product, service, profession, activity, or entertainment not conducted, sold or offered upon the premises where such sign is located.
- B. Business sign. A sign which directs attention to a business, profession, commodity or product, service, activity, or entertainment conducted, sold, or offered upon the premises where such sign is located.
- C. Nameplate sign. An unlighted sign which states only the name and title, or address, or both, of the occupant of the lot where the sign is located.

- D. Directional sign. A sign indicating the direction to churches, schools, hospitals, parks, scenic or historic sites, or other such public places, including off-street parking and transportation terminals. Such signs shall contain only the name and address of the public place.
- E. Temporary construction sign. A sign identifying the name and address of the building or uses, the developers, and architect.
- F. Real estate sign. Sign advertising the property on which it is located for sale, rent, or lease.
- G. Political sign. A sign advertising a candidate or issue to be voted upon on a specific election day.
- H. Public signs. Signs and notices erected by, or at the direction of, an authorized government official.
- I. Private signs. Signs erected other than by, or at the direction of, an authorized government official.
- J. Identification Sign. A permanent sign announcing the name of a church, school, park, or other public or quasi-public structure or facility located on the premises at major entrances and limited to announcing only the name of the structure, facility, or development; the owners or developers; and the date of its establishment.
- K. Projecting sign. A sign which is attached to the building wall and extends more than 19 inches from the face of such a wall.
- L. Roof sign. Sign erected on, or over, the roof of a building.
- M. Freestanding sign. Sign erected on poles or other supports wholly or partially independent of a building for support.
- N. Wall sign. Sign erected parallel to the face or outside wall of a building, and supported throughout its entire length by the building and not projecting more than 18 inches from the building.
- O. Window sign. Sign affixed to or placed within a window or other glazed surface of a building.
- P. Suspended sign. A sign suspended beneath a canopy or marquee.

- Q. Illuminated sign. A sign which has characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as part of the sign.
- R. Indirectly illuminated sign. An illuminated, non-flashing sign whose illumination is derived entirely from an external, artificial, source that is arranged and designed to prevent a visual traffic hazard or create a nuisance on adjoining property.
- S. Flashing sign. A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits sudden or marked changes in light or color effects. Illuminated signs which indicate time, temperature, weather, or similar information shall not be considered flashing signs.

II-2.9.2 Signs Permitted in all Districts

- A. Signs required by law.
- B. Signs erected by, or at the direction of, an authorized municipal official.
- C. Warning signs and no trespassing signs.

II-2.9.3 Signs Permitted in all Districts Subject to the Limitations Imposed

- A. Directional signs limited to six square feet in area, and provided they are unilluminated and of a neat construction.
- B. Temporary signs or displays involved in events of religious, charitable, civic, fraternal, political, and similar organizations, or involved in the celebrations of holidays or other special events including the opening of new establishments.
- C. Political signs for candidates or issues to be voted upon a specific election day, provided that such signs are not placed more than 60 days before an election, primary, or run-off and that such signs are removed within one (1) week of the election, primary, or run-off.

- D. Temporary construction signs, unilluminated, shall be permitted on the construction site.
- E. In non-residence districts, one sign shall be permitted for each separate street frontage of a lot pertaining to the sale, rent, or lease of the lot or a building thereon, provided it shall not exceed 32 square feet of surface area, and shall be unlighted. A notice indicating that a property has been sold or leased may be affixed to such sign or signs provided the area of such signs is not increased. All real estate signs shall be removed immediately upon occupancy by the new tenant or owner.
- F. Window signs, provided that such signs do not obstruct a clear view into the building and shall not cover more than 50 percent of the total window area.

