

## CHAPTER 154: ZONING CODE

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## **GENERAL PROVISIONS**

### **§ 154.001 ENACTMENT PREAMBLE.**

This chapter establishes comprehensive zoning regulations for the town and provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of the G.S. Chapter 160D, and for the repeal of all ordinances in conflict herewith. Therefore, be it and the same is hereby enacted by the people of the Town of Fremont, North Carolina.  
(Ord. § 10-1, passed 11-30-99)

### **§ 154.002 SHORT TITLE.**

These regulations shall be known, referred to, and cited as the “Zoning Ordinance for the Town of Fremont, North Carolina.”  
(Ord. § 10-2, passed 11-30-99)

### **§ 154.003 JURISDICTION.**

The provisions of this chapter shall apply within the corporate limits and the extraterritorial jurisdiction of the town.  
(Ord. § 10-3, passed 11-30-99)

### **§ 154.004 PURPOSE.**

The purpose of these regulations shall be to accomplish a coordinated, balanced, and harmonious development of the land within the corporate limits and the extraterritorial jurisdiction of the town in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic, and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and

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to protect property against blight and depreciation.  
(Ord. § 10-4, passed 11-30-99)

### § 154.005 INTERPRETATIONS AND DEFINITIONS.

(A) *Word interpretation.* For the purposes of this chapter, certain words shall be interpreted as set forth below. Terms not specifically defined herein shall have such definition as set forth in N.C.G.S. 160D.

(1) The word **PERSON** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(2) The word **MAY** is permissive.

(3) The word **SHALL** is mandatory.

(4) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED, OR ARRANGED TO BE USED OR OCCUPIED.**

(5) The word **LOT** includes the words **PLOT, PARCEL, SITE, OR PREMISES.**

(6) The word **BUILDING** includes the word **STRUCTURE.**

(7) The word **MAP** shall mean the **OFFICIAL ZONING MAP FOR THE TOWN OF FREMONT.**

(8) The word **TOWN** shall mean the **TOWN OF FREMONT, A MUNICIPAL CORPORATION OF THE STATE OF NORTH CAROLINA.**

(9) The words **ORDINANCE** and **REGULATIONS** shall mean the **OFFICIAL ZONING ORDINANCE FOR THE TOWN OF FREMONT, NORTH CAROLINA.**

(10) The words **BOARD OF PLANNING AND ADJUSTMENT** shall mean the **TOWN OF FREMONT BOARD OF PLANNING AND ADJUSTMENT.**

(11) The words **TOWN BOARD** shall mean the **TOWN BOARD OF ALDERMEN OF THE TOWN OF FREMONT, NORTH CAROLINA.**

(Ord. § 120-1, passed 11-30-99)

(B) *Tense and number.*

(1) The present tense includes the future tense, and the future tense includes the present tense.

(2) The singular number includes the plural, and the plural number includes the singular.  
(Ord. § 120-2, passed 11-30-99)

(C) *Definitions.*

**ACCESSORY BUILDING AND USE.** A subordinate building or use, the use of which is incidental to that of the principal building or use on the same lot. An accessory building can be no larger than the primary dwelling unit and can be no taller than one and one-half stories high.

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**ADMINISTRATIVE DECISION.** Decisions made in the implementation, administration or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative decisions.

**ADMINISTRATIVE HEARING.** A proceeding to gather facts needed to make an administrative decision.

**ADMINISTRATOR, ZONING.** The person, officer, or official and his or her authorized representative, whom the Town Board have designated as its agent for the administration of these regulations. He or she may provide for the enforcement of this ordinance by means of the withholding of building permits and occupancy permits, and by instituting injunctions, mandamus, or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; to correct or abate such violation, or to prevent the occupancy of said building, structure, or land. Unless otherwise directed by the Town Board, the Town Administrator or his or her designee shall serve as the Zoning Administrator.

**ALTER.** To make any structural changes in the supporting or load-bearing members of a building such as walls, columns, beams, girders, or floor joints.

**APARTMENT.** A room or unit of one or more rooms, each of which have kitchen facilities and are designated or intended to be used, as an independent unit, or a rental basis.

**ASSEMBLY.** A joining together of completely finished parts to create a finished product.

**AUTOMOBILE WASH or AUTOMATIC CAR WASH.** A lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose.

**BED AND BREAKFAST DWELLING OR INN.** A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

**BOARD OF PLANNING AND ADJUSTMENT.** A body composed of representatives from the planning jurisdiction of Fremont which are given certain powers under and relative to this ordinance.

**BOARDING HOUSE.** A building which contains four or more rooms, each of which have no kitchen facilities and are designed or intended to be used for residential occupancy on a rental basis.

**BUILDABLE AREA.** The portion of a lot remaining after required yards have been provided.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy..

**BUILDING, COMMERCIAL.** Any building used for business purposes.

**BUILDING, DETACHED.** A building having no party or common wall with another building, except an accessory building.

**BUILDING, FARM.** Any structure used in the conduct of a bona fide farm operation,

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including but not limited to tobacco barns, pack houses, poultry houses, pig parlors, and other storage facilities.

***BUILDING, HEIGHT.*** The vertical distance from the average under-walk grade or finished grade of the building line, whichever is the highest, to the highest point of the building.

***CERTIFICATE OF OCCUPANCY.*** The Wayne County Building Inspector issues the certificate of occupancy and requires a statement, signed by the Zoning Administrator or his or her designee, setting forth that the building, structure, or use of land complies with the zoning ordinance of the town.

***CHURCH.*** A building set apart and used for public worship for a religious organization, ecclesiastical or denominational, or any organization that meets at an established physical place of worship in the town at which non-profit religious services and activities are regularly conducted.

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

***COMPREHENSIVE PLAN.*** A comprehensive plan that has been officially adopted by the Board of Aldermen pursuant to G.S. 160D-501.

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

***CURB CUT.*** A lowered or cut-away curb for purposes of ingress or egress to property abutting a public street.

***DETERMINATION.*** A written, final and binding order, requirement or determination regarding an administrative decision.

***DEVELOPER.*** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

***DEVELOPMENT.*** The term Development shall mean any of the following unless the context clearly indicates otherwise:

- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- (b) Excavation, grading, filling, clearing or alteration of land;
- (c) The subdivision of land as defined in N.C.G.S. 160D-802; or;
- (d) The initiation or substantial change in the use of land or the intensity of use of land.

***DEVELOPMENT AGREEMENT.*** An agreement between the Town and a developer pursuant to NCGS §160D-101 for a large-scale development with a lengthy buildout period and having a public-private partnership component involving mutual financial interests.

***DEVELOPMENT APPROVAL.*** An administrative or quasi-judicial approval made pursuant to N.C.G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. This term also includes all other regulatory approvals required by regulations adopted pursuant to this N.C.G.S. 160D



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including plat approvals, building and other permits issued, subdivisions of land, and development agreements entered into.

**DEVELOPMENT REGULATION.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to N.C.G.S. 160D, or a local act or charter that regulates land use or development.

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

**DISTRICT, ZONING.** A section of the town within which the zoning regulations are uniform.

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

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit, other than a mobile/manufactured home, designed for and occupied by one family only.

**DWELLING, TWO-FAMILY (DUPLEX).** A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

**DWELLING, MULTI-FAMILY.** A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

**DWELLING UNIT.** A single unit providing complete independent living facilities for one or more persons.

**ERECT.** To build, construct, rebuild, or reconstruct, as the same are commonly defined.

**EVIDENTIARY HEARING.** A hearing to gather competent, material and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

**FABRICATION.** The processing and/or assemblage of various components into a complete or partially completed commodity. **FABRICATION** relates to stamping, cutting, or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw materials, such as metal, ore, lumber, and rubber, and the like are included.

**FACILITIES.** Something created to serve a particular function, except in the case of livestock facilities; open pasture is excluded.

**FAMILY.** One or more persons living together and related by blood, marriage, or legal adoption occupying the whole part of a dwelling as a separate housekeeping unit using the same kitchen facilities. A number of persons not exceeding five living together as a single housekeeping

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unit though not related by blood, adoption, or marriage shall be deemed to constitute a family, as shall a foster care home approved by the state.

***FAMILY CARE HOME.*** A facility designed to care for a maximum of six handicapped persons, plus support and supervisory personnel, as defined in G.S. § 160D-907.

***FLEA MARKET.*** Retail sale of miscellaneous items, including new, used, and antique furniture and household items, sold in an enclosed building during regular retail sales hours.

***FRONTAGE.*** The distance between the two side lot lines as measured along the front setback line.

***GARAGE, PRIVATE.*** A building or space used as an accessory to a part of the main building permitted in any residential district that provides storage space for motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

***HOME OCCUPATION.*** An occupation for gain or support customarily conducted on the premises by a person or family residing thereon. The term ***HOME OCCUPATION*** shall not be deemed to include a tourist home.

***INTERNET CAFÉ.*** An “internet café,” “cybercafé,” “electronic gaming operation,” or “sweepstakes center” or by what other terminology such establishment might be known, is for a profit business enterprise, whether as a principal or an accessory use, where one electronic machine can be utilized, including but not limited to a computer or gaming terminal and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games of skill or by predetermined odds. This term includes, but is not limited to those establishments where one can use a computer with internet access, usually for a fee on a per hour or per minute basis; or unmetered access with a pass for a day, month, etc. The establishment may serve as a regular café, as well, with food and drinks being served. This does not include any lottery approved by the State of North Carolina or any nonprofit operation that is otherwise lawful under State law (for example, church or civic organization fundraisers).  
(Rev. 2-15-22)

***JUNK YARD.*** Use of property for indoor and/or outdoor storage, keeping, abandonment, sale, or resale of junk, including scrap metal, rags, paper, or other scrap materials, used lumber, salvaged house wrecking and structural steel, materials and equipment, or for the dismantling demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

***KENNEL.*** A facility operated exclusively for profit and for the expressed purposes of providing shelter for animals.

***LANDOWNER OR OWNER.*** The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

***LEGISLATIVE DECISION.*** The adoption, amendment or repeal of a regulation under the zoning ordinance, N.C.G.S. 160D, and/or an applicable local act. It also includes the decision to approve, amend or rescind a development agreement.

***LOT.*** For zoning purposes, as covered by this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such

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yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, or complete lots of record and portions of lots of records, or of portions of lots of record; or
- (4) A parcel of land described by metes and bounds, and provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

**LOT, AREA.** The parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

**LOT, CORNER.** Any parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley the lot between the boundaries of the lot, if extended.

**LOT DEPTH.** The depth of a lot, for the purpose of this ordinance, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite lot line.

**LOT LINE.** Any boundary of a parcel of land.

**LOT LINE, FRONT.** Any boundary line of a lot running along a street right-of-way line.

**LOT LINE, REAR.** The lot line, opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be line perpendicular to a straight line connecting said apex and the midpoint on the front lot line.

**LOT OF RECORD.** A lot which has been recorded in office of the Register of Deeds of Wayne County, or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

**LOT WIDTH.** The distance between side lot lines measured at the building line.

**MOBILE/MANUFACTURED HOME.** A detached residential dwelling unit over 32 feet in length and over eight feet wide designed for transportation after fabrication on its own wheels or on flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations, including but not limited to location on jacks or other temporary or permanent foundations, and connection to utilities to utilities. Travel trailers and campers shall not be considered mobile/manufactured homes.

**MOBILE/MANUFACTURED HOME CLASS A.** A mobile/manufactured home that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban

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Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (1) The mobile/manufactured home has length not exceeding four times its width;  
and
- (2) The pitch of the roof has minimum vertical rise of two and two-tens (2.2) feet for each 12 feet of horizontal run (2.2' in 12') and the roof is finished with shingles; and
- (3) The exterior siding consists predominately of vinyl or aluminum horizontal lap siding wood, or hardboard; and
- (4) A continuous, uniform foundation enclosure, unpierced except for required ventilation and access, shall be installed. The enclosure may consist of brick or concrete block, or wood, vinyl, or metal fabricated for this purpose. Any wood for foundation skirting shall be constructed with pressure treated lumber; and
- (5) The tongue, axles, removable towing apparatus, and transporting lights are removed after final placement on the site.
- (6) The home meets all applicable State, County and Town building codes and requirements applicable to the mobile/manufactured homes.

**MOBILE/MANUFACTURED HOME CLASS B.** A mobile/manufactured that meets or exceeds the standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a mobile/manufactured home Class A.

**MOBILE/MANUFACTURED HOME PARK.** Any plot of ground upon which ten or more mobile/manufactured home spaces are located, regardless of whether or not a charge is made for such accommodations.

**MODULAR HOME.** A detached residential dwelling unit designed for transportation after off-site fabrication on flatbed trucks or trailers. At the site, a **MODULAR HOME** must be placed on a permanent foundation, heating and cooling system, plumbing fixtures, and electrical appliances must be installed before being occupied.

**MULTIUSER TERMINAL.** A gaming monitor, computer monitor, or electronic display that has the capacity for more than one user to use the terminal at the same time. Gaming machines known as "Fishing Tables" shall be considered Multiuser Terminals.  
(Passed 2-15-22)

**NONCONFORMING USE.** A legal use of a building and/or land that predates the adoption of these regulations and does not conform to the regulations for the district in which it is located.

**NURSING HOME.** A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.

**PARKING SPACE.** The storage space for one automobile of not less than ten feet by 20 feet, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

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***PLANNED UNIT DEVELOPMENT.*** The planned residential development of mixed structures, such as apartments, townhouses, row houses, and cluster subdivisions, usually incorporating privately-owned, open common areas.

***PRINCIPAL BUILDING OR USE.*** The principal purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

***PROCESSING.*** Any operation changing the nature of material or material's chemical composition or physical properties. ***PROCESSING*** does not include operations described as fabrication.

***PUBLIC SAFETY FACILITIES.*** All police, fire, and rescue buildings and facilities.

***PUBLIC SEWER SYSTEM.*** Any sewage disposal system whether operated publicly or privately other than a pit privy or a septic tank located on the lot and approved by the Wayne County Health Department.

***PUBLIC WATER SYSTEM.*** A system operated publicly or privately, whereby the watercourse is not located on the lot of the consumers and the number of connections must be at least ten and approved by the Wayne County Health Department.

***QUASI-JUDICIAL DECISION.*** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the ordinance authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

***RADIO, TELEVISION, TELEPHONE, AND OTHER TELECOMMUNICATION FACILITIES.*** An accessory or principal structure used to transmit and/or receive electromagnetic communications. This definition does not include "dish antenna" or "earth station."

***RETAIL.*** The sale of a commodity to the ultimate consumer and not customarily subject to sale again.

***SALVAGE OPERATION.*** The reclamation, dismantling, or storage of perused commodities, junk, and similar material for the purposes of resale, processing, distribution or deposition.

***SERVICE STATION.*** A building or lot where gasoline, oil, grease, and automotive accessories are supplied and dispensed to motor vehicles.

***SETBACK LINES.*** The line on the front, rear, and sides of a lot which delineates the area within which a structure may be built and maintained, according to the district regulations.

***SHOPPING CENTER.*** Two or more commercial establishments planned, and constructed, as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

***SIGN.*** Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter

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designed to convey information visually and exposed to public view, or any structures, including billboard or poster panel, designed to carry visual information. (See §§ 154.240 et seq. for further sign information.)

**SIGN, AREA OF.** Sign area shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof which will encompass the entire sign, including lattice work, wall work, frame, or supports incidental to its decoration. In computing the area, only one side of a double face sign structure shall be considered.

**SIGN, BUSINESS IDENTIFICATION (PRINCIPAL USE).** Any sign which advertises an establishment, service, commodity, or activity conducted upon the premises where such sign is located.

**SIGN, PORTABLE.** Any sign not exceeding 80 square feet in billboard area and constructed as a part of or attached to a trailer.

**SITE SPECIFIC DEVELOPMENT PLAN.** A plan of land development submitted to the town for purposes of obtaining a special use permit or zoning permit. Notwithstanding the foregoing, neither a variance nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

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

**STORAGE.** The deposition of commodities or items for the purposes of future use or safekeeping.

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

**STRIP, BUFFER.** An unused strip of land planted with deciduous and/or evergreen trees, and maintained in a healthy growing condition by the owner. No building or part of a building, driveway, or parking area shall occupy any part of a buffer strip.

**STRUCTURE.** Anything constructed or erected with a fixed location on, or in the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include building, mobile/manufactured homes, walls, fences, billboards, poster panels, swimming pools, and fall-out shelters.

**TOURIST HOME.** A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

### **TRAVEL TRAILER.**

- (1) Any structure which:
  - (a) Consists of a single unit completely assembled at the factory; and,

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(b) Is designed so that the total structure can be transported on its own chassis; and,

(c) Is not over 32 feet in length and eight feet in width.

(2) Such structures shall be considered **TRAVEL TRAILERS** regardless of other titles that may also be applicable, such as camper, mini- mobile/manufactured home, and the like.

**USE.** The purpose for which land or structures thereon are designed, arranged, or intended to be occupied or uses; or for which it is occupied, maintained, rented, or leased.

**USE BY RIGHT.** A use which is listed as an unconditionally permitted activity in this ordinance.

**VARIANCE.** A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to condition peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

**WHOLESALE.** Sale of a commodity for resale to the public for direct consumption.

**YARD.** A required open space unoccupied and unobstructed by any principal structure or portion of a structure, except as provided herein

**YARD, FRONT.** A yard extending across the front of a lot measured from side lot line to side lot line and lying between the abutting street right-of-way and the principal building on the lot.

**YARD, REAR.** A yard extending across the rear of the lot measured from side lot line to side lot line and lying between rear property line and the principal building on the lot.

**YARD, SIDE.** A yard extending along either side of a lot measured from front yard line to the rear yard line and lying between the side lot line and the principal building on the lot.

**ZONING PERMIT.** A permit issued by the Zoning Administrator when a proposal to use or occupy a lot or structure, or to erect, install, or alter a structure, building, sign, or lot, fully meets the requirements of this ordinance. This permit must be obtained before any work is initiated on the proposed use.

**ZONING VESTED RIGHT.** A right pursuant to G.S. § 160D-108 and 108.1.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

### **INTERPRETATION OF DISTRICT BOUNDARIES**

#### **§ 154.020 OFFICIAL ZONING MAP ADOPTED.**

The locations and boundaries of each of the zoning districts shall be shown on the map accompanying this ordinance and made a part hereof, entitled, "Official Zoning Map, Fremont, North Carolina," and adopted by the Town Board of Aldermen. The zoning map and all the notations, references, and amendments thereto and other information shown are hereby made a part of this ordinance. The zoning map shall be kept on file in the office of the Town Clerk and shall be available for inspection by the public.

(Ord. § 20-1, passed 11-30-99)

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### § 154.021 CERTIFICATION OF MAP.

The map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the official seal of the town under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance for the Town of Fremont, North Carolina." The date of adopting shall also be shown.

(Ord. § 20-1.1, passed 11-30-99)

### § 154.022 CHANGES TO MAP.

If, in accordance with the provisions of this ordinance, changes are made in the zoning district boundaries or other matter shown on the map, such changes shall be made together with an entry on the map as follows: "On (date) by official action of the Town Board of Alderman, the following changes were made in the Official Zoning Map: (brief description or nature of change)." The entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this ordinance which involves matters portrayed on the map shall become effective until after such change and entry has been made on said map.

(Ord. § 20.1.2, passed 11-30-99)

### § 154.023 REPLACEMENT OF MAP.

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the Town Board may by ordinance adopt a new Official Zoning Map which shall be the same in every detail as the map it supersedes. The new map shall bear the signatures of the current officials and shall bear the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map replaced)." The date of adoption of the new Official Zoning Map shall be shown also.

(Ord. § 20.1.3, passed 11-30-99)

### § 154.024 DISTRICT BOUNDARIES ESTABLISHED.

(A) The boundaries of such districts as are shown upon the map attached to this ordinance are hereby adopted. The provisions of this ordinance governing within each type of district the use of land and buildings, height of buildings, building site areas, sizes of yards around buildings, and other matters as are hereinafter set forth are hereby established and declared to be in effect upon all land included within the boundaries of each and every district as shown upon said map.

(Ord. § 20-2, passed 11-30-99)

(B) Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.

(2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

(3) Boundaries indicated as approximately following town limit lines shall be construed to follow such town limit lines.

(4) Boundaries indicated as following the rights-of-way of railroad lines shall be construed to follow such rights-of-way.



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(5) Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.

(6) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

(7) Where physical and cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Planning and Adjustment shall interpret the Zoning Map.

(Ord. § 20-3, passed 11-30-99)

### § 154.025 MAINTENANCE OF MAPS..

(A) Zoning Map. Zoning district boundaries adopted pursuant to N.C.G.S. 160D shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the Town.

(1) The Town adopts the most current version of the Army Corps of Engineer's Flood Insurance Rate Maps by reference

(2) These maps shall be maintained for public inspection as provided in the office of the clerk.

(B) Copies. Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the clerk, shall be admissible into evidence and shall have the same force and effect as would the original map.

### ***DISTRICTS ESTABLISHED***

### § 154.030 DISTRICT USE REGULATIONS.

For the purposes of this ordinance, the town is hereby divided into the following use districts.  
(Ord. § 21, passed 11-30-99)

### § 154.031 RA—RESIDENTIAL AGRICULTURAL.

(A) *Purpose.* The purpose of this district shall be to create an area in which residential and agricultural uses can be compatibly mixed, achieving a healthful living environment for the residents of the district and at the same time preventing the development of blight and slum conditions. This district is limited to those agricultural sections of the jurisdictional area in which the mixing of such uses has been found to be necessary and desirable and imposes adequate controls to ensure that high-density residential development will not be detrimental to the neighborhood.

(B) *Permitted uses.*

(1) Accessory buildings, provided there be no more than two non-farm buildings per lot.

(2) Bona fide farming operations and their customary appurtenances, except hog, livestock, and poultry facilities.

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(3) Any hog, livestock, or poultry facility may operate in conjunction with a bona fide farming operation provided that said facility shall be located 1,000 feet from any residence located beyond the property line if said residence exists before the hog, livestock, or poultry facility. However, if the hog, livestock, or poultry facility is constructed first, no residence shall be located within 1,000 feet of said facility if the residence is located beyond the property line unless a special use permit is authorized.

(4) Cemeteries.

(5) Churches.

(6) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home.

(7) Forestry.

(8) Home occupations, as defined in §§ 154.100 et seq.

(9) Mobile/manufactured homes Class A and B.

(10) Public parks and playgrounds, community centers, athletic fields, clubs and lodges, golf courses, and swimming pools.

(11) Public safety facilities, including fire, police, and rescue facilities.

(12) Town-owned sewer lift stations and electric substations.

(13) Single-family dwellings.

(14) Two-family dwellings.

(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

(1) Mobile classrooms.

(2) Planned unit development.

(3) Radio, television, telephone, and telecommunication facilities (commercial).

(4) Schools, public and private

(5) Single-family dwellings or individual mobile homes to be located within 1,000 feet of an existing hog, livestock, or poultry facility.

(6) Public utilities facilities.

(7) Mufti-family dwellings.

(8) Storage Facility.

(9) Bed and Breakfast.

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(D) *Dimensional requirements.*

(1) Minimum lot area:

Single-family dwellings with well and septic tank	20,000 square feet
Single-family dwellings with off-site water or sewer	15,000 square feet
Two-family dwellings	30,000 square feet
Muulti-family dwellings	10,000 square feet; 3,500 square feet for each additional unit
Nonresidential uses	40,000 square feet

(2) Minimum lot size

Residential	Width	100 feet
	Depth	150 feet
Nonresidential	Width	100 feet
	Depth	150 feet (excluding public safety and utilities facilities)

(3) Minimum yard:

Residential	Front	30 feet
	Rear	30 feet
	Side	20 feet (on corner lots street side same as front yard)
Nonresidential	Front	35 feet
	Rear	40 feet
	Side	25 feet (on corner lots street side same as front yard)

(4) Maximum building height: 35 feet.

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

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(Ord. § 21-1, passed 11-30-99)

**§ 154.032 R15—SINGLE-FAMILY RESIDENTIAL.**

(A) *Purpose.* The purpose of this district shall be to maintain a minimum lot size of 15,000 square feet and to allow for single-family dwellings and such other uses which would not be detrimental to this district in order to protect the property in this district from the depreciating effects of more densely developed residential uses.

(B) *Permitted uses.*

(1) Accessory buildings, provided there be no more than two non-agricultural buildings per lot.

(2) Churches.

(3) Single-family dwellings.

(4) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home.

(5) Town-owned sewer lift stations and electric substations.

(6) Gardening, including sale and processing of products produced on the premises, excluding the raising of livestock, poultry, and other farm animals.

(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

(1) Mobile classrooms.

(2) Private recreation facilities.

(3) Public recreation facilities and public safety facilities.

(4) Planned unit development.

(5) Schools, kindergartens, and elementary.

(6) Public utilities facilities.

(D) *Dimensional requirements.*

(1) Minimum lot area:

Single-family dwellings	15,000 square feet
Nonresidential uses	40,000 square feet

(2) Minimum lot size:

Residential	Width	100 feet
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	Depth	150 feet
Nonresidential	Width	150 feet
	Depth	200 feet

(3) Minimum yard:

Residential	Front	30 feet
	Rear	25 feet
	Side	12 feet (on corner lots street side same as front yard)
Nonresidential	Front	30 feet
	Rear	30 feet
	Side	20 feet (on corner lots street side same as front yard)

(4) Maximum building height: 35 feet.

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq. (Ord. § 21-2, passed 11-30-99) (Rev. 2-15-22)

**§ 154.033 R10—RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of this district shall be to provide for a compatible mixture of single-family and two-family dwellings to ensure that development will maintain the residential character of the neighborhood.

(B) *Permitted uses.*

- (1) Accessory buildings, provided that there be no more than two non-agricultural buildings per lot.
- (2) Gardening, including sale and processing of products produced on the premises, excluding the raising of livestock, poultry, and other farm animals.
- (3) Churches.
- (4) Single-family and two-family dwellings.
- (5) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home.
- (6) Home occupations, as defined in §§ 154.100 et seq.

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- (7) Public park and recreation facilities.
- (8) Public safety facilities and town-owned sewer lift stations and electric substations.

(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

- (1) Bed and breakfast dwellings.
- (2) Cemeteries.
- (3) Clubs, lodges, fraternal organizations.
- (4) Funeral homes.
- (5) Mobile classrooms.
- (6) Planned unit development.
- (7) Private recreation facilities.
- (8) Public utilities facilities.
- (9) Schools, nursery, kindergartens, and elementary.
- (10) Transitional Housing for medical and/or psychiatric care

(D) *Dimension requirements.*

- (1) Minimum lot area:

Single-family dwellings	10,000 square feet
Two-family dwellings	15,000 square feet
Nonresidential uses	20,000 square feet

- (2) Minimum lot size:

Residential	Width	65 feet
	Depth	125 feet
Nonresidential	Width	80 feet
	Depth	150 feet

- (3) Minimum yards:

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Residential	Front	25 feet
	Rear	25 feet
	Side	10 feet (on corner lots street side same as front yard)
Nonresidential	Front	30 feet
	Rear	30 feet
	Side	15 feet (on corner lots street side same as front yard)

(4) Maximum building height: 35 feet.

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

(Ord. § 21-3, passed 11-30-99) (Rev. 2-15-22)

**§ 154.034 R-6—RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of this district shall be to provide an area where single-family dwellings on existing small lots can be compatibility mixed with two-family and multi-family dwellings by requiring adequate controls to ensure that high density residential development will not be detrimental to the neighborhood. Additional small development will be discouraged.

(B) *Permitted uses.*

- (1) Accessory buildings, provided that there be no more than two such buildings per lot.
- (2) Churches.
- (3) Single-family and two-family dwellings.
- (4) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home.
- (5) Home occupations.
- (6) Public park and recreation facilities.
- (7) School, nursery, kindergarten, and elementary.
- (8) Agriculture, including sale and processing of products produced on the premises, excluding the raising of livestock, poultry and other farm animals
- (9) Town-owned sewer lift stations and electric substations.
- (10) Mobile/manufactured homes Class A and B.

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(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

- (1) Club, lodges, fraternal organizations.
- (2) Mobile classroom.
- (3) Mobile/manufactured homes Class A and B.
- (4) Private recreation facilities.
- (5) Rooming, tourist, and boarding homes.
- (6) Dwellings, multi-family.
- (8) Planned unit development.
- (9) Public safety facilities.
- (10) Medical clinics

(D) *Dimensional requirements.*

(1) Minimum lot area:

Single-family dwellings	6,000 square feet
Two-family dwellings	10,000 square feet
Multi-family	10,000 square feet; 3,500 square feet for each additional unit
Nonresidential uses	20,000 square feet

(2) Minimum lot size:

Residential	Width	50 feet
	Depth	120 feet
Nonresidential	Width	100 feet
	Depth	200 feet

(3) Minimum yards

Residential	Front	20 feet
	Rear	25 feet
	Side	10 feet



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Nonresidential	Front	30 feet
	Rear	30 feet
	Side	15 feet (corner lots street side same as front yard)

(4) Maximum building height: 35 feet.

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

(Ord. § 21-4, passed 11-30-99; Am. Ord. passed 2-22-00) (Rev. 2-15-22)

**§ 154.035 MH—MOBILE/MANUFACTURED HOME PARK.**

(A) *Purpose.* The purpose of this district shall be to provide space for the development of mobile/ manufactured home parks which incorporate good design to ensure a healthful living environment for its residents and the surrounding neighborhood. All mobile/manufactured home parks must comply with the provisions in §§ 154.120 et seq., mobile/ manufactured home park regulations.

(B) *Permitted uses.*

(1) Accessory buildings, provided that there be no more than two such buildings per lot.

(2) Churches.

(3) Single-family and two-family dwellings.

(4) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home.

(5) Home occupations.

(6) Mobile/manufactured homes, Class A and B, provided that only one mobile/manufactured home per lot shall be allowed.

(7) Mobile/manufactured home park, providing it meets requirements set forth in §§ 154.120 et seq.

(8) Public recreation facilities.

(9) Schools, kindergartens.

(10) Town-owned sewer lift stations and electric substations.

(C) *Special uses.* (Sec §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

(1) Mobile classrooms.

(2) Private recreation facilities.

(3) Planned unit development.

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(4) Public safety facilities.

(5) Public utilities facilities.

(D) *Dimensional requirements.*

(1) Minimum space area:

Single-family dwellings	10,000 square feet
Two-family dwellings	15,000 square feet
Mobile/manufactured home dwelling	10,000 square feet
Mobile/manufactured home park three	3 acres
Nonresidential uses	20,000 square feet

(2) Minimum lot size:

Residential	Width	65 feet
	Depth	125 feet
Nonresidential	Width	80 feet
	Depth	150 feet

(3) Minimum yards:

Residential	Front	25 feet
	Rear	25 feet
	Side	10 feet (on corner lot, street side same as front yard)

(4) Mobile/manufactured home park—space requirements:

- (a) 6,000 square feet per space
- (b) Space width, 50 feet at street line
- (c) 5 mobile/manufactured homes per gross acre

(5) Setbacks for individual mobile/ manufactured homes:

- (a) 40 feet from any state road or town street-right-of-way.

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- (b) 30 feet from all exterior boundary of the park.
- (c) 20 feet from any mobile/ manufactured home.
- (d) 20 feet from any internal street in the park.

(6) Minimum yards for individual mobile/manufactured homes:

Front	30 feet
Rear	30 feet
Side	15 feet (on corner lot street side same as front yard)

(7) Maximum building height: 35 feet

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq. (Ord. § 21-5, passed 11-30-99) (Rev. 2-15-22)

**§ 154.0355 COMMUNITY BUSINESS DISTRICT**

(A) *Purpose.* The purpose of this district shall be to provide for the sustainable development of the Town of Fremont, by facilitating interspersed, light impact business uses in proximity to residential neighborhoods. In order to maintain the solitude associated with living in a residential neighborhood, as well as to protect the health, safety and welfare of nearby residents, businesses operating in the district shall limit their hours of operations. All businesses operating in the district shall not open to the public, earlier than 6:00 a.m. and shall close no later than 10:00 p.m.