II-2.9.4 Signs Prohibited in all Districts

The following signs, components and characteristics are expressly prohibited within all zoning districts:

- A. Simulated Public Safety, Warning or Traffic Signs
Signs by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bonafide safety necessity, involving the terms "CAUTION", "DANGER", "SLOW", "STOP" OR "YIELD", or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with "stop", "yield" or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.
- B. Snipe Signs
Signs placed upon or attached to any curb, sidewalk, post, fence, hydrant, bridge, another sign or other surface, public bench, streetlight, or any tree, rock or other natural object located on, over or across any public street or public property or on any utility pole. Provided, however, this provision shall not apply to the posting of public interest, security and warning signs nor to street signs placed upon poles by governmental units for designating the names of streets.
- C. Flashing Signs

Signs or devices with flashing, intermittent, animated or changing intensity of illumination including electronic message boards. Provided, however, traffic signals, railroad crossing signals and other official warning or regulatory signs present messages of a public service shall not be considered flashing signs, as long as such signs comply with the provisions of this Ordinance

D. Motion Signs

Signs or devices designed to attract attention, all or any part of which use movement or apparent movement by fluttering, revolving, rotating, spinning, swinging, animation or moving in some other manner and are set in motion by movement of water or the atmosphere or by mechanical, electrical or any other means. This shall not apply to authorized temporary signs.

E. Signs Below Minimum Clearance

Signs, marquees, canopies and awnings with vertical clearance of less than nine (9) feet above sidewalks and pedestrian areas and less than fourteen (14) feet above parking or vehicular passage areas.

F. Vehicle Signs

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the primary purpose of the vehicle or trailer is to advertise a product or business or to direct people to a business or activity.

G. Signs Obstructing Motorist Visibility

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorists view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight visibility triangles.

H. Signs in Rights-of-Way

Any sign erected in or over any public right-of-way except for major special event signs by special permit; and governmental signs.

I. Signs Emitting Glare

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

- J. Pennants or Streamers, Illuminated Tube Lights
Pennants, streamers, flags, and lights consecutively strung together including tube lighting outlining buildings and property.
- K. Obscene Signs
Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14-190.1.
- L. Off-Premises Signs
A sign or Structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold offered, maintained or provided at a location other than on the premises where the sign is located. A “billboard”. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the federal, state, county or town government or their public agencies or off-premises signs specifically permitted by this Article.
- M. Projecting Signs
Signs which project from and are supported by a building or other structure into the public right-of-way only when such projection is greater than twelve (12) inches unless by encroachment agreement.
- N. Electronically Changeable Copy
Electronically changeable copy signs except as specifically regulated by this Article. This prohibition does not include time, date and temperature signs which display such information only, and in the natural numerical progression.
- P. Certain Illuminated Signs
Internally illuminated signs in the R-S District.
- Q. Unspecified Temporary Signs
Temporary signs not expressly permitted by this Article.
- R. All Other Signs not Specifically Permitted
Other signs not expressly allowed by this Article.

II-2.9.5 Signs Subject to State Laws

Signs and other sources of illumination adjacent to public street and highways shall be subject to the provisions of G.S. § 136-32.2.

II-2.9.6 Maintenance and Removal

All signs and sign structures shall be kept in good repair (including the replacement of burned out bulbs and broken plastic facing). The Zoning Enforcement Officer shall have the authority to cause the removal of any unsafe sign unless such signs are repaired and made otherwise to comply with the requirements of this subchapter.

II-2.9.7 Minimum Design Standards

All signs shall meet North Carolina Building Code design and construction standards where required.

II-2.9.8 Permit Required

With the exception of temporary signs, a zoning permit shall be required for all signs.

II-2.9.9 Signs Permitted in R-R, R-S, R-MF and R-MH Districts

- A. One nameplate sign shall be permitted provided the surface area does not exceed two square feet.
- B. One sign for each separate street frontage of a lot and pertaining to the lease or sale of a building or property shall be permitted provided it shall not exceed six square feet in surface area and is unilluminated.
- C. Temporary Signs:
 - 1. Temporary signs advertising a new subdivision or apartment development on the land where it is placed shall be permitted, provided:
 - (a) Such signs do not exceed 40 square feet in surface area;
 - (b) Or no more than 15 feet nor less than two feet above ground;
 - (c) Or either unilluminated or indirectly illuminated;
 - 2. Only one such sign shall be erected at each dedicated street entrance for a new subdivision, or, in the case, of new apartment development, which does not involve a new dedicated street

entrance, one such sign shall be permitted at the major driveway entrance. The sign shall only contain the name of the owner or agent causing the sign to be erected.