(B) *Permitted Uses.*

- (1) Mobile Businesses/Temporary Businesses
- (2) Restaurants (alcohol sales excluded)
- (3) Food and Grocery Stores
- (4) Convenience Stores (no gasoline sales)
- (5) Beauty and Barber Shops
- (6) Civic Clubs and Organizations
- (7) Open Farmers Markets

(C) *Dimensional Requirements.*

- (1) Minimum Lot Area: None.
- (2) Minimum Lot Size: None.

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- (3) Maximum Yards: None.
- (4) Maximum Building Height: 35 Feet.

(D) *Off-Street Parking and Loading.* Off-Street parking and loading shall be provided as required by § 154.225 et seq.  
(Ord. passed 11-12)

### § 154.036 GB—GENERAL BUSINESS.

(A) *Purpose.* The purpose of this district shall be to provide for, enhance, and protect shopping facilities in the General Business District.

(B) *Permitted uses.*

- (1) ABC Stores.
- (2) Automobile repair service.
- (3) Automobile service stations, including self-service gas pumps.
- (4) Banks.
- (5) Beauty and barber shops.
- (6) Cabinet shops.
- (7) Churches.
- (8) Drug stores.
- (9) Feed and grain sales and storage.
- (10) Florist and gift shops.
- (11) Food and grocery stores.
- (12) Fraternal organizations.
- (13) Funeral homes.
- (14) Motels.
- (15) Jewelry and watch repair.
- (16) Offices for business and professional services.
- (17) Public buildings and use.
- (18) Restaurants.
- (19) Sales, retail, including auction houses, sporting goods store, baked goods, bicycles, books, cameras, candy, clothing, cosmetics, pharmaceuticals, fabric, flowers, furniture, gardening

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supplies, gifts, groceries, hardware, feed and seed, hobby supplies, household appliances, ice cream, jewelry, lawn mowers, magazines, newspaper, notions, office supplies, pawn shops, pets, shoes, electronics, toys, watches, and similar goods. (Nothing herein shall be interpreted to include a massage parlor, escort service, any adult business, adult entertainment, or other sexually oriented business, all of which are not permitted.)

(20) Services, including beauty and barber shops, car washes, caterers, locksmiths, gunsmiths, laundromats, photographers, reducing salons, and repair shops for shoes, small appliances and watches. (Nothing herein shall be interpreted to include a massage parlor, escort service, any adult business, adult entertainment, or other sexually oriented business, all of which are not permitted.)

(21) Medical clinics.

(22) Multi- and single- family dwellings, subject to the following requirements:

(a) Minimum non-ground level building floor area of 800 square feet per residential unit;

(b) All residential usage shall be on second floor or higher levels of buildings;

(c) All ground floor space shall be developed for commercial, non-residential uses, as permitted in the central business district;

(d) If a building permit obtained for exterior renovation, no renovation shall proceed until any plastic, aluminum or other metal system covering the original exterior of the building is removed;

(e) The building exterior shall be restored to its original appearance as closely as reasonably possible;

(f) Existing door or window openings shall not be closed, or shall unique architectural features (as defined by the Secretary of the *Interior's Standards for Rehabilitating Historic Buildings*) such as cornices, mid-cornices and window surroundings be removed, except to be replaced with elements of like design; and

(g) If metal canopies are retained, at least the visible edges must be covered with canvas; new canopies or awnings shall be made of canvas or plans for projects which qualify for and have been certified eligible for an investment tax credit, as defined by §251 of the Tax Reform Act of 1986 (IRC §§ 46 and 48).

(23) Special exceptions.

Dwellings, upon findings by the Board of Planning and Adjustments that:

(a) Residential use of the property will not adversely affect the district by occupying commercial land needed for the district's economic vitality; and

(b) Residential use of the property will either assist the economic health of the district by providing consumer support or will help maintain a significant historical or architectural resource.

(c) Off-street parking and loading will be at the rear of building in designated parking spaces or parking lot.

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(d) Apartment entrances will be at rear of building by staircase or elevator.

(C) *Dimensional requirements.*

- (1) Minimum lot area: None.
- (2) Minimum lot size: None.
- (3) Maximum yards: None.
- (4) Maximum building height: 35 feet.

(D) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

(E) *Special Uses.*

- (1) Internet Cafés

(Ord. Revised 5-15-12)

(Ord. § 21-6, passed 11-30-99) (Ord. Revised 7-19-16)

### § 154.037 HB—HIGHWAY BUSINESS.

(A) *Purpose.* The purpose of this district shall be to provide for and encourage the proper grouping and development of roadside uses which will best accommodate the needs of the motoring public, the reduction of highway congestion and hazard, and the minimization of blight.

(B) *Permitted uses.*

- (1) Agriculture supply sales.
- (2) ABC stores.
- (3) Animal hospital.
- (4) Apparel sales.
- (5) Automobile parts sales, new only.
- (6) Automobile repair service.
- (7) Automobile sales.
- (8) Automobile service stations, including self-service gas pumps and car wash.
- (9) Banks.
- (10) Beauty and barber shops.
- (11) Building supply sales.
- (12) Cabinet shops.

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- (13) Churches.
- (14) Department store.
- (15) Drug stores.
- (16) Dry cleaners and laundries.
- (17) Electrical appliance sales and services.
- (18) Feed and grain sales and storage.
- (19) Florist and gift shops.
- (20) Food and grocery stores.
- (21) Fraternal organizations.
- (22) Funeral homes.
- (23) Furniture sales.
- (24) Hardware stores.
- (25) Jewelry and watch repair.
- (26) Medical clinics.
- (27) Motels.
- (28) Offices for business and professional services.
- (29) Private storage facilities (mini-warehouses).
- (30) Public buildings and uses.
- (31) Restaurants.

(32) Sales, retail, including auction houses, baked goods, bicycles, books, cameras, candy, clothing, cosmetics, pharmaceuticals, fabric, flowers, furniture, gardening supplies, gifts, groceries, hardware, feed and seed, hobby supplies, household appliances, ice cream, jewelry, lawn mowers, magazines, newspaper, notions, office supplies, pawn shops, pets, shoes, electronics, toys, watches and similar goods. (Nothing herein shall be interpreted to include a massage parlor, escort service, any adult business, adult entertainment or other sexually oriented business, all of which are not permitted.)

(33) Services, including beauty and barber shops, car washes, caterers, locksmiths, gunsmiths, laundromats, photographers, reducing salons, and repair shops for shoes, small appliances and watches. (Nothing herein shall be interpreted to include a massage parlor, escort service, any adult business, adult entertainment or other sexually oriented business, all of which are not permitted.)

(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

- (1) Radio, television, telephone, and telecommunication facilities (commercial).

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(2) Public utilities facilities.

(D) *Dimensional requirements.*

(1) Minimum lot area: 10,000 square feet.

(2) Minimum lot size:

Width	80 feet
Depth	125 feet

(3) Minimum yards:

Front	25 feet
Rear	25 feet
Side	10 feet (on corner lots street same as front yard)

(4) Maximum building height: 35 feet.

(Ord. § 21-7, passed 11-30-99)

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

(Ord. § 21-8, passed 11-30-99)

§ 154.038 LI—LIGHT INDUSTRIAL DISTRICT.

(A) *Purpose.* The purpose of this district shall be to create and protect areas for industrial uses permitted in this district.

(B) *Permitted uses.*

(1) Agricultural and horticultural crops or emblements and other products planted, cultivated, harvested, raised, produced, processed, and/or grown on or from the land or soil, for sale or otherwise, **but excluding the following enumerated uses which are not permitted:**

(a) Business or commercial hog or swine operations or parlors;

(b) Business or commercial chicken houses;

(c) Business or commercial turkey houses;

(d) Business or commercial stables for keeping horses, cows, and other animals;

(e) Any livestock operations or business enterprises involving the breeding, raising, keeping, feeding, and selling of domestic or wild animals for business or commercial purposes or for profit; and



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(f) The breeding, raising, keeping, feeding and selling of poultry, fowls and birds, domestic or wild, for business or commercial purposes or for profit. (The breeding, raising, keeping and feeding of domestic animals, fowls, poultry and birds, including without limiting the generality thereof, hogs, swine, cows, sheep, chickens, turkeys, geese, ducks, and the like for personal use or consumption by the owners, tenants, lessees, and/or occupants of the land is permitted.

- (2) Agriculture supply sales.
- (3) Automobile service stations, car washes, and self-service gas stations.
- (4) Automobile parking lots.
- (5) Boat sales and service.
- (6) Cabinet, woodworking, and upholstery shops.
- (7) Cemeteries.
- (8) Feed and grain sales and storage.
- (9) Fertilizer sales and storage.
- (10) Hardware store.
- (11) Lumber and building supply sales.
- (12) Manufacturing and processing of:
  - (a) Electrical equipment;
  - (b) Fabricated metal products;
  - (c) Food and kindred products;
  - (d) Lumber and wood products;
  - (e) Medical supplies;
  - (f) Paper products;
  - (g) Plastic products;
  - (h) Printing, publishing, and allied industries;
  - (i) Professional, scientific, photo-graphic, and optical goods;
  - (j) Stone, clay, glass, and concrete products; and
  - (k) Textiles, finishing, weaving, and dyeing.
- (13) Mobile offices, provided that the requirements of § 154.037 are met.
- (14) Public buildings and use.

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(15) Public utilities facilities.

(16) Restaurants.

(17) Tire sales and retreading shops.

(18) Wholesale and warehouse storage.

(C) *Special uses.* (See §§ 154.050 et seq. and 154.070 et seq. for regulations and conditions.)

(1) Bulk storage of oil, liquid petroleum, gasoline, natural gas, and other flammable materials.

(2) Kennels.

(3) Radio, television, telephone, and telecommunication facilities (commercial).

(4) Public utilities facilities.

(D) *Dimensional requirements.*

(1) Minimum lot area: 20,000 square feet.

(2) Minimum lot size:

Width	75 feet
Depth	150 feet

(3) Minimum yards:

Front	40 feet
Rear	30 feet
Side	25 feet (on corner lots street side same as front yard)

(4) Maximum building height: 50 feet.

(E) *Off-street parking and loading.* Off-street parking and loading shall be provided as required by §§ 154.225 et seq.

(Ord. § 21-9, passed 11-30-99)

***SPECIAL USES; OBJECTIVES AND PURPOSE***

**§ 154.050 GENERAL PURPOSE.**

Permitted special uses add flexibility to the zoning ordinance. Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures,

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uses of property which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.  
(Ord. § 22-1, passed 11-30-99)

### **§ 154.051 SPECIAL USE PERMITS ISSUED BY THE BOARD OF ALDERMEN AFTER REVIEW BY THE BOARD OF PLANNING AND ADJUSTMENT.**

(A) Special use permits may be issued by the Board of Aldermen for the establishment of uses allowed as special uses in this section after an evidentiary hearing and after the Board of Planning and Adjustment has been provided an opportunity for review and recommendations.  
(Ord. § 22-2.1, passed 11-30-99)

(B) The owner or owners of all the property included in the petition for a special use permit who submit an application shall include all of the requirements pertaining to it by this section. Upon receiving such application for special use permit, the Town Clerk shall give notice of an evidentiary hearing to be held by the Board of Aldermen on the application in the same manner as required for the hearing on an amendment to this section. In addition, the Town Clerk shall request the Zoning Inspector to review and evaluate said application for special use permit. The Board of Planning and Adjustment will then review the application for special use permit along with the Zoning Inspector's evaluation and provide the Board of Aldermen its recommendation pertaining to the issuance of the special use permit by the Town Board's next regular scheduled meeting after the Board of Planning and Adjustment received the application. Failure to submit a recommendation by the second regular Board of Aldermen meeting following submission, or filing of the special use permit application, shall be deemed a favorable recommendation.  
(Ord. § 22-2.2, passed 11-30-99)

### **§ 154.052 CRITERIA FOR GRANTING SPECIAL USE PERMIT.**

(A) The Board of Aldermen after conducting an evidentiary hearing on the request for the special use permit and after considering the recommendation of the Board of Planning and Adjustment may grant or deny the special use permit requested. The special use permit, if granted, shall include such approved plans as may be required.

(B) In granting the special use permit the Board of Aldermen shall find:

(1) That the use will not materially endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;

(2) That the use meets all required conditions;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the town and its environs.  
(Ord. § 22-2.3, passed 11-30-99)

### **§ 154.053 ADDITIONAL CONDITIONS.**

In approving the special use permit, the Board of Aldermen may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the spirit and intent of this ordinance. All such additional conditions shall be

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entered in the minutes of the meeting at which the special use permit is granted, on the special use permit, and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors and assigns. In order to ensure that such conditions and requirements of each special use permit will be fulfilled, the petitioner for the special use permit may be required to make physical improvements as a basis for the issuance of the special use permit. All conditions must be agreed upon by the petitioner.  
(Ord. § 22-3, passed 11-30-99)

### **§ 154.054 DENIAL OF SPECIAL USE PERMIT.**

If the Board of Aldermen denies the special use permit, the reasons therefor shall be entered in the minutes of the meeting at which the permit is denied.  
(Ord. § 22-4, passed 11-30-99)

### **§ 154.055 NO APPEAL TO THE BOARD OF ALDERMEN.**

No appeal may be taken to the Board of Aldermen in granting or denying a special use permit. An appeal of a special use permit decision may be taken as set forth in this ordinance.

### **§ 154.056 COMPLIANCE WITH OTHER DISTRICT REGULATIONS REQUIRED.**

In addition to the specific conditions imposed by §§ 154.070 et seq. and whatever additional conditions the Board of Aldermen deems to be reasonable and appropriate, special uses shall comply with the height, yard, area, and parking regulations of the zone in which they are located.  
(Ord. § 22-6, passed 11-30-99)

### **§ 154.057 FAILURE TO COMPLY VOIDS PERMIT.**

In the event of failure to comply with the plans approved by the Board of Aldermen, or with any conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No zoning permits for further construction or certificate of occupancy/compliance under the special use permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.  
(Ord. § 22-7, passed 11-30-99) (Ord. § 22-8, passed 11-30-99)

### **§ 154.059 USES WHICH REQUIRE SPECIAL USE PERMITS.**

The uses which require special use permits are listed in §§ 154.070 et seq. Uses specified in this section shall be permitted only upon the issuance of a special use permit.  
(Ord. § 22-9, passed 11-30-99)

## ***REGULATIONS FOR PERMITTED SPECIAL USES***

### **§ 154.070 USES ESTABLISHED.**

The Board of Aldermen may grant permission for the establishment of the following uses, subject to any specific conditions, either set forth below, or which said board may deem necessary to satisfy the conditions stated in §§ 154.050 et seq. (Ord. § 23, passed 11-30-99)

### **§ 154.071 BED AND BREAKFAST DWELLINGS.**

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(A) Resident operators: the facility is operated by someone who resides full-time in the house.

(B) Dwelling only: the use shall be located in a structure which was originally constructed as a dwelling.

(C) Food: Meals served on the premise shall only be for guests.

(D) Public health rules: all facilities shall comply with the rules governing the sanitation of bed and breakfasts as specified in 15A NCAC 18A.2200; and

(E) Signs: signage shall be limited to one home occupation sign not to exceed two square feet in area, which shall be mounted on the building or freestanding.  
(Ord. § 23-1, passed 11-30-99)

### § 154.072 OIL, GASOLINE, AND OTHER FLAMMABLE MATERIAL BULK STORAGE.

(A) The front, rear, and side yards shall be a minimum of 50 feet.

(B) The storage area shall be enclosed by a fence, at least six feet in height.

(C) The yard perimeter shall be planted with a buffer strip which meets the definition in this ordinance of a buffer strip.

(D) The tanks and other storage facilities shall meet the requirements of the National Fire Protection Association.