- D. One identification sign, as defined in this subchapter, not to exceed 24 square feet in surface area, shall be permitted for each major entrance to the premises. In addition, a bulletin board may be permitted provided the total of 24 square feet is not exceeded by both bulletin board and identification sign at any major entrance to the premises.
- E. One identification sign for each driveway entrance to a multi-family or group housing development shall be permitted not to exceed six square feet in surface area.
- F. Permanent signs identifying a subdivision shall be permitted provided such signs do not exceed 24 square feet in surface area, and are eight unilluminated or indirectly illuminated.

II-2.9.10 Signs Permitted in O-I, C-S, H-B L-I, and H-I Districts

- A. Wall and projecting business signs shall be permitted provided that the total area of such signs for any one building wall shall not exceed 1/3 of the surface area of that wall.
- B. One freestanding business sign shall be permitted for each separate street frontage of an establishment. The area of any such sign shall not exceed 1½ square feet of surface area for each lineal foot of lot frontage on the street. In the case of more than one establishment per lot, the area of individual freestanding signs shall be based on the street frontage of that portion of the lot used by each establishment. In no case shall the total area in freestanding business signs on a lot exceed 1½ square feet for lineal foot of lot frontage.
- C. One suspended business sign, not to exceed six square feet in surface area, shall be permitted for each entrance to a building.
- D. Roof business signs shall be permitted provided no portion of such signs extends beyond the edge of any exterior wall, the height of the sign above the roof does not exceed the height of the building on which it is located, and the free passage from any part of the roof to any other part is not prevented.

II-2.10 Landscaping

The following landscape treatments shall be provided as set forth in this Article. The Zoning Administrator may modify the landscaping requirements where conditions exist in the Administrator's opinion that would make literal application not feasible. In such instances the Administrator may permit other landscaping schemes which in his opinion would result in equal or better performance.

II-2.10.1 Screening Requirements

Any use other than one or two-family dwellings located in either the R-MF, R-MH, O-I, H-B, L-I, or H-I Districts and located on property abutting any R-S District, unless separated by a public street or railroad right-of-way, shall provide a screening device as described below. Such screening device shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the original installation exists, even if active operations cease.

The requirement for the installation of a screening device shall be initiated by the occurrence of any one or more of the following activities on the non-residential property.

1. The initial use, development or occupancy of the non-residential property.
2. Any change in use or occupancy of the non-residential property which results from a change in the zoning classification of the non-residential property; and/or
3. Any building expansion that increases the floor area of the non-residential use or any addition of parking that provides ten (10) or more spaces, whether required or not.

The screening device shall be provided by the non-residential use even if the abutting residentially zoned land is vacant.

Screening Device - A screen that is at least ninety (90) percent opaque from the ground to a height of at least six (6) feet. The screen is intended to block visual contact between uses and to create a strong impression of spatial separation. The screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing

vegetation. In any case where vegetation, either existing or proposed, is to be used as the required screening device, if the vegetation is to be less than ten (10) feet in width (thickness), a fence, wall or similar device at least fifty (50) percent opaque and six (6) feet in height shall be used in combination with the vegetation. In all cases, the screen must be at least ninety (90) percent opaque in all seasons of the year. Planted vegetation must be a minimum of four (4) feet high and one (1) inch in caliper, measured six (6) inches above grade, when planted. Existing vegetation must be equivalent. In no case shall the screening device required by this Section interfere with visibility at intersections as set forth herein or with visibility at entrances and exits at public streets. The Zoning Administrator may permit a different type of screening device where in the Zoning Administrator's opinion equal or better performance will result.

II-2.10.2 Parking Lot Landscaping

In any Zoning District where parking spaces for twelve (12) or more cars are required or provided for a use or uses on a site, the parking lot shall be landscaped with canopy trees as required by this Section at the rate shown below. This requirement shall be initiated by the initial use or development of the property. In addition, in any case where six (6) parking spaces are added, whether required or not, the entire parking lot including existing parking areas shall be landscaped if the total on the site then equals twelve (12) or more.