(E) The other requirements of the district must be met.  
(Ord. § 23-2, passed 11-30-99)

### § 154.073 CLUBS, LODGES, AND FRATERNAL ORGANIZATIONS.

A club or lodge may be permitted subject to the requirements of the districts and provided that:

(A) All new sites shall be no less than one acre in size;

(B) The structure shall have minimum front, side, and rear yards of 50 feet, and

(C) Provisions for food, refreshment, and/or entertainment for club members and their guests may be allowed in conjunction with such uses if the Board of Aldermen determines that said provisions will not constitute a nuisance.  
(Ord. § 23-3, passed 11-30-99)

### § 154.074 HOSPITALS, CLINICS, HEALTH CENTER, AND NURSING AND REST HOMES.

(A) The minimum lot size shall be two acres.

(B) The structure shall have minimum front, side, and rear yards of 50 feet.  
(Ord. § 23-4, passed 11-30-99)

### § 154.075 KENNELS.

Kennels may be permitted subject to the requirements of the district and provided that:

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(A) The minimum lot size shall be on one acre;

(B) The minimum yards shall be 35 feet.

(Ord. § 23-5, passed 11-30-99)

### § 154.076 MOBILE/MANUFACTURED HOME PARKS.

See §§ 154.120 et seq,

(Ord. § 23-6, passed 11-30-99)

### § 154.077 USE—MOBILE/MANUFACTURED HOMES (INDIVIDUAL).

(A) *Minimum lot area.* The minimum lot area shall meet the minimum lot area for the particular district in which the mobile/manufactured home will be located.

(B) *Other requirements.*

(1) Only one (1) mobile/manufactured home per lot shall be allowed.

No mobile/manufactured mobile homes shall be allowed within the corporate limits or the extraterritorial jurisdiction that does not meet all applicable State and local building codes.

(2) The area beneath a mobile/manufactured home must be fully enclosed with durable skirting within sixty (60) days of installation. It shall have a continuous and permanent skirting installed of brick, cement block or a corrosive-resistant non-reflective skirt extending from the bottom of the manufactured home to the ground. Said skirt shall be provided with a door for crawl space measuring at least eighteen inches by twenty-four inches (18" x 24") and installed in a uniform manner.

(3) The mobile/manufactured homes shall have the tongue, axles, transportation lights, and towing apparatus removed subsequent to final placement.

(4) The mobile/manufactured homes shall be provided with permanent steps, porch, or similar suitable entry, meaning steps that are not portable.

(5) All mobile/manufactured homes must comply with the North Carolina Residential Building Code as a residential structure and/or have received a N.C. validation stamp attesting to the compliance of the Code.

(6) The mobile/manufactured home's sanitary facilities must be connected.

(Ord. § 23-7, passed 11-30-99) (Ord. Revised 10-16-07)

### § 154.078 USE—MOBILE/MANUFACTURED HOMES (INDIVIDUAL) FOR OFFICE AND/OR EXHIBITION.

(A) *Minimum lot area.* Minimum lot area: shall comply with district requirements.

(B) *Parking.* Parking: three spaces for each person employed in office at any given time during a 24-hour period.

(C) *Office and exhibition.*

(1) A temporary certificate of occupancy/compliance allowing mobile/manufactured homes used solely as offices or for purposes of exhibition to be temporarily parked, maintained, and/or occupied on a designated lot or land location may be issued by the Zoning Administrator or his or her

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authorized agent where the Board of Aldermen finds as a fact that the use of such mobile/manufactured home does not violate the county or state building code or health regulations. All such certificates of occupancy/compliance shall be valid for a period of 12 months, after which they may be renewed for a period of 12 months.

(2) Notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a mobile/manufactured home for use as a temporary field office for contractors by the Zoning Administrator or his or her authorized agents without approval of the Board of Planning and Adjustment if the mobile/manufactured home:

- (a) And the structure under construction are located on the same property; and
- (b) Is not moved to the site more than 30 days prior to construction and is removed no later than 30 days after construction has been completed; and
- (c) Is not used for any other purpose other than that connected with on-site construction; and
- (d) Is justified by the size and nature of the construction project; and
- (e) Is for a period not to exceed 18 months; and
- (f) Is used only incidentally to on-site construction during daylight hours and not for residential living quarters; and
- (g) Is parked in a location approved in advance by the Zoning Administrator or his or her authorized agent; and
- (h) Sanitary facilities are connected.

(D) *Mobile classroom.* Also notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a mobile/manufactured home for use as a mobile classroom by a public or private school, school administrative mobile office, and for a mobile/manufactured home sales office without approval of the Board of Aldermen if the:

- (1) Sanitary facilities are connected with an approved sewer system;
- (2) Electrical facilities are connected in compliance with regulations set forth in the 1971 National Electrical Code.
- (3) Provisions pertaining to a mobile/manufactured home foundation and anchorage of the mobile/manufactured home to the foundation contained in the *State of North Carolina Regulations for Mobile/Manufactured Homes*, 1972 Edition.  
(Ord. § 23-8, passed 11-30-99)

### § 154.079 MULTI-FAMILY DWELLINGS.

(A) A site plan of the proposed project shall be submitted to the Board of Planning and Adjustment for review. The Board of Planning and Adjustment will have 30 days within which to make a recommendation to the Town Board of Aldermen.

(B) Accessory building, garbage and trash facilities, and recreation facilities may be located in the required rear yard, provided that such uses shall be at least 15 feet from the principal building and

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at least 15 feet from any lot line.

(C) Garbage and trash facilities shall be subject to the approval of the Town Administrator.

(D) All parking shall be off-street. No parking space shall have direct access to a public street or road.

(Ord. § 23-9, passed 11-30-99)

### § 154.080 PLANNED UNIT DEVELOPMENT (RESIDENTIAL).

(A) The minimum lot shall be five acres.

(B) A minimum of 25 percent of the total acreage shall be reserved for open space.

(C) A minimum of two off-street parking spaces shall be provided for each dwelling unit.

(D) A site plan of the planned unit development shall be submitted to the Board of Planning and Adjustment for review. The Board of Planning and Adjustment must submit a recommendation to the Board of Aldermen within 30 days of its first consideration.

(Ord. § 23-10, passed 11-30-99)

### § 154.081 PRIVATE RECREATION FACILITY.

(A) The recreation facility must be separated from residential development by a buffer at least 50 feet in depth.

(B) One off-street parking space shall be provided for every three families.

(C) Minimum lot size shall be one acre.

(Ord. § 23-11, passed 11-30-99)

### § 154.082 PUBLIC RECREATION FACILITY.

(A) The recreation facility must be separated from any dwelling by a buffer of at least 50 feet in depth.

(B) Off-street parking may be required by the Board of Aldermen.

(C) The minimum lot size should be 10,000 square feet.

(Ord. § 23-12, passed 11-30-99)

### § 154.083 PUBLIC SAFETY FACILITIES.

All police, fire and rescue buildings and facilities shall be planted with evergreen shrubs as a buffer in compliance with the definition of buffer strip provided in this ordinance.

(Ord. § 23-13, passed 11-30-99)

### § 154.084 PUBLIC UTILITIES FACILITIES.

All water treatment and sewage disposal facilities, and electric substations shall be set back 100 feet from all exterior property lines. This area shall be planted with evergreen shrubs as a buffer strip in compliance with the definition of buffer strip provided in this ordinance. The entire perimeter inside the buffer shall be enclosed with a fence at least six feet in height.

(Ord. § 23-14, passed 11-30-99)



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### § 154.085 RADIO, TELEVISION, TELEPHONE OR PERSONAL COMMUNICATION FACILITIES (COMMERCIAL).

(A) If compliance with the height limit requirements of any zoning district result in the facility not being able to serve the geographic or market area the facility is designed to serve, an exception to the height limit may be granted.

(B) All facilities must be surrounded by a fence at least eight feet tall. In addition to the fence, the Board of Aldermen shall consider whether a plant screen is needed and impose such screening as an additional condition if appropriate.

(C) The base of the tower shall be set back from all lot lines a distance equal to the height of the tower. In cases where the tower is located on leased land, all parts of the tower including guy wires and anchors shall be located on the leased land, but the setback and yards may be measured from the lot lines of the parent parcel. The Board of Aldermen may reduce the required setback to 60 percent of the height of the tower, provided that the applicant provides a licensed engineer's certification that the tower is designed to fall within an area within 50 percent of the height of the tower.

(D) The tower shall meet all applicable building code requirements and all other applicable federal, state, and local standards.

(E) Lighting shall be in accordance with any applicable FAA requirements and directed where possible so as not to shine on adjacent residential property.

(F) EMF radiation shall be in accordance with applicable federal standards or, where no federal standards apply or preempt, shall be in accordance with ANSI standards.

(G) If the tower is 180 feet in height or greater, but less than 210 feet, then the tower shall be engineered and constructed to accommodate a minimum of one additional telecommunications user. If the tower is 210 feet in height or greater, the tower shall be engineered and constructed to accommodate a minimum of two additional telecommunications users. Evidence shall be provided that reasonable effort has been made by applicant to lease space on any existing tower that would technically satisfy applicant's needs.

(H) The Board may allow towers up to 50 percent of the height of the building when the building is 50 feet in height or greater, and up to 100 percent of the height of the building when the building is less than 50 feet in height, to be placed on existing buildings without meeting the yard and fencing requirements. Review will take place on a case-by-case basis and additional conditions may be imposed. The Board of Aldermen may require engineering certifications as to the safety of any such towers.

(I) In GB districts, towers shall be limited to those 30 feet or less in height from the ground to the top of the tower, to those placed on existing buildings, or to disguised towers of 35 feet or less in height. Review will take place on a case by case basis and additional conditions may be imposed. The Board of Aldermen may require engineering certifications as to the safety of any such towers. (Ord. § 23-15, passed 11-30-99)

### § 154.086 INTERNET CAFÉ'.

(A) Selling and/or consuming alcoholic beverages are prohibited in internet cafés.

(B) Persons under the age of eighteen (18) are prohibited in internet cafés.

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(C) All internet cafés shall be located at least five hundred (500) feet from any school, church, day care, playground, public park, or residentially owned or developed property, measured from principle building to principle building.

(D) Parking shall comply with the requirements of Section 154.229 of the Code of Ordinances.

(E) The permitted hours of operation for the internet cafés shall be Monday – Sunday from 8:00 a.m. to 12:00 a.m.

(F) Internet cafés shall be operated only on the ground floor of a building and plate glass windows shall be in those parts of the building facing any street, so that a clear and unobstructed view of the interior may be had from the street.

(G) No curtains, screens, blinds, partitions, or other obstructions shall be placed between the entrance to the room where computers or gaming terminals are stationed and the rear walls of the room so that a clear view of the interior may be had from the street.

(H) Adequate lighting shall be provided inside the internet café as well as the immediate exterior of the building.

(I) The establishment must be a minimum of one mile (5,280 ft.) from any other organization containing electronic gaming terminals.

(J) The establishment may contain no more than one (1) gaming or computer monitor.

(K) After the commencement of business operations, the Town Board of Aldermen will have the right to require and may require onsite security on any individual internet café business where there are police reports and/or other police related problems.

(L) All games and software must be in compliance at all times with applicable laws of the State of North Carolina.

(M) The establishment shall not contain any multiuser terminals.  
(Ord. passed 5-15-12) (Rev. 2-15-22)

### **§ 154.087 SOLAR GENERATION FACILITY**

Except for poles and lines necessary to connect the facility to the electrical utility grid, the height of structures and arrays associated with the facility shall not exceed 20 feet, and structures and arrays shall be set back at least 100 feet from every public road right-of-way. Poles outside of the fenced area shall be at least 30 feet from adjoining property lines and 30 feet from the centerline of every public road or as otherwise required by NC DOT. Fencing shall be at least 50 feet from every public road right-of-way. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid. The setback requirements for fencing, structures, and arrays from public rights-of-way as set forth in this subsection may be reduced in the discretion of the Board of Aldermen.

### ***HOME OCCUPATIONS***

#### **§ 154.100 PERMITTED ONLY AS AN INCIDENTAL USE.**

Home occupations are permitted only as an incidental use and must comply with the following

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regulations.

(Ord. § 30-1, passed 11-30-99)

**§ 154.101 OCCUPATION LIMITED TO ONE PERSON.**

No more than one person other than a resident of the dwelling shall be engaged in such occupations.

(Ord. § 30-2, passed 11-30-99)

**§ 154.102 USABLE FLOOR AREA LIMITED.**

No more than 25 percent of the total actual floor area or 500 square feet, whichever is less, shall be used for the home occupation.

(Ord. § 30-3, passed 11-30-99)

**§ 154.103 PARKING REQUIREMENT.**

Any need for parking generated by the conduct of the home occupation shall be met off the street.

(Ord. § 30-4, passed 11-30-99)

**§ 154.104 RESIDENTIAL CHARACTER IN EXTERIOR APPEARANCE TO BE MAINTAINED.**

The exterior of the dwelling shall not be altered in such a manner, nor shall the occupation within the residence be conducted in such a way, as to cause the premises to differ from its residential character in exterior appearance.

(Ord. § 30-5, passed 11-30-99)

**§ 154.105 NOISE AND OTHER NUISANCES PROHIBITED.**

The use shall not emit noise beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, smoke, fumes, glaze, electrical interference, interference to radio or television reception or other nuisance and shall not be volatile or present a fire hazard.

(Ord. § 30-6, passed 11-30-99)

**§ 154.106 EQUIPMENT AFFECTING THE FIRE RATING PROHIBITED.**

No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is conducted.

(Ord. § 30-7, passed 11-30-99)

***MOBILE/MANUFACTURED HOME PARK REGULATIONS***

**§ 154.120 FAILURE TO COMPLY WITH CHAPTER.**

(A) *Nonconforming use of land.* All new mobile/manufactured home parks and expansions to existing mobile/manufactured home parks are required, from the effective date of this ordinance, to comply with all applicable procedures and requirements herein noted. Any existing mobile/manufactured home park failing to comply with the requirements as specified herein is declared to be a nonconforming use of land.

(Ord. § 40-1, passed 11-30-99)

(B) *Grounds for the revocation of the certificate of occupancy.* All mobile/manufactured home

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parks developed after the effective date of this ordinance shall continuously comply with the general requirements of this ordinance. Failure to continuously meet each of the general requirements shall be grounds for the revocation of the certificate of occupancy.

(Ord. § 40-2, passed 11-30-99)

### **§ 154.121 EXISTING HOME PARKS A NONCONFORMING USE.**

Mobile/manufactured home parks existing at the time of the adoption of this ordinance shall be allowed to continue and are declared as a nonconforming use of land unless compliance is procured.

(Ord. § 40-3, passed 11-30-99)

### **§ 154.122 ZONING ADMINISTRATOR APPROVAL REQUIRED TO ESTABLISH, ALTER, OR EXPAND A HOME PARK.**

No mobile/manufactured home park within the jurisdiction of the town shall be established, altered, or expanded until approval has been obtained from the Zoning Administrator.

(Ord. § 40-4, passed 11-30-99)

### **§ 154.123 PLAN SUBMISSION REQUIRED.**

Prior to construction of new mobile/manufactured home park or expansion of an existing mobile/manufactured home park, the developer shall submit ten copies of the proposed mobile/manufactured home park plan to the Zoning Administrator or his/her authorized agent.

(Ord. § 40-5, passed 11-30-99)

### **§ 154.124 SALE OF MOBILE/ MANUFACTURED HOMES LIMITED.**

Mobile/manufactured homes shall not be sold within a mobile/manufactured home park except that an individual mobile/manufactured homeowner shall be allowed to sell the mobile/manufactured home in which he or she resides.

(Ord. § 40-6, passed 11-30-99)

### **§ 154.125 TRANSFER OF TITLE PROHIBITED.**

The transfer of title of a mobile/manufactured home space or spaces either by sale or any other manner shall be prohibited within a mobile/ manufactured home park as long as the mobile/manufactured home park is in operation.

(Ord. § 40-7, passed 11-30-99)

### **§ 154.126 SIGN SIZE AND ILLUMINATION LIMITED.**

Mobile/manufactured home park identification signs shall not exceed 32 square feet in area. Only indirect, non-flashing lighting shall be used for illumination.