Canopy trees shall be provided at a rate of one canopy tree for each twelve (12) spaces. After the first two trees, any fractional remaining number of spaces over six (6) shall require one (1) additional tree. Required canopy trees shall be distributed throughout the parking area and shall be located within or adjacent to parking lots as tree islands, at the end of parking bays, inside medians or between rows of parking spaces. Canopy trees must be a minimum of eight (8) feet high and two (2) inches in diameter, measured six (6) inches above grade at planting. When mature, a canopy tree should be at least forty (40) feet high and have a minimum crown width of thirty (30) feet. The following is a sample list of canopy trees by common name:

Red Maple	White Pine
Pecan	Sycamore
Deodar Cedar	White Oak
Leyland Cypress	Pin Oak
American Holly	Post Oak
Black Locust	American Linden
Red Mulberry	American Elm
White Spruce	

II-2.11 Lighting

All lighting shall be beamed down and away from adjoining property. To the extent practicable, all light produced onsite shall be contained within the perimeter of the site by design, orientation or shielding of the light source. The following lighting shall be prohibited:

- A. No fixture shall be erected which is an imitation of an official highway or traffic control light or sign.
- B. No fixture shall be in a direct line of vision with any traffic control sign or light.
- C. No fixture shall have a flashing or intermittent pattern of illumination.
- D. No fixture shall be located within a public right-of-way.
- E. No fixture shall be erected which because of the design of the light source, orientation or intensity causes direct glare onto adjacent property or streets, creating a nuisance or a hazard or causing confusion to drivers.
- F. Search lights are prohibited except when used by Federal, State or local authority.
- G. No fixture shall violate any law of the State of North Carolina relative to outdoor lighting.

II-2.12 Soil Erosion and Sedimentation Control

- A. All development shall be conducted in conformance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina General Statute, Chapter 113A, Article 4 (Sedimentation Pollution Control).
- B. No Zoning Compliance Permit shall be issued for development that involves land-disturbing activity if more than one (1) acre is to be uncovered, unless an erosion control plan has been approved by the Division of Land Resources of the North Carolina Department Division of Environmental Management.

- C. No Zoning Compliance Permit shall be issued for development that involves land-disturbing activity if less than one (1) acre is to be uncovered, unless the person to whom the permit is to be issued affirms on the permit application that the land-disturbing activity will be conducted in conformance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina General Statute, Chapter 113A, Article 4.
- D. Failure of the permit holder to perform land-disturbing activity in accordance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina General Statute 113A, Article 4 shall result in the permit holder being in violation of the terms of this Ordinance and may result in the revocation of the Zoning Compliance Permit.

ARTICLE II-3

Conditional Use Districts

For each general use district established in Article II-2, there is also established a corresponding conditional use district as follows:

CU-R-R	Conditional Use R-R District
CU-R-S	Conditional Use R-S District
CU-R-MF	Conditional Use R-MF District
CU-R-MH	Conditional Use R-MH District
CU-O-I	Conditional Use O-I District
CU-C-S	Conditional Use C-S District
CU-H-B	Conditional Use H-B District
CU-L-I	Conditional Use L-I District
CU-H-I	Conditional Use H-I District

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use District (CUD) is a means by which such special conditions can be imposed in the furtherance of the purposes of this Ordinance. The Conditional Use District classification will be considered for rezoning only upon request of a property owner. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect, and that proceedings shall be instituted to rezone the property to its previous zoning classification.

Within a CUD, only those uses authorized as permitted uses in the zoning district with which the CUD corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, with a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Town Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas, and other special purpose areas, the timing of development, the location and extent of right-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not

to include conditions not generally a part of land development controls. In granting a Conditional Use Permit, the Town Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done.

ARTICLE II-4

Overlay Zoning Districts

II-4.1 Cooleemee - South Yadkin River WS IV Water Supply Watershed Overlay District

II-4.1-1 General Provisions

The following General provisions apply to the Watershed Overlay District. These provisions and the provisions contained in the Watershed Overlay District are designed to protect the water quality of the Water Supply Watersheds that lie within the jurisdiction of this Ordinance and to implement the rules adopted by the North Carolina General Statutes 143-214.5.

1. The construction of new roads and bridges and non-residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area should be avoided. The Department of Transportation BMPs as outlined in their document entitled "Best Management Practices for the Protection of Surface Waters" shall be used in all road and bridge construction projects in the Watershed Overlay Districts.
2. All Development activities within the Watershed Overlay Districts, in addition to those activities specifically regulated by these provisions, are subject to the standards, usage conditions and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the North Carolina Environmental Management Commission.
3. A minimum 30-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of United States Geodetic Survey(USGS) 1:24,000 scale topographic maps; provided, that nothing in this Subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water dependent structures, or other structures such as flagpoles, signs, and security lights, which result in only diminimus increase in impervious area and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall

minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.

4. Where otherwise permitted in the underlying General Use Zoning District, Cluster Development is allowed on a project by project basis as follows:
 - a. The overall density of the project meets the density requirements of this Ordinance;
 - b. The appropriate vegetative buffer in(3)above is provided;
 - c. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, and maximize the flow length through vegetated areas;
 - d. Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways;
 - e. Remainder of tract to remain in vegetated or natural state;
 - f. The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds and;
 - g. Cluster development shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.
5. All development in the Watershed Overlay District, shall, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts.
6. Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions.
7. A pre-existing lot created prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be

developed or redeveloped for single family residential purposes without being subject to the restrictions of these overlay provisions.

8. Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:
 - a. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal.
 - b. The total amount of space devoted to built-upon area may not be increased.
 - c. The repair or reconstruction is otherwise permitted under the provisions of this Ordinance.
9. No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.
10. The Zoning Administrator may require such information on Zoning Compliance Permit and Development Plan applications, including density/ built-upon area calculations, as he may deem necessary to determine compliance with Watershed Overlay District provisions.
11. The Zoning Administrator may, prior to the issuance of any permit in a Watershed Overlay District, require evidence of a valid Sedimentation Control Permit issued by the State of North Carolina or evidence satisfactory to the Administrator that no permit is required.
12. The Zoning Administrator shall maintain records of the administration of the Watershed Overlay District regulations and shall submit any modifications of the regulations to the Division of Environmental Management, Division of Environmental Health and Division of Community Assistance. The Zoning Administrator shall also maintain a record of variances issued and shall submit an annual report of each project receiving a variance and the reason for the variance to the Division of Environmental Management. The annual report shall contain the

record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

II-4.1.2 Cooleemee-South Yadkin River Watershed Critical Area

The purpose of the Cooleemee-South Yadkin River Watershed Critical Area Overlay is to provide for protection of the South Yadkin River water supply consistent with the WS-IV Critical Area watershed management rules as adopted by the North Carolina Environmental Management Commission for such classified areas.

A. General Development Standards

1. No new sites for land application of residual or petroleum contaminated soils are allowed.
2. No new landfills are allowed.

B. Density/Built-upon Limitations

1. Residential development activities which require a Sedimentation Control Permit shall not exceed one (1) dwelling unit per 20,000 square feet or, optionally, twenty-four percent (24%) built-upon area, on a project by project basis.
2. Non-residential development activities which require a Sedimentation Control Permit shall not exceed twenty-four percent (24%) built-upon area, on a project by project basis.

II-4.1.3 Cooleemee-South Yadkin River Protected Area

The purpose of the Cooleemee-South Yadkin River Protected Area Overlay is to provide for protection of the South Yadkin River water supply consistent with the WS-IV Protected Area watershed management rules as adopted by the North Carolina Environmental Management Commission for such classified areas.