(Ord. § 40-8, passed 11-30-99)

### **§ 154.127 SCREENING REQUIRED.**

When a mobile/manufactured home park is to be constructed within 50 feet of a recorded residential subdivision not naturally screened, the owner of the park shall provide and maintain a buffer strip along the adjacent boundary.

(Ord. § 40-9, passed 11-30-99)

### **§ 154.128 ADMINISTRATIVE OFFICE ALLOWED.**

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Within an approved mobile/manufactured home park, one mobile/manufactured home may be used as an administrative office.

(Ord. § 40-10, passed 11-30-99)

### **§ 154.129 COMMERCIAL CONVENIENCE ESTABLISHMENTS.**

Convenience establishments of a commercial nature shall be limited to food stores, coin-operated laundries, beauty parlors, and barber shops if the following restrictions are followed:

(A) Such establishments shall be subordinate to the residential use and character of the park;

(B) Such establishments shall present no visible evidence of their commercial intent beyond confines of the park; and

(C) Such establishments shall be designed to accommodate the needs of the park populace only.

(Ord. § 40-11, passed 11-30-99)

### **§ 154.130 LAND CONTOURS REQUIRED.**

Land contours with vertical intervals of not more than five feet shall be required on all mobile/manufactured home park plans.

(Ord. § 40-12, passed 11-30-99)

### **§ 154.131 HOME SPACES TO BE MARKED.**

Each mobile/manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners. Said markers shall be depicted in the proposed mobile/manufactured home park plans.

(Ord. § 40-13, passed 11-30-99)

### **§ 154.132 FLOOD-PRONE AREAS TO BE AVOIDED.**

No mobile/manufactured home space shall be located on ground susceptible to flooding.

(Ord. § 40-14, passed 11-30-99)

### **§ 154.133 DISTRICT REGULATIONS APPLICABLE.**

Each mobile/manufactured home space shall conform to the applicable district regulations relative to required yard setbacks and minimum lot size.

(Ord. § 40-15, passed 11-30-99)

### **§ 154.134 RECREATION AREAS REQUIRED.**

Each mobile/manufactured home park shall provide 400 square feet of recreation area per mobile/manufactured home space. The minimum recreation area shall be 10,000 square feet.

(Ord. § 40-16, passed 11-30-99)

### **§ 154.135 STREET ACCESS REQUIRED.**

Convenient access to each mobile/manufactured home space shall be provided by streets or drives with a minimum right-of-way of 50 feet, of which 24 feet shall be graded and drained for automobile circulation thereupon. The responsibility for maintenance shall be assumed by the park owner.

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(Ord. § 40-17, passed 11-30-99)

### § 154.136 DEAD END STREET AND CUL-DE-SACS REGULATED.

Permanent dead-end-street or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 80 feet in diameter.

(Ord. § 40-18, passed 11-30-99)

### § 154.137 INTERSECTIONS; RIGHT ANGLES REQUIRED.

Streets or drives in the park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees.

(Ord. § 40-19, passed 11-30-99)

### § 154.138 SIGHT LINES AT INTERSECTIONS.

Proper sight line shall be maintained at all intersections of streets. Measured along the right-of-way, there shall be a clear sight distance triangle with sides of 70 feet along the existing state road and ten feet along the new road right-of-way. All interior drives shall maintain a sight distance with sides of 20 feet along each right-of-way. No building or obstruction that impedes vision beyond the extent noted above shall be permitted in this area.

(Ord. § 40-20, passed 11-30-99)

### § 154.139 NEW STREET NAMES.

New street names shall not duplicate or be similar to existing street names in the town and shall be subject to the approval of the Board of Aldermen upon recommendation from the Board of Planning and Adjustment.

(Ord. § 40-21, passed 11-30-99)

### § 154.140 AUTOMOBILE PARKING SPACES.

Two automobile parking spaces shall be provided adjacent to each mobile/manufactured home space but shall not be located within any public right-of-way or within any street in the park.

(Ord. § 40-22, passed 11-30-99)

### § 154.141 WATER SUPPLY SYSTEM PLANS.

(A) *Four to nine spaces.* All mobile/ manufactured home parks comprising at least four spaces but not more than nine spaces shall be required to submit water supply system plans to the Division of Environmental Health of the Wayne County Health Department for approval. If the mobile/manufactured home park connects to the town's water supply, only approval from the town is required.

(Ord. § 40-23, passed 11-30-99)

(B) *Ten or more spaces.* All mobile/ manufactured home parks comprising ten or more spaces shall be required to submit water supply system plans to the Environmental Health Section of the North Carolina Department of Environmental and Natural Resources for approval. If the mobile/manufactured home park connects to the town's water supply, only approval from the town is required.

(Ord. § 40-24, passed 11-30-99)

### § 154.142 SEWAGE DISPOSAL FACILITIES.

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Adequate and safe sewage disposal facilities shall be provided in all mobile/manufactured home parks. Collection systems and sewage treatment plant complying with the requirements of the Environmental Management Commission of the Department of Environment and Natural Resources may be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the aforementioned Commission; however, individual septic tank systems may be considered, if soil, topography, and groundwater conditions are favorable. If the mobile/manufactured home park connects to the town's sewage collection system, only approval from the town is required. (Ord. § 40-25, passed 11-30-99)

### **§ 154.143 COLLECTION SYSTEM SEWER RISER PIPES.**

Each mobile/manufactured home space shall be provided with at least a four-inch diameter sewer riser pipe where collection systems are provided. The sewer riser pipe shall be so located on each space that the sewer connection to the mobile/manufactured home drain outlet will approximate a vertical position. (Ord. § 40-26, passed 11-30-99)

### **§ 154.144 CONCRETE APRONS FOR SEWER CONNECTION RISER PIPES.**

A 2"× 2" concrete apron shall be installed around all sewer connection riser pipes for support and protection. The sewer connection shall be located at a distance of at least 100 feet from the water supply, if water is supplied by individual wells. (Ord. § 40-27, passed 11-30-99)

### **§ 154.145 SEWER CONNECTION DIAMETER, SLOPE, NUMBER, BRANCH FITTINGS, AND JOINTS.**

The sewer connection shall have nominal inside diameter of at least four inches, and the slope of any position thereof shall be at least one-fourth inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be water tight including the connection from the mobile/manufactured home to the sewer riser pipe. (Ord. § 40-28, passed 11-30-99)

### **§ 154.146 SEWER CONNECTION MATERIAL COMPOSITION.**

All material used for sewer connections shall be semi-rigid, corrosion resistant, nonabsorbent, and durable. The inner surface shall be smooth. (Ord. § 40-29, passed 11-30-99)

### **§ 154.147 SEWER PIPE INSTALLATION AND PLUGGING.**

Provision shall be made for plugging a sewer pipe when a mobile/manufactured home does not occupy the space. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four inches above ground elevation. (Ord. § 40-30, passed 11-30-99)

### **§ 154.148 SOLID WASTE STORAGE, COLLECTION, AND DISPOSAL; NUISANCES PROHIBITED.**

The storage, collection, and disposal of solid waste in a mobile/manufactured home park shall be so conducted as to create no health hazards, rodent sanctuary, insect breeding areas, accidents or fire hazards, or pollution. (Ord. § 40-31, passed 11-30-99)

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### § 154.149 SOLID WASTE CONTAINER REGULATIONS.

All solid waste containing garbage shall be stored in standard fly-tight water-tight, rodent-proof containers with a capacity of not more than 32 gallons which shall be located not more than 150 feet from any mobile/manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store solid waste containing garbage. The mobile/manufactured home park management shall be responsible for the proper storage, collection and disposal of solid waste. (Ord. § 40-32, passed 11-30-99)

### § 154.150 SOLID WASTE CONTAINING GARBAGE.

All solid waste containing garbage shall be collected at least once weekly. Where suitable collection service is not available from county or private agencies, the mobile/manufactured home park owner shall provide the service. All solid waste containing garbage shall be collected and transported in covered vehicles or covered containers. (Ord. § 40-33, passed 11-30-99)

### § 154.151 HOME PARK OPERATOR RESPONSIBILITY FOR SOLID WASTE DISPOSAL.

Where county or private service is not available, the mobile/manufactured home park operator shall dispose of the solid waste by transporting to a disposal site approved by the Wayne County Health Department. (Ord. § 40-34, passed 11-30-99)

### § 154.152 INSECT AND RODENT INFESTATION PROHIBITED.

(A) Grounds, buildings, and structures shall be maintained free of insect and rodent sanctuary and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the Wayne County Health Department. (Ord. § 40-35, passed 11-30-99)

(B) Parks shall be maintained free of accumulation of debris which may provide rodent sanctuary or breeding places for flies, mosquitoes, and other similar pests. (Ord. § 40-36, passed 11-30-99)

(C) Storage area shall be so maintained as to prevent rodent sanctuary; lumber, pipe, and other building material shall be stored at least one foot above ground. (Ord. § 40-37, passed 11-30-99)

(D) As the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable material. (Ord. § 40-38, passed 11-30-99)

### § 154.153 BRUSH, WEEDS, AND GRASS.

The growth of brush, weeds, and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description. (Ord. § 40-39, passed 11-30-99)

### § 154.154 ILLUMINATION.



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All interior streets in the mobile/manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be at a 175-watt mercury vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet, the location of which shall be depicted upon the mobile home park plat.  
(Ord. § 40-40, passed 11-30-99)

### § 154.155 SEDIMENTATION POLLUTION.

Compliance with, G.S. §§ 113A-50 et seq., the Sedimentation Pollution Control Act of 1973 shall be procured if one acre of land or more is disturbed.  
(Ord. § 40-41, passed 11-30-99)

### *APPLICATION PROCEDURE FOR PERMITTED USE*

### § 154.170 SKETCH PLAN.

(A) A sketch plan drawn to a scale of not less than one inch = 100 feet shall be submitted to the Zoning Administrator for all new or expanded mobile/manufactured home parks to determine if the proposal meets the requirements and intent of this ordinance.

(B) The sketch plan should include among other things:

(1) The name of the park, the names and addresses of the owner or owners, and the designer or surveyor;

(2) Date, scale, and approximate north arrow;

(3) Site plan showing streets, driveways, recreation areas, parking spaces, service buildings, watercourses, easements, mobile/manufactured home spaces, and all structures to be located on the park site.

(4) Vicinity map showing the location of the park and the surrounding land uses;

(5) Names of adjoining property owners;

(6) The proposed utility system for water, sewer, gas, surface water drainage, street lights, and electrical power.

(Ord. § 41-1, passed 11-30-99)

### § 154.171 APPROVAL OR DISAPPROVAL THE SKETCH PLAN.

After careful review and consideration of the sketch plan, the Zoning Administrator shall have 15 days within which to approve or disapprove the sketch plan.

(A) If the plan is approved, the Zoning Administrator shall advise the owner or developer, in writing, of the conditions upon which the plan will be approved. When the conditions are agreed to by the owner or developer, a zoning permit shall be issued, allowing the park to be constructed.

(B) If the plan does not conform with the approved plan, the Zoning Administrator shall delay issuance of the certificate of occupancy until it comes into conformity.

(Ord. § 41-2, passed 11-30-99)

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### § 154.172 CERTIFICATE OF OCCUPANCY EFFECT.

The certificate of occupancy issued to the developer shall constitute authority to lease or rent spaces in the mobile/manufactured home park.  
(Ord. § 41-3, passed 11-30-99)

### § 154.173 LOCAL BUILDING CODE APPLIES.

All mobile/manufactured homes, whether located in mobile/manufactured home parks or on individuals' lots established after the effective date of this ordinance must meet the requirements of the local building code prior to being approved for a certificate of occupancy. This requirement shall not apply to any mobile/manufactured home which was manufactured after July 1, 1976, and bears the label or seal of compliance of a recognized testing laboratory having follow-up services, approved by the North Carolina State Building Code Council as authorized in G.S. Chapter 143.  
(Ord. § 41-4, passed 11-30-99)

### *MISCELLANEOUS PROVISIONS*

### § 154.180 INTERPRETATION AND APPLICATION.

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. Except as hereinafter provided, these regulations shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Wherever the provisions of these regulations impose greater restrictions upon the use of land or buildings, or require a larger percentage of the lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits, or any easements, covenants, or other agreements between parties, the provisions of these regulations shall govern.  
(Ord. § 50-1, passed 11-30-99)

### § 154.181 ZONING AFFECTS ALL LAND AND BUILDINGS.

No land, building, or structure shall be used, no building or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged, or altered except in conformity with these regulations. (See § 154.193.)  
(Ord. § 50-2, passed 11-30-99)

#### ***Cross-reference:***

*Substandard lots of record, see § 154.193*

### § 154.182 ONE PRINCIPAL BUILDING ON ANY LOT.

Only one principal building and its customary accessory buildings may hereafter be erected on any lot, except as authorized in § 154.076 (mobile/ manufactured home parks); § 154.078 (mobile/ manufactured home, individual, for office and/or exhibition); § 154.079 (multi-family dwellings); and § 154.005(C) (planned unit developments and shopping centers);  
(Ord. § 50-3, passed 11-30-99)

### § 154.183 REDUCTION OR CHANGE IN LOT SIZE.

No lot shall be reduced or changed in size so that the total area, minimum frontage, front, side, or rear setbacks, lot area per dwelling unit, or other dimensions, areas, or open spaces required by these regulations, are not maintained. No lot shall be reduced in size so as to produce an additional lot

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which is not in conformity with these regulations, unless said lot is combined with other land to produce a conforming lot or unless said lot is needed and accepted for public use.

(Ord. § 50-4, passed 11-30-99)

### § 154.184 MAINTENANCE OF OPEN SPACES.

No yard shall be encroached upon or reduced in any manner, except in conformity with these regulations. No yard for one principal building shall be considered as a yard for any other principal building. Shrubbery, driveways, retaining walls, fences, curbs, ornamental objects, and planted buffer strips shall not be construed to be encroachments on yards.

(Ord. § 50-5, passed 11-30-99)

### § 154.185 LOCATION OF ACCESSORY USES OR BUILDINGS.

Accessory buildings may be erected in any required side or rear yards, provided that no separate accessory building shall be erected-within five feet from any lot line. No accessory building shall be located on the side yard required on the street side of a corner lot. No accessory building on a corner lot shall extend beyond the front yard line of the lots in rear thereof; provided, further, that this regulation shall be so interpreted as to reduce the building width of a corner lot as of record at the time of the passage of this chapter to less than 28 feet, nor to prohibit the erection of an accessory building where this regulation cannot be complied with. No accessory use shall be located with five feet of the rear lot line nor within five feet of the rear yard side lot line.

(Ord. § 50-6, passed 11-30-99)

### § 154.186 VISIBILITY AT INTERSECTIONS.

On a corner lot, nothing shall be erected, planted, or allowed to grow in such a manner as to materially

impede vision between a height of two and one-half feet and ten feet in a triangular area formed by the intersection of the right-of-way of two streets or a street and a railroad, and a diagonal line which intersects the right-of-way lines at two points 25 feet from where the right-of-way intersects.

(Ord. § 50-7, passed 11-30-99)

### § 154.187 STREET ACCESS.

No dwelling shall be erected on a lot which does not have access to a public street.

(Ord. § 50-8, passed 11-30-99)

### § 154.188 LOTS WITH MULTIPLE FRONTAGE.

In the case of a corner lot having frontage on two or more streets, all buildings shall be set back from each such street a distance equal to the minimum for the front yard requirements for the district. If a building is constructed on a lot having frontage on two roads but not at an intersection, a setback from each road shall be provided equal to the front yard requirement for the district in which the lot is located.

(Ord. § 50-9, passed 11-30-99)

### § 154.189 MINIMUM FRONTAGE.

Where a minimum frontage is specified in these regulations, it shall be measured at the front yard setback line.

(Ord. § 50-10, passed 11-30-99)

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### § 154.190 USES PROHIBITED.

If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right (permitted use) or as a special use, then such use or class of use shall be prohibited in such district.