A. Density/Built-Upon Limitations

1. Residential development activities which require a Sedimentation Control Permit shall not exceed one (1) dwelling unit per 20,000 square feet or,

- optionally, twenty-four percent (24%) built-upon area, on a project by project basis.
2. Non-residential development activities which require a Sedimentation Control Permit shall not exceed twenty-four percent (24%) built-upon area, on a project by project basis.
 3. Residential development activities which require a Sedimentation Control Permit and which are not required to use, or do not utilize for storm drainage purposes, a curb and gutter street system, shall not exceed three (3) dwelling units per acre or, optionally, thirty-six percent (36%) built-upon area, on a project by project basis.
 4. Non-residential development activities which require a Sedimentation Control Permit and which are not required to use, or which do not utilize for storm drainage purposes, a curb and gutter street system, shall not exceed thirty-six percent (36%) built-upon area, on a project by project basis.
 5. Notwithstanding the limitations of A. (1),(2),(3) and (4) above, 10% of the Protected Area may be developed with new development projects of up to seventy percent (70%) built-upon area as Special Intensity Allocations (SIAs). SIAs shall be allocated and developed in accordance with the following rules:
 - a. SIAs shall be allocated by the Planning Board through the Site Plan Approval process. The Zoning Administrator shall maintain a record of the total acreage in the Protected Area eligible for SIAs, the acreage that has been allocated and the acreage that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For the purpose of this subsection, the total area that can be allocated for SIA's in the Protected Area is 8.2.
 - b. SIAs shall be allocated to non-residential development only on a "first come, first served" basis upon the approval.
 - c. The right to develop a SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Compliance Permit, Zoning Compliance Permit with Vested Rights, or Building Permit. In such a case, the allocated acreage, or unused allocated acreage, shall be returned to the unallocated total acreage eligible for allocation."

II-4.2 Flood Damage Prevention Overlay (FDP-O)

II-4.2.1 Statutory Authorization, Findings of Fact, Purpose, & Objectives

SECTION 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.

Therefore, the Town Board of Commissioners of Cooleemee, North Carolina, does ordain as follows:

SECTION B. Findings of Fact

- 1) The flood prone areas within the jurisdiction of Cooleemee are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. Statement of Purpose

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

- 1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- 2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- 3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- 4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

- 5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. Objectives

The objectives of this overlay are to:

- 1) protect human life, safety, and health;
- 2) minimize expenditure of public money for costly flood control projects;
- 3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) minimize prolonged business losses and interruptions;
- 5) minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- 6) 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.

II-4.2.2 Definitions

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

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

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

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

“Area of Shallow Flooding” means a designated Zone AO 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” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

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

“Building” see “Structure”.

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

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

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

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

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

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

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

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

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the 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)” means 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” means the insurance coverage provided under the National Flood Insurance Program.

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

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the 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” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

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

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

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

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

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

“Floodway” means 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.

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

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

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

“Historic Structure” means any structure that is:

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

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

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

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for

parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

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

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

“Mean Sea Level” means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

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

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

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

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

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

“Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

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

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

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

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

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

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

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in II-4.2.3, Section B of this ordinance.

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

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

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

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

any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

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

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in II-4.2.4 and II-4.2.5 is presumed to be in violation until such time as that documentation is provided.

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

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

II-4.2.3 General Provisions

SECTION A. Lands to Which this Overlay Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdiction (ETJ), of Cooleemee and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

SECTION B. Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) date September 17, 2008 and its accompanying Flood Insurance Rate Map (FIRM) Panels (5735 & 5745), which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Davie County Unincorporated Area, dated March 21, 1980

Cooleemee, Town of, dated March 21, 1980

SECTION C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of II-4.2.3, Section B of this ordinance.

SECTION D. Compliance

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

SECTION E. Abrogation & Greater Restrictions

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

SECTION F. Interpretation

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

- a) considered as minimum requirements;
- b) liberally construed in favor of the governing body; and

- c) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. Warning & 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 Cooleemee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Cooleemee from taking such other lawful action as is necessary to prevent or remedy any violation.