(Ord. § 50-11, passed 11-30-99)

### § 154.191 REQUIRED BUFFERS.

In order to lessen the impact of incompatible land uses, a buffer strip at least 25 feet in width, with a visual buffer six feet or more in height, shall be provided and maintained to separate those uses which are deemed to have a negative effect on residential areas. When new commercial or manufacturing construction will abut an existing residential district or use, a buffer strip with a visual buffer shall be provided and maintained by the commercial or manufacturing use. In addition, when new residential construction will abut an existing commercial or manufacturing use, or abuts a limited access highway or railroad, the buffer strip and visual buffer shall be provided by the residential developer. This buffer strip shall be a part of the lot(s) and shall be maintained by the lot owner(s) or homeowners association, in the case of commonly owned land.

(Ord. § 50-12, passed 11-30-99)

### § 154.192 WALLS AND FENCES.

The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence, or wall. However, no fence or wall shall exceed a height of six feet in any front or side yard, except as provided for in this ordinance.

(Ord. § 50-13, passed 11-30-99)

### § 154.193 SUBSTANDARD LOTS OF RECORD.

Where the owner of a lot at the time of adoption of this ordinance or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the lot area or lot width requirements of this ordinance, such a lot may be used as a building site for a single family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20 percent below the minimum specified in this ordinance, and further provided that the Wayne County Health Department approves the reduction if onsite water or wastewater facilities are involved. In cases where the lot area and lot width are more than 20 percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Planning and Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions, if the Wayne County Health Department submits a letter of approval if onsite water or wastewater facilities are involved. If the pre-existing substandard lot is not in a district where single family residences are permitted, the Board of Planning and Adjustment may issue a variance to allow some reasonable use.

(Ord. § 50-14, passed 11-30-99)

### § 154.194 EXCEPTIONS TO HEIGHT REGULATIONS.

Nothing in this ordinance shall be construed as prohibiting the construction or maintenance of any structure to a height up to 35 feet above the surface of the land. The height limitations contained in the district dimensional requirements do not apply to spires, belfries, chimneys, or roof structures for the housing of elevators, stairways, or air conditioning apparatus.

(Ord. § 50-15, passed 11-30-99)

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### § 154.195 NO STRUCTURE IN PUBLIC RIGHT-OF-WAY.

No building, fence, or other structure or part thereof shall be erected or installed in any public road, street, lane, or alley, or other public right-of-way.  
(Ord. § 50-16, passed 11-30-99)

### § 154.196 ESTABLISHMENT OF A ZONING VESTED RIGHT.

(A) Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses in the following cases:

(1) When a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160D-403 (c); and the building permit has not been revoked pursuant to G.S. 160D-403 (f); or;

(2) When a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or

(3) When a vested right has been established and remains valid and unexpired pursuant to this section.

(4) Any other development approval as set forth in N.C.G.S. 160D-108 and 108.1.

(B) *Duration.*

(1) A building permit is valid for six months as under prior law.

(2) Development approvals are valid for 12 months, unless altered by statute or extended by local rule.

(3) Site-specific vesting plans shall be vested for a period of two years.

(4) Multi-phase developments (long term projects of at least 25 acres) are vested for a period of five years.

(5) A property owner may request in writing an administrative determination of vested rights. The administrative determination shall be issued in writing and may be appealed by the property owner to the Board of Planning and Adjustment in accordance with the requirements for appeal set forth in this ordinance.

(B) *Site specific vesting plans.* The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.

(C) *Variance necessary for vested right.* Notwithstanding division (A) and (B), approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

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(D) *Approval of site specific vesting plan.* A site specific vesting plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) *Overlay zoning not affected.* The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulations by the town, including but not limited to building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific vesting plan upon the expiration or termination of the vested right in accordance with this chapter.

(F) *Vested right not a personal right.* A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(G) *Approval procedures and approval authority.*

(1) Except as otherwise provided in this section, an application for site specific vesting plan approval shall be processed in accordance with the procedures established in this ordinance for a special use permit or zoning permit as applicable. The Board of Aldermen shall be the final approval authority.

(2) In order for a zoning vested right to be established upon approval of a site specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(3) Each map, plat, site plan, or other document evidencing a site specific vesting plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. § 160D-108.1. Unless terminated at an earlier date, the zoning vested right shall be valid until \_\_\_\_\_",

(4) Following approval or conditional approval of a site specific vesting plan, nothing in this chapter shall exempt such a plan 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 approval.

(5) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(H) *Duration.*

(1) A zoning right that has been vested as provided in this section shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (B). This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(2) Notwithstanding the provisions of division (A), the approval authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including but not limited to the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market

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conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

(3) Upon issuance of a building permit, the expiration and revocation provisions of G.S. § 160D shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(I) *Termination.* A zoning right that has been vested as provided in this chapter shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the affected landowner;

(3) Upon findings by the Board of Aldermen, by ordinance after notice and a evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific vesting plan;

(4) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such actions;

(5) Upon findings by the Board of Aldermen, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific vesting plan; or

(6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific vesting plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(J) *Voluntary annexation.* A petition for annexation filed with the town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160D1. A statement that declares that no zoning vested right has been established under G.S. § 160D, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(K) *Limitations.* Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160D.

### § 154.197 LANDSCAPE REQUIREMENTS.

(A) *Intent.* The purpose of this section is to enhance the town's visual and environmental character by:

(1) Encouraging the preservation of existing trees and vegetation;

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(2) To separate adjacent land uses in order to minimize potential nuisances, such as the transmission of noise, dust, odor, litter, and glare of lights.

(3) To conserve energy and aid storm water runoff.

(4) To enhance property values and to establish a sense of privacy.

### (B) *Definitions.*

**CALIPER INCHES.** Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and 12 inches above the ground for trees over four inches in trunk diameter.

**DRIPLINE.** A vertical line extending from the outermost portion of a tree's canopy to the ground.

**UNDERSTORY TREE.** A species of tree which normally grows to a mature height of 15 to 35 feet.

### (C) *Procedures.*

(1) *Applicability.* After the adoption date of this ordinance, these requirements shall apply to:

(a) New principal non-residential buildings, or expansion and reconstructions which will result in a parking or building increase of more than 2,000 square feet;

(b) New single- and multi-family residential development;

(2) *Landscaping plan required.* A land-scaping plan shall be submitted showing:

(a) Location, dimension, and square footage of required buffer strips, street yards and parking lot landscaping areas. Individual species and number of trees and shrubs required and number provided.

(b) Details of required landscaping and landscape elements showing species, fencing materials, dimensions, and spacing of constructed and planted materials. The plan shall also show any existing vegetation to remain undisturbed.

(c) Timeline for installation of required landscaping.

(3) *Installation of required plant materials:*

(a) A final certificate of occupancy for commercial, industrial and multi-family uses shall not be issued until all required landscaping is in place.

(b) Single family subdivisions greater than five lots shall not receive final plat approval until street planting yards are installed.

(c) Where weather conditions or construction activity would endanger the health and survivability of required plantings, the installation may be delayed by the Zoning Administrator. The developer shall submit a copy of a signed contract for installation of the required planting areas and



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may be required to post a surety equal to the amount of the contract. The surety shall not be issued for more than 180 days. For commercial and multi-family projects, a temporary certificate of occupancy may be issued. For major single-family detached subdivisions, the final plat may be recorded.

(4) *Alternate methods of compliance.*

(a) Alternate landscape plans, plant materials, or methods may be used in situations where strict adherence to the provisions of this ordinance would result in impractical or unreasonable situations. Such situation may result from severe topography, natural rock formations, utility easements, lot configurations, or other physical conditions.

(b) Alternate landscape plans shall be reviewed based on their effectiveness and performance in meeting the spirit and intent of this ordinance.

(c) The Zoning Administrator shall review the alternate plan taking into account adjacent land uses, amount of plantings, species arrangement, and coverage.

(d) Decisions of the Zoning Administrator may be appealed to the Board of Planning and Adjustment.

(D) *Landscaping required.* The following areas are required to be landscaped:

(1) *Street planting yards.* A planting area parallel to the street designed to provide continuity of vegetation along the right-of-way and a pleasing view from the street.

(2) *Parking lot plantings.* Planting areas within and adjacent to parking areas designed to provide shade and improve the attractiveness of large area of pavement.

(3) *Buffer yards.*

(a) Planting areas located parallel to the side, and rear lot lines designed to separate adjacent uses and provide privacy and protection against potential adverse impacts of an adjoining use. The size of a buffer shall be determined both by the proposed use and by the type of adjacent uses.

(b) Buffers shall not be located on any portion of an existing or proposed street right-of-way. Buffers shall be permitted to intersect utility easements or run parallel with them; however, they shall not be permitted to run linear with and be superimposed on them.

(E) *Planting area requirements.*

(1) *Street yard.*

(a) A street planting yard, a minimum ten feet in width shall be parallel to all public rights-of-way.

(b) Street planting yards shall be planted at the rates of

1. Commercial and industrial uses: Two understory trees per 50 linear feet of frontage; eight shrubs per 50 linear feet of frontage.

2. Residential uses: Two understory trees per 50 linear feet of frontage.(2)

*Buffers.*

(a) *Buffer descriptions.*

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1. *Type “A.”* A Type A buffer is intended to provide a very dense sight barrier to significantly separate uses and land use districts. It is intended to reduce intrusive lighting and noise from adjacent properties.

2. *Type “B.”* The Type B buffer is a medium density screen which is intended to create a visual separation between uses and land use districts.

3. *Type “C.”* A planting strip intended to separate uses, provide vegetation in densely developed areas, and enhance the appearance of individual properties.

(b) *Buffer yard determination.* To determine the required landscape buffer, first use Table 1 (below) and find the proposed use in the “proposed use column.” Size of each required buffer is determined by the buffer types along the “adjoining use columns.” Where a proposed use abuts multiple use types along the same side or rear yard, the largest buffer will apply. Next, determine the planting rate by using Table 2 (below).

<b>TABLE 1: BUFFER TYPE CHART — ADJOINING USE</b>				
<b>Proposed Use</b>	<b>Single-Family Residential</b>	<b>Mufty-Family Residential</b>	<b>Commercial</b>	<b>Industrial</b>
Single-family residential	None	None	None	None
Multi-family residential	A	C	B	A
Commercial	A	A	C	B
Industrial	A	A	B	C

<b>TABLE 2: BUFFER PLANTING RATE CHART — PLANTING YARD RATES</b>					
<b>Yard Type</b>	<b>Minimum Width</b>	<b>Minimum Average Width</b>	<b>Maximum Width</b>	<b>Understory Tree Rate</b>	<b>Shrub Rate</b>
A	20	30	60	10/100 1f	33/100 1f
B	15	20	40	3/100 1f	17/100 1f
C	10	10	20	2/100 1f	18/100 1f

(c) *Additional buffer requirements.*

1. Type A shall be composed of at least one row of evergreen shrubs or

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understory trees.

2. Walls at least six feet in height, constructed of masonry, stone or pressure treated lumber, or an opaque fence, a minimum of six feet in height may be used to reduce the widths of Type A and Type B buffers by ten feet.

(3) *Parking lot planting rate.* Parking lots shall be landscaped at the rate of two understory trees per 12 parking spaces. Required trees shall be distributed throughout parking lots and shall be located within or adjacent to the lot as tree islands, at the end of parking bays, or between rows of parking spaces.

(F) *Design and maintenance standards.*

(1) *Retention of existing vegetation.* Existing vegetation shall be retained and maintained whenever possible so as to permit such vegetation to contribute to buffer and screening requirements. Such retained vegetation which meets or exceeds the standards of this ordinance may receive partial or total credit towards planting requirements within the buffer.

(2) *Maintenance.* All vegetative and other screening devices shall be maintained so as to continue their effectiveness. Any required plantings which die or otherwise fail to satisfy the requirements of this chapter shall be replaced within 180 days with an equal or similar species and size by the owner. When plant material is severely damaged due to unusual weather conditions or other acts of God, the owner shall have up to two years to replant.

(3) *Understory tree size.* Understory trees must be a minimum of four feet high and one inch in caliper, measured six inches above grade, when planted.

(4) *Shrub size.* All shrubs shall be expected to reach a maximum height of 36 inches, and a minimum spread of 30 inches within three years of planting.

(5) *Planting protection.* Whenever planting areas are adjacent to parking lots or drives, the planting areas shall be protected from damage by vehicles, lubricants, or fuels.

(6) *Planting standards.* All plant materials shall be installed in accordance with the standards found in the latest edition of *American Standards for Nursery Stock*, published by the American Association of Nurserymen. After installation, plant materials shall be mulched with a two-to-three-inch layer of appropriate material.

(G) *Materials permitted.* The Zoning Administrator shall maintain a list of acceptable plant materials which may be used to satisfy the requirements of this ordinance. If the applicant proposes a species which is not on the approved list, the Zoning Administrator may approve the plant material so long as it is appropriate for the local climate and meets the definition for the use for which it is intended.

(Ord. § 50-18, passed 11-30-99)

### § 154.198 AGRICULTURAL USES.

(A) Agricultural Areas in Municipal Extraterritorial Jurisdiction. - Property that is located in the extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes, as such term is defined in N.C.G.S. 160D, is exempt from the Town's zoning regulations to the same extent bona fide farming activities are exempt from county zoning pursuant N.C.G.S. 160D. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes shall become subject to

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exercise of the municipality's extraterritorial planning and development regulation jurisdiction under this Chapter. For purposes of complying with State or federal law, property that is exempt from the exercise of municipal extraterritorial planning and development regulation jurisdiction pursuant to this subsection shall remain subject to the county's floodplain regulation or all floodplain regulation provisions of the county's unified development ordinance.

(B) Accessory Farm Buildings. – An accessory building of a "bona fide farm" has the same exemption from the building code as it would have under county zoning ordinances.

### ***NONCONFORMING USES***

#### **§ 154.210 INTENT.**

Within the districts established by this ordinance, or amendments that may be adopted later, there may exist lots, structures, and uses of land and structure which were lawful before this ordinance was passed or amended, but which are prohibited under the terms of this ordinance. Such lots, structures, and uses shall be termed nonconforming. It is the intent of this ordinance to permit these nonconformities to continue in their present condition, but they are not to be enlarged, expanded, extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(Ord. § 60-1, passed 11-30-99)

#### **§ 154.211 NONCONFORMING STRUCTURES AND USES.**

(A) *Nonconforming structures.* Where, at the effective date of adoption or amendment of this ordinance, an existing structure could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lots, the use of such structure may be continued so long as the building remains otherwise lawful, subject to the following provisions:

(1) No such structures may be enlarged or altered in a way which increases its nonconformity;

(2) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(3) A nonconforming structure, which has been damaged by fire, wind, flood, or other causes, may be repaired and used as before if repairs are initiated within six months and completed within 12 months of such damage, unless such structure has been declared by the Zoning Administrator to have been damaged to an extent exceeding 75 percent of its taxable value at the time of destruction. If the structure is declared to be more than 75 percent destroyed, future use of the structure and site must come into conformance with the regulations for the district in which it is located.

(4) Nonconforming mobile/manufactured homes on individual lots. Existing nonconforming mobile/manufactured homes on individual lots may not be replaced if moved.  
(Ord. § 60-2, passed 11-30-99)

(B) *Nonconforming uses.* Where, at the effective date of adoption or amendment of this ordinance, a lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

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(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;

(3) A nonconforming use may not be changed to another nonconforming use;

(4) Where any nonconforming land, structure, or use in part or whole is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming;

(5) Nonconforming uses shall not be reestablished after discontinuance for a period of 180 days, except in conformance with this ordinance.

(Ord. § 60-3, passed 11-30-99)

### **§ 154.212 REPAIRS.**

(A) On any building devoted in whole or in part to any nonconforming use, repairs and modernization are permitted, provided that the existing total cubic feet of the building shall not be increased.

(B) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any public official charged with protecting the public safety, upon order of such official.

(Ord. § 60-4, passed 11-30-99)

### **§ 154.213 AVOID UNDUE HARDSHIP.**

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the piecing of construction materials in permanent position and fastened in a permanent manner, provided that actual construction work shall be diligently carried on until the completion of the building involved.

(Ord. § 60-5, passed 11-30-99)

## ***OFF-STREET PARKING AND LOADING REQUIREMENTS***

### **§ 154.225 PERMANENT OFF-STREET PARKING REQUIRED.**

At the time of erection of any new building, permanent off-street parking shall be provided in all districts, except the GB district, in the amount specified by this subchapter.

(Ord. § 70-1, passed 11-30-99)

### **§ 154.226 PERMIT APPLICATION INFORMATION.**

Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and loading space, and the means of ingress and egress to such space. This

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information shall be in sufficient detail to determine whether or not the requirements of this section are met.

(Ord. § 70-1.1, passed 11-30-99)

**§ 154.227 COMBINING PARKING SPACES FOR SEPARATE USES.**

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, except that one-half of the parking space required for churches, theaters, or assembly halls, whose peak attendance is at night or Sundays, may be assigned to a use which will be closed at night and/or Sundays.

(Ord. § 70.1.2, passed 11-30-99)

**§ 154.228 PARKING PROVIDED ON LOTS APART FROM THE PRINCIPLE USE.**

If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the principal use or building, provided that such land is in the same ownership as the principal use. Said land shall be used for no other purpose as long as the principal use exists.

(Ord. § 70.1.3, passed 11-30-99)

**§ 154.229 MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES.**

(A) The minimum number of required off-street parking spaces shall be calculated from the following table. In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use or inclusive category which is provided for. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses.

(B) The following parking requirements shall be applied as indicated in the table of District Use Regulations:

<b>Use</b>	<b>Required Off-Street Parking</b>
Residence, single-family	2 spaces
Residence, duplex	4 spaces
Residence, multi-family	2-1/2 spaces for each dwelling unit
Residence, mobile/ manufactured home	2 spaces
Offices	1 space for every 250 square feet of gross floor area

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Retail Business	1 space for every 100 square feet of gross floor area (1 space minimum)
Churches	1 space for every 4 seating spaces in principal sanctuary
Auditoriums, stadiums, and theater	1 space for every 5 seats
Motels, tourist homes, and boarding houses	1 space for every rental room
Hospitals and nursing homes	1 space for every bed space
Internet Cafés	1 space per gaming or computer monitor on premises, excluding downtown parking spaces

(Ord. § 70.1.4, passed 11-30-99)(Ord. Revised 5-15-12)

**§ 154.230 OFF-STREET LOADING REQUIRED.**

(A) Every building or structure used for business, trade, or industry hereafter erected, except the GB district, shall provide space, as indicated herein, for the loading and unloading and maneuvering space of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet, and an overhead clearance of 15 feet above the alley or street grade.

(B) The number of required off-street loading space shall be as follows:

Retail business	1 ½ space for each 20,000 square feet of gross floor area or fraction thereof
Wholesale trade and industries	1 space for each 20,000 square feet of gross floor area or fraction thereof
Office or institution	1 space for each 50,000 square feet of gross floor area or fraction thereof

(Ord. § 70-2, passed 11-30-99)

***SIGNS***

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### § 154.240 PURPOSE AND INTENT.

(A) Purpose and intent.

The purpose of this article is to preserve and improve the roadside appearance along highways in unincorporated Wayne County through the prohibition of outdoor advertising signs on freeways and the control of outdoor advertising signs on all other highways. These regulations are intended to minimize visual distractions to motorists, maintain roadside views of the rural countryside to enhance the attractiveness of the area for residents and visitors, protect property values, protect the public investment in highways, and promote the overall economic welfare of the county.

(B) Authority.

This article is adopted under the authority granted by G.S. 153A-121.

(C) Jurisdiction.

This article applies to the Town of Fremont's corporate boundaries.

(D) Applicability.

These regulations apply along all existing and future freeways and highways in the Fremont jurisdiction, and shall affect all outdoor advertising signs intended to be seen from the traveled portion of the highway within 660 feet of the right-of-way on each side of the highway.

(E) Sign Standards.

The following standards shall govern outdoor advertising signs:

(1) Location.

(a) Freeways and other highways.

(1) Non-intersection locations. Outdoor advertising signs may be placed along the same side of the road within 660 feet of each side of any commercial or industrial activity, which has both direct frontage and access to the highway. Determination of the zone where signs are allowed shall be from the outermost part of the principal structure or structures on the premises extended perpendicular to and measure along the nearest edge of the pavement or traveled portion of the highway, not from the property line, parking areas, driveways, or accessory buildings or structures.

(2) Intersections. Except as otherwise provided, an outdoor advertising sign may be placed near a commercial or industrial activity at an intersection only on the same corner of the intersection and only along the highway from which access to the commercial or industrial activity is gained.

(2) Zones areas. Outdoor advertising signs may be placed in areas zoned Light Industry or Highway Businesses. Signs in these areas do not need to be within 800 feet of a qualifying commercial or industrial activity.

(3) Spacing of signs. No outdoor advertising sign shall be located closer than 750 feet from any other outdoor advertising sign as measured along the same side of a road or highway.



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(4) Total area. The maximum area for the face of any outdoor sign shall be 400 square feet. The area shall be calculated by using the smallest rectangle which will encompass the entire sign face. Any extensions to the sign or any advertising message or copy on the sign structure, including the name of the outdoor advertising company on the border or trim, shall be included as part of the sign's total area; otherwise, the trim of the sign is not included in the sign's total area.

(5) Height. The maximum height of an outdoor advertising sign shall be 50 feet and shall be measured as the vertical distance from the adjoining pavement below the sign to the highest part of the sign.

(6) Sign Size.

(a) The maximum vertical height of the outdoor advertising sign face shall be 10 ½ feet.

(b) The maximum horizontal length of the outdoor advertising sign face shall be 40 feet.

(7) Separation from other uses. The minimum distance between outdoor advertising signs and existing residences, churches, schools, or public institutions shall be no less than 300 feet. All adjoining land uses may request a waiver on the distance separation requirement.

(8) Setback. All parts of each outdoor advertising sign shall be set back no less than 15 feet from any highway right-of-way line.

(9) General requirements.

(a) Color of structure. A freestanding sign structure, including the back, shall be painted in a neutral color to blend in with the background environment of the site.

(b) Illumination. Outdoor advertising signs may be illuminated in accordance with the following requirements:

(1) Lighting shall be directed to the face of the sign and shall be shielded so that the source of the light is not visible and does not create a hazard or nuisance for motorists or nearby residents.

(2) No flashing or intermittent illumination signs shall be permitted.

(3) Any illuminated sign shall meet the requirements of the North Carolina Building Code (Vol. 4) as amended.

(4) No animation signs shall be permitted.

(5) Automatic changeable facing signs shall be permitted.

(c) Number and arrangement of signs. Outdoor advertising signs may be of single-faced, double-faced, back-to-back, or V-type design. If signs on the same structure face opposite directions, they shall be considered one sign only for purposes of determining conformance with subsections (1) and (6) of this section.

(d) Obstructions. Regardless of the requirements of this article, no outdoor advertising

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sign shall obscure or interfere with official traffic signs, signals, or devices or create a traffic hazard.

(e) Structural requirements. All outdoor advertising signs shall meet the structural requirements of section 2302 of the North Carolina Building Code (Vol. 1) as amended. All sign structures must be constructed of steel on a single pole.

(F) Administration.

The planning director, or authorized representative shall administer this article.

(1) Interpretation. If any conflict arises during the enforcement of this article, or more than one interpretation is possible, section (A) shall be used as a guideline for interpretation. Additionally, the most restrictive interpretation shall apply.

(2) Permit procedure. No construction, re-construction, alteration, or other work related to an outdoor advertising sign shall commence until the appropriate permits have been secured from the building inspections department. It is the responsibility of the owner or agent responsible for the sign to comply with these or any other permit requirements.

(a) Sign permit. A sign permit shall be obtained by the property owner or authorized agent. An agent shall provide a letter from the owner of the property on which the sign is to be located granting permission for the agent to act on behalf of the property owner.

(b) Submittal requirements. The applicant shall submit the following information for each proposed sign:

(1) A sketch plan, at an appropriate scale, which illustrates the following items within 1,000 feet of the proposed sign: location of proposed sign, setbacks, right-of-way lines, buildings, roads, and existing outdoor advertising signs.

(2) An evaluation drawing and description, if necessary, of the proposed sign which includes: The dimensions of the sign and sign structure, the area of the sign face, illumination, colors and materials, and any other relevant features of the sign.

(3) A description of the type of commercial or industrial activity which is being used to qualify for outdoor advertising signs; and

(4) Any other information determined necessary by the planning director to ensure compliance with this article and the state building code.

(c) Fees. Non-refundable permit fees to cover the costs administering this article, including sign inspections, shall be paid in accordance with the following schedule:

(1) An initial permit fee of \$50.00 shall be paid when the sign permit application is submitted to the county for review and determination of compliance.

(2) An annual permit renewal fee of \$25.00 shall be paid to keep the sign permit valid. This fee will be due prior to the expiration date of the initial or previous annual permit.

(d) Registration tag. A registration tag shall be issued by the town to the sign owner or agent with the valid sign permit. This tag shall be placed on the sign structure so as to be legible at ground level adjacent to the sign.

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(e) Registration of existing signs. Within six months from the effective date of the ordinance from which this article is derived, all existing outdoor advertising signs shall be registered with the planning department. The following information concerning each existing sign location shall be provided;

- (1) Name and address of the owner of the sign;
- (2) Name, address and parcel identification number of real property on which the sign is to be located;
- (3) Height, area, and dimensions of the sign face, and setback from the right-of-way.

No initial permit fees shall be charged, but a registration tag shall be issued by the Town of Fremont to be placed on the sign structure so as to be legible at ground level adjacent to the sign. Following registration, annual permit renewal fees shall be charged as per subsection (2)c.2 of this section. Failure to register existing outdoor advertising signs in accordance with these provisions shall be considered a violation of this article.

(f) Expiration of permit. An outdoor advertising sign permit shall expire six months after the date of issuance if the work authorized by the permit has not commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit shall immediately expire. No work authorized by a permit that has expired may be performed until a new permit has been secured.

(g) Revocation of permits. Following written notice by the planning director, an outdoor advertising sign permit may be revoked for any of the following actions or omissions by the applicant:

- (1) Substantial departure from the approved permit application or plans and specifications;
- (2) Refusal or failure to comply with the requirements of the North Carolina Building Code or this article;
- (3) False statements or misrepresentations made in securing the sign permit; or
- (4) Failure to pay the annual permit renewal fee.

A permit mistakenly issued in violation of this article or any other state or county law or ordinance may also be revoked.

### (G) Maintenance.

All outdoor advertising signs shall be maintained in accordance with section 2301.6 of the North Carolina Building Code.

### (H) Nonconforming signs.

Any outdoor advertising sign already legally in existence on January 1, 1989, may be maintained for the reasonable life of the sign. If the sign is destroyed or partially destroyed to the extent that any new permits are required, or the sign owner wishes to secure any permit to replace the sign structure for any other reason, the sign shall be made to conform to this article except as otherwise provided by state law. Periodic maintenance and repair of a nonconforming sign, including

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changing the sign copy or advertisements, is permitted, provided such activities are not intended to extend the life of the sign or increase the extent of nonconformity.

### (I) Violations.

(a) Notice. If any violation of this article is committed, the planning director shall give notice by certified or registered mail, return receipt requested, to the owner of the sign and owner of record of the property upon which the sign is situated. The notice shall give the nature of the violation, with reference to the applicable provisions of this article; actions necessary to correct any deficiencies; whether immediate corrective action is to be taken or whether 30 days are allowed to correct or remove the sign in violation; and that the decision of the planning director may be appealed. Any required actions shall be at the expense of the sign owner or property owner.

(b) Failure to comply. If no corrective action has been taken after notice has been given, the planning director shall initiate or cause to be initiated any legal action or proceedings necessary to enforce this article.

### (J) Penalties and remedies.

(A) Criminal penalty. Any person, firm, corporation, or association placing or erecting any outdoor advertising sign in violation of this article shall be guilty of a misdemeanor, punishable as provided by G.S. 153-A-123(b) and G.S. 14-4, with each day considered a separate violation.

(B) Civil penalty. In addition, as provided in G.S. 153A-123(c), violation of this article shall also subject the offender to a civil penalty of \$50.00 for each offense. After due notice, as per section (I), the planning officer shall issue a citation to the owner of the sign or to the owner of record of the property where the sign is located, with each day considered a separate violation.

(C) Removal of sign. Except where it may cause a breach of the peace, the town may physically remove the sign or have the sign removed from the property where a sign is in violation to insure compliance with these provisions; provided, however that the owners must have had notice sent pursuant to section (I) and further provided that the owners have been requested by certified mail to remove the sign which is in violation of this article.

(D) Other remedies. The town may seek injunctive relief, and all other appropriate remedies to insure compliance with these provisions.

(Ord. passed 10-29-19)

### § 154.241 LOCATION.

No sign shall be erected or constructed so as to interfere with visual clearance along any street or at any intersection of two or more streets or highways. No sign or sign structure shall be located in a street right-of-way, nor shall any sign or sign structure be located within 100 feet of any residential district. No signs mounted on a mobile framework or moveable apparatus shall be permitted.

(Ord. § 80-1.1, passed 11-30-99)

### § 154.242 TRAFFIC SAFETY.

No sign shall be erected or continued that:

(A) Obstructs the sight distance along a public right-of-way or at intersections;

(B) Would tend by its location, color, or nature to be confused with or obstruct the view of traffic

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signs or signals or would tend to be confused with a flashing light of an emergency vehicle; or

(C) Uses admonitions such as “stop,” “go,” “slow,” “danger,” and the like which might be confused with traffic directional signals.

(Ord. § 80-1.2, passed 11-30-99)

### § 154.243 ILLUMINATION PROHIBITED.

Flashing or intermittent illumination of signs shall be permitted provided the following conditions are met:

(A) The applicant is a Unit of Local Government or non-profit organization as defined in Section 503 (c) (3) of the US Internal Revenue Code.

(B) All information displayed on the said sign shall be for information related to the public interest and/or welfare of the general public.

(C) No commercial advertisements are permitted to be displayed at any time.

(Ord. § 80-1.3, passed 11-30-99) (Rev. 12-21-21)

### § 154.244 DANGEROUS SIGNS.

Wherever a sign becomes structurally unsafe or endangers the safety of a building or the public, the zoning administrator shall order that such sign be made safe or removed. A period of ten days following receipt of said order by the person, firm, or corporation owning or using the sign shall be allowed for compliance.

(Ord. § 80-1.4, passed 11-30-99)

### § 154.245 NONCONFORMING SIGNS.

Nonconforming signs, when removed, for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.

(Ord. § 80-1.5, passed 11-30-99)

### § 154.246 SETBACK REQUIREMENTS.

(A) Sign bases shall be at least ten feet from any right-of-way line or property line and 20 feet from a right-of-way intersection. No part of a free standing sign shall extend beyond a line projected vertically from two feet inside the right-of-way line, and no portion of such sign shall be less than ten feet above the finished grade of the pavement, except as herein provided in the GB district. In no way shall a sign hinder or obstruct visibility on the right-of-way or at intersections.

(B) Separate use signs shall be set back a distance equal to the minimum setback for the district in which they are located.

(C) Where separate use signs and directional signs are located along the boundary line of any district, they shall be set back not less than ten feet from such district boundary line.

(Ord. § 80-1.6, passed 11-30-99)

### § 154.247 SIGNS NOT REQUIRING A PERMIT.

The following type of signs may be allowed in any district without a permit:

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(A) *Occupant and house number.* Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants, or other identification not having commercial connotations.

(B) *Directional and information signs.* Directional and information signs erected and maintained by public agencies and governmental bodies.

(C) *Professional and home occupation signs.* One sign per lot not to exceed three square feet located at least 12 feet from the street line and side property lines. Where side yards are required, no such sign may be erected in such side yards. Only indirect lighting shall be allowed in a residential district.

(D) *Temporary lease, rent, or sale signs.* One sign per lot not to exceed three square feet in area pertaining only to the lease, rental, or sale of the property on which displayed. No such sign shall be illuminated in a residential district. Such signs may be indirectly illuminated in nonresidential districts.