II-4.2.4 Administration

SECTION A. Designation of the Floodplain Administrator

The Mayor or his/her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. Floodplain Development Application, Permit, and Certification Requirements

- 1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

- i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in II-4.2.3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - iii. flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in II-4.2.3, Section B;
 - iv. the boundary of the floodway(s) or non-encroachment area(s) as determined in II-4.2.3, Section B;
 - v. the Base Flood Elevation (BFE) where provided as set forth in II-4.2.3, Section B; II-4.2.4, Section C; or II-4.2.5, Section D;
 - vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - vii. 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:
 - i. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - ii. Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and
 - iii. 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 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- d) A Foundation Plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with II-4.2.5, Section 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 II-4.2.5, Section B, subsections (6) and (7) of this ordinance are met.
 - i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- 2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- a) A description of the development to be permitted under the floodplain development permit.
 - b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in II-4.2.3, Section 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.
 - h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- 3) **Certification Requirements.**
- a) Elevation Certificates
 - i. An Elevation Certificate (FEMA Form 81-31) 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.

ii. An Elevation Certificate (FEMA Form 81-31) 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.

iii. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

b) Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), 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 II-4.2.5, Section B(3)(b).
- d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - i. Recreational Vehicles meeting requirements of II-4.2.5, Section B(6)(a);
 - ii. Temporary Structures meeting requirements of II-4.2.5, Section B(7); and
 - iii. Accessory Structures less than 150 square feet meeting requirements of II-4.2.5Section B(8).

SECTION C. Duties and Responsibilities of the Floodplain Administrator

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

- 1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- 2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
- 3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- 5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of II-4.2.5, Section 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 II-4.2.4, Section 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 II-4.2.4, Section B(3).
- 8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of II-4.2.4, Section B(3).
- 9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of II-4.2.4, Section B(3) and II-4.2.5, Section B(2).
- 10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- 11) When Base Flood Elevation (BFE) data have not been provided in accordance with the provisions of II-4.2.3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-

- encroachment area data available from a Federal, State, or other source, including data developed pursuant to II-4.2.5, Section D(2)(b), in order to administer the provisions of this ordinance.
- 12) When Base Flood Elevation (BFE) data are provided but no floodway or non-encroachment area data have been provided in accordance with the provisions of II-4.2.5, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
 - 13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the 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 make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
 - 15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
 - 16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
 - 17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws;

- or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- 18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 - 19) Follow through with corrective procedures of II-4.2.4, Section D.
 - 20) Review, provide input, and make recommendations for variance requests.
 - 21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of II-4.2.3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
 - 22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. Corrective Procedures

- 1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a) that the building or property is in violation of the floodplain management regulations;
 - b) that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

- 3) **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- 4) **Appeal:** Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- 5) **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

SECTION E. Variance Procedures

- 1) The Board of Adjustment as established by Cooleemee, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- 2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- 3) Variances may be issued for:
 - a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - b) functionally dependent facilities if determined to meet the definition as stated in II-4.2.2 of this ordinance, provided provisions of II-4.2.4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - c) any other type of development, provided it meets the requirements of this Section.

- 4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - a) the danger that materials may be swept onto other lands to the injury of others;
 - b) the danger to life and property due to flooding or erosion damage;
 - c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d) the importance of the services provided by the proposed facility to the community;
 - e) the necessity to the facility of a waterfront location as defined under II-4.2.2 of this ordinance as a functionally dependent facility, where applicable;
 - f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) the compatibility of the proposed use with existing and anticipated development;
 - h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- 5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- 6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- 7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the 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.

- 8) 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.
- 9) Conditions for Variances:
 - a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d) Variances shall only be issued prior to development permit approval.
 - e) Variances shall only be issued upon:
 - i. a showing of good and sufficient cause;
 - ii. a determination that failure to grant the variance would result in exceptional hardship; and
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - a) The use serves a critical need in the community.
 - b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - d) The use complies with all other applicable Federal, State and local laws.
 - e) The Town of Cooleemee has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

II-4.2.5 Provisions for Flood Hazard Reduction

SECTION A. General Standards

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

- 1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- 2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 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.
- 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 floodwaters.
- 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 II-4.2.4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater

treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of II-4.2.4, Section 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.
- 16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple Base Flood Elevations (BFEs), the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in II-4.2.3, Section B, or II-4.2.5, Section D, the following provisions, in addition to the provisions of II-4.2.5, Section A, are required:

- 1) **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in II-4.2.2 of this ordinance.
- 2) **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in II-4.2.2 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 II-4.2.5, Section 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 II-4.2.5, Section B(3), along with the operational plan and the inspection and maintenance plan.

3) Manufactured Homes.

- a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in II-4.2.2 of this ordinance.
 - b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - c) All enclosures or skirting below the lowest floor shall meet the requirements of
 - d) II-4.2.5, Section B(4).
 - e) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- 4) Elevated Buildings.** Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- i. 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;
- ii. shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - iii. 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:
 - iv. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - v. 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;
 - vi. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - vii. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - viii. 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
 - ix. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

5) Additions/Improvements.

- a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - iii. Additions to post-FIRM structures with no modifications 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.
- b) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- 6) Recreational Vehicles. Recreational vehicles shall either:
- a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - b) meet all the requirements for new construction.
- 7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- 8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b) Accessory structures shall not be temperature-controlled;
- c) Accessory structures shall be designed to have low flood damage potential;
- d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e) Accessory structures shall be firmly anchored in accordance with the provisions of II-4.2.5, Section A(1);
- f) All service facilities such as electrical shall be installed in accordance with the provisions of II-4.2.5, Section A(4); and
- g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of II-4.2.5, Section B(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with II-4.2.5, Section B(3).

SECTION C. Reserved

SECTION D. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in II-4.2.3, Section B, where no Base Flood Elevation (BFE) data have been provided by FEMA, the following provisions, in addition to the provisions of II-4.2.5, Section A, shall apply:

- 1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - a) When Base Flood Elevation (BFE) data are 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 II-4.2.5, Sections A and B.

- b) When floodway or non-encroachment data are 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 II-4.2.5, Sections 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 BFE data shall be adopted by reference in accordance with the provisions of II-4.2.3, Section B and utilized in implementing this ordinance.
- d) When Base Flood Elevation (BFE) data are 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 II-4.2.2. All other applicable provisions of II-4.2.5, Section B shall also apply.

SECTION E. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-encroachment Areas

Along rivers and streams where 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 II-4.2.5, Sections A and B; and
- 2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. Floodways and Non-encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in II-4.2.3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and

potential projectiles. The following provisions, in addition to the standards outlined in II-4.2.5, Sections A and B, shall apply to all development within such areas:

- 1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, 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 upon completion of the proposed encroachment.
- 2) If II-4.2.5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- 3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - a) the anchoring and the elevation standards of II-4.2.5, Section B(3); and
 - b) the no encroachment standard of II-4.2.5, Section F(1).

SECTION G. Standards for Areas of Shallow Flooding (Zone AO)

Located within the Special Flood Hazard Areas established in II-4.2.3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to II-4.2.5, 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 four (4) 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 II-4.2.5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Certification is required in accordance with II-4.2.5, Section B(3) and II-4.2.5, Section B(2).

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

II-4.2.6 Legal Status Provisions

SECTION A. Effect upon Outstanding Floodplain Development Permits

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

SECTION B. Severability

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

SECTION C. Effective Date

This ordinance shall become effective September 3, 2008.

SECTION D. Adoption Certification

I hereby certify that this is a true and correct copy of the flood damage prevention overlay as adopted by the Board of Commissioners of Cooleemee, North Carolina, on the 19th day of August, 2008.

WITNESS my hand and the official seal of Cooleemee, this the 19th day of August, 2008.

Town Clerk

ARTICLE II-5

Validity

If any Section, Subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board of Commissioners hereby declares that it would have passed this Ordinance and each Section, Subsection, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases be declared invalid.

ARTICLE II-6

Effective Date

This Ordinance shall become effective upon its adoption by the Town Board of Commissioners of the Town of Cooleemee, North Carolina.

ADOPTED the 18th day of October, 2005, by the Town Board of Commissioners of the Town of Cooleemee, North Carolina.

AS AMENDED the 21st day of October, 2008, by the Town Board of Commissioners of the Town of Cooleemee, North Carolina.

Attest:

Town Clerk

Mayor