(E) *Bulletin boards.* Churches, schools, community centers, and similar public and institutional uses may erect one sign or bulletin board not to exceed 12 square feet in area for the purpose of displaying the name of the institution and related information. Such signs shall be used as wall signs or shall be located a minimum of 12 feet from the street line and side lot lines. Where side yards are required, no such sign shall be erected in such side yards. Such signs may be indirectly illuminated.

(F) *Construction signs.* During the construction, repair, or alteration of a structure, temporary signs which denote builder, or other participants in the project, or which denote the name of the structure and its occupants to be, may be placed within the required yard setbacks as ground, wall, or roof signs. The total area of such signs shall not exceed 50 square feet.

(G) *Subdivision signs.* Subdivision signs advertising the sale of lots or buildings within new subdivisions on which they are located are permitted, provided that:

- (1) They are non-illuminated or indirectly illuminated;
- (2) They do not exceed 20 square feet;
- (3) Not more than one such sign may be erected at each major entrances to the subdivision;
- (4) They meet all requirements applicable to principal structures with respect to yard, setback, and height requirements;
- (5) The display of such signs shall be limited to a period of two years, unless the signs are permanent with advertising restricted to the name of the subdivision only and are dedicated to and accepted by the county, a municipal government, or a lawfully established homeowners or community association responsible for the maintenance of commonly owned properties of the development.  
(Ord. § 80-2, passed 11-30-99)

### § 154.248 SEPARATE USE SIGNS (BILLBOARDS).

- (A) Each separate use sign shall require a zoning permit.
- (B) A separate use sign may be illuminated.

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(C) The total area of each separate use sign shall be limited to 150 square feet.

(D) The minimum distance between separate use signs shall be 1000 feet.

(E) Separate use signs shall not be located within 100 feet of any residential district.  
(Ord. § 80-3, passed 11-30-99)

### § 154.249 PRINCIPAL USE SIGNS.

(A) Each principal use sign shall require a zoning permit.

(B) Principal use signs may be indirectly illuminated only.

(C) Principal use signs shall not project more than one foot from any building, wall, or canopy.

(D) If suspended from a canopy, the principal use sign must be at least eight feet above the sidewalk level.

(E) Principal use signs shall have a maximum surface area of one square foot for each one linear foot of street frontage, but in no case exceeding a total of 200 square feet in sign area per lot.

(F) Free standing signs shall be limited to two per lot, neither of which shall be located in any yard or within ten feet of a side property line.

(G) Free standing signs shall not exceed 30 feet in height, nor have a horizontal length of more than 20 feet.  
(Ord. § 80-4, passed 11-30-99)

## *ADMINISTRATION, ENFORCEMENT, PENALTIES, AND RIGHT OF APPEAL*

### § 154.260 ZONING ADMINISTRATOR.

The Zoning Administrator, appointed by the Town Board of Aldermen, shall administer and enforce the provisions of this ordinance. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he or she shall notify the person or persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

(Ord. § 90-1, passed 11-30-99)

### § 154.261 ZONING PERMIT REQUIRED.

No land shall be used or occupied and no structure shall be erected, moved, extended, or enlarged, nor shall any excavation or filling of any lot for the construction of any building be initiated until the Zoning Administrator has issued a zoning permit which will certify that such proposed work is in conformity with the provisions of this ordinance.

(Ord. § 90-2, passed 11-30-99)

### § 154.262 APPLICATION FOR ZONING PERMIT FOR PERMITTED USES.

An application for a zoning permit shall be filed with the Zoning Administrator on a form provided by him or her and shall include two sets of plans showing the dimensions and shape of the parcel to be built on, the sizes, the intended uses, and the location of existing buildings and those proposed, and shall include such other information as may be necessary to determine conformance

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with this ordinance. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he or she has marked the copy either as approved or disapproved and attested to that by his signature on the copy. The second copy of the plan, similarly marked, shall be retained by the Zoning Administrator.

(Ord. § 90-3, passed 11-30-99)

### § 154.263 CERTIFICATE OF OCCUPANCY REQUIRED.

No land or building shall be used or occupied until a zoning permit has been issued by the Zoning Administrator stating that the building or proposed use complies with the provisions of this ordinance. A certificate of occupancy, issued by the Wayne County Building Inspector, either for the whole or a part of a building shall be applied for before such structure is occupied, and shall be issued after the erection or alteration of such building or part shall have been completed in conformity with the provision of this ordinance and the Building Code. No previously unoccupied structure shall be occupied until the certificate of occupancy is issued. The certificate of occupancy shall be sent to the Zoning Administrator for his or her files.

(Ord. § 90-4, passed 11-30-99)

### § 154.264 RECORDS AND INVALIDATION.

(A) A record of all zoning permits shall be kept on file in the office of the Zoning Administrator.

(B) Any zoning permit issued shall become invalid if the work authorized by it has not been commenced within six months of the date of issuance, or if the work authorized by it is suspended or abandoned for a period of one year.

(Ord. § 90-5, passed 11-30-99)

### § 154.265 DEVELOPMENT APPROVALS.

All development approvals shall be in writing and shall include a provision requiring the development to comply with all applicable State and local laws. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approval may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. The development approval runs with the land. Approval revocation must follow the same procedure as the approval process.

### § 154.266 DETERMINATIONS.

The Zoning Administrator shall be responsible for making determinations. The Zoning Administrator shall provide written notices of determination by personal delivery, electronic mail or first-class mail to the property owner and party seeking determination if different from the property owner.

### § 154.267 INJUNCTION AND ORDER OF ABATEMENT REMEDIES.

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 the 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 order 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



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Procedure in general and Rule 65 in particular. All inspections shall be conducted during reasonable hours upon presentation of credentials. The inspecting official must have the permission of the premises owner or an administrative search warrant to inspect areas not open to the public.

### § 154.268 CIVIL PENALTIES.

Any act constituting a violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits shall be punishable by a civil penalty as follows:

1. No penalty if the violation is corrected within the time-period determined by the Administrator as identified in the written notice.
2. First Citation (for each uncorrected offense) \$100.00; Violation must be corrected within 5 calendar days of citation mailing or Second Citation will be issued and delivered to the violator and property owner.
3. Second Citation (for each same uncorrected offense) \$250.00; Violation must be corrected within 5 days (as defined as the 24-hour period after which the notice has been mailed) of Second Citation mailing or Third Citation will be issued.
4. Third and Subsequent Citations (for each same uncorrected offense) \$500.00 per day (as defined as the 24-hour period after which the notice has been mailed) that the violation continues to exist.
5. Repeat Violations: If the Administrator notifies a party of a violation, and that violation is remedied but subsequently reestablished (committed by the same violator at the same location and being of the same nature as the original violation) within a period of 12 months, the violator shall incur the fines prescribed above without the need of a notice of violation.

The owner, tenant, or occupant of any building or land or part thereof or any person who participates in or acts in concert, assists, directs, creates, or maintains any condition found to be a violation shall be subject to the penalties and remedies herein provided.

Each day that any violation continues after notification by the Zoning Enforcement Officer that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section. Separate notices will not be provided for each violation.

If the offender fails to pay this penalty within fifteen (15) days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt.

Any one, all, or a combination of the foregoing penalties and remedies cited in this Ordinance or in GS 160A-185 may be used to enforce this ordinance.  
(Rev. 2-15-22)

### § 154.269 RIGHT OF APPEAL.

If the zoning permit or occupancy certificate is denied, the applicants may appeal the action of the Zoning Administrator to the Board of Planning and Adjustment.  
(Ord. § 90-7, passed 11-30-99)

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### § 154.270 CONFLICTS OF INTEREST

(A) Board of Aldermen. - A Board of Aldermen member shall not vote on any legislative decision regarding a development regulation adopted pursuant to N.C.G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of the Board of Aldermen shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(B) Appointed Boards. - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to N.C.G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(C) Administrative Staff. - No staff member shall make a final decision on an administrative decision required by N.C.G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under N.C.G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

(D) Quasi-Judicial Decisions. - A member of any board exercising quasi-judicial functions pursuant to N.C.G.S. 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(E) Resolution of Objection. - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(F) Familial Relationship. - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

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### *BOARD OF PLANNING AND ADJUSTMENT*

#### **§ 154.271 ESTABLISHMENT**

The Board of Planning and Adjustment is hereby established.

#### **§ 154.272 COMPOSITION AND QUALIFICATION**

The Board of Planning and Adjustment shall be comprised of five members, four of whom shall be residents of the Town appointed by the Board of Aldermen, and one who resides in the extraterritorial jurisdiction of Fremont but not in the town limits appointed by the County Board of Commissioners.

Pursuant to G.S. 160D-307 (c), all members appointed to the Board of Planning and Adjustment from the Town's ETJ shall have equal rights (including voting rights), privileges and duties with other members of the Board, regardless of whether the matters at issue arise within the Town or within the ETJ. The Town Board shall from time to time review this Section to confirm the existence of proportional representation based on population for residents of the Town's extraterritorial jurisdiction, pursuant to Chapter 160D-307(a).

#### **§ 154.273 TERM OF OFFICE AND VACANCIES**

- A. Members shall serve three year terms; provided however, that the initial appointment of members shall be as follows: two residents of the Town of Fremont and one resident of the extraterritorial area shall be appointed for three year terms. Two residents of the Town of Fremont shall be appointed for two year terms. Thereafter, all new terms shall be for three years. Any vacancy in the membership of the Board of Planning and Adjustment that occurs prior to the expiration of a term of appointment shall be filled by the appointing authority by appointing another member to serve during the unexpired term. Members of the Board of Planning and Adjustment shall continue until their terms expire and their successors are appointed. Members may be appointed for successive terms without limitation.
  
- B. The Town Board of Aldermen shall also appoint two alternate members to serve in the absence of regular members. One alternate member shall reside in the Town of Fremont and one shall reside within the extraterritorial area. Both initial appointment and new terms shall be for three years, and alternate members may be reappointed. Each alternate member, while attending any regular or special meeting of the Board of Planning and Adjustment and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
  
- C. Each board member shall take an oath of office before starting their duties.

#### **§ 154.274 COMPENSATION**

Members of the Board of Planning and Adjustment shall serve without pay or compensation; provided, however, the members may be reimbursed for travel and training expenses in specific connection with their role as members of the Board of Planning and Adjustment, subject to budget limitations. This provision shall not obligate the Town Board of Aldermen from a budgetary standpoint.

#### **§ 154.275 OFFICERS**

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The officers of the Board of Planning and Adjustment shall consist of a Chairperson and Vice-Chairperson, elected by the members of the Board of Planning and Adjustment. Officers shall have voting privileges and obligations as members of the commission. The term of office for officers shall be one year or until their successors are elected. An officer that has served a full one year term may succeed himself/herself without limitation. In the event of the resignation or removal of an Officer, the commission members shall elect an individual from the Commission to fill the remainder of the unexpired term. Unless otherwise determined by the Commission, election of officers will normally take place during the first regular meeting in January of each calendar year. There shall be no elected secretary for the commission; the Zoning Administrator shall serve as ex-officio secretary and in that role the Zoning Administrator shall not be considered a member of the commission.

### § 154.276 DUTIES OF OFFICERS

The Chairperson shall preside at meetings of the Board of Planning and Adjustment, decide all points of order and procedure, represent the Board of Planning and Adjustment at official functions, appoint committees to investigate and report on matters which may come before the Commission, and be responsible for carrying out policy decisions. In the absence of the Chairperson, those duties shall be vested in the Vice-Chairperson.

### § 154.277 RECORDS

- A. The secretary of the Board of Planning and Adjustment shall keep a record of its resolutions, transactions, findings, determinations, recommendations, and actions. All records of the Board of Planning and Adjustment shall be public record.
- B. A summary of the subjects acted on at meetings and those members present at a meeting of the Board of Planning and Adjustment shall be written and made available to the public for inspection within no more than five business days of the adjournment of a meeting of the Board of Planning and Adjustment.
- C. The Secretary of the Board of Planning and Adjustment or designee shall cause summary minutes of the Board of Planning and Adjustment's proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact. The minutes of a meeting of the Board of Planning and Adjustment shall be completed as promptly as possible, and such records shall be open to public inspection once approved by the Board of Planning and Adjustment, but in no case later than immediately following the next regular meeting of the Board of Planning and Adjustment.

### § 154.278 MEETINGS

All meetings of the Board of Planning and Adjustment shall be open to the public. The Board of Planning and Adjustment shall hold regular meetings unless it is notified by the Zoning Administrator that there is no business to conduct, in which case the Chairperson may cancel the regular meeting. No meeting shall be held unless forty-eight (48) hours notice thereof has been provided to each member. If special meetings are called by the Chairperson, the purpose(s) of the special meeting shall be stated and no other business may be conducted at such special meeting.

### § 154.279 QUORUM

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A quorum shall be required to be present for the Board of Planning and Adjustment to function and decide matters that come before it. A quorum shall consist of a majority of the members of the Commission.

### § 154.280 RULES

The Board of Planning and Adjustment may adopt rules for the conduct of its activities as long as they do not conflict with any of the provisions of this ordinance, the Town Charter, the Town Code of Ordinances, or N.C.G.S. 160D. Such rules may establish regular meeting dates, procedures for calling special meetings, and other meeting matters. In the absence of such adopted rules, or in cases where adopted rules do not govern a given procedural question at hand, the Board of Planning and Adjustment shall follow *Robert's Rules of Order Newly Revised*, 10<sup>th</sup> Edition (or most recent edition).

### § 154.281 POWERS AND DUTIES OF BOARD OF PLANNING AND ADJUSTMENT

The Board of Planning and Adjustment shall have all those duties necessary and reasonably implied as being necessary to carry out its duties as specified in this ordinance. Said powers and duties shall specifically include without limitation, the following:

- A. To adopt and amend rules for the conduct of its activities without the need to amend this Article.
- B. To prepare or cause to be prepared a comprehensive plan or parts thereof, for the development of the town or parts thereof, which shall be subject to the approval of the Fremont Board of Aldermen.
- C. To prepare and recommend for adoption to the local governing body with jurisdiction a plat or plats, or a corridor map or maps, showing the location of the boundary lines of existing, proposed, extended, widened or narrowed streets and linear open spaces and recreational areas, together with regulations to control the erection of buildings or other structures within such lines, within the jurisdiction or a specified portion thereof.
- D. To make, publish, and distribute maps, plans and reports and recommendations relating to the planning and development of the Town to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens.
- E. To prepare or cause to be prepared, and recommend for adoption by the Board of Aldermen zoning ordinances, regulations for the subdivision of land, and any other land use regulations appropriate to manage development in the Town.
- F. To administer zoning and other land use regulations in whatever role is delegated to it by the Board of Aldermen or as provided in this ordinance. The Board of Planning and Adjustment shall specifically have authority and responsibility to review and provide recommendations on applications for zoning map amendments and special use permits and make final decisions regarding applications for variances, and other related applications as set forth in the Zoning Ordinance.

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- G. To hear and issue decisions regarding administrative appeals, variances, and such other permits as may be set forth in the Town's Code of Ordinances and Zoning Ordinance.
- H. To exercise, in general, such other powers as may be necessary to enable it to perform its functions and promote the planning of its jurisdiction.

### § 154.282 TRAINING

It is in the best interests of the citizens to strongly encourage newly appointed members of the Board of Planning and Adjustment during the course of their term of appointment to attend one or more courses of training and education on matters pertaining to the operations, activities, duties, and subject matters of Board of Planning and Adjustments. It shall be the responsibility of the Zoning Administrator to periodically notify members of the Board of Planning and Adjustment of appropriate education and training opportunities.

### § 154.283 HEARING PROCEDURES FOR QUASI-JUDICIAL DECISIONS

Applications for special use permits, administrative appeals, and variances require that evidentiary hearing on the application be held.

- A. Notice.
  - 1. Notice of the evidentiary hearing shall be given by posting a sign on the subject property not less than ten (10) days or more than twenty-five (25) days before such evidentiary hearing.
  - 2. Notice shall also be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.
  - 3. The clerk shall give due notice to the applicant of any meetings at which the application will be considered.
- B. Quasi-Judicial Nature of Hearing: All hearings of administrative appeals, special uses and variances shall be conducted as quasi-judicial hearings in accordance with the requirements for quasi-judicial hearings set forth in N.C.G.S. 160D, except the review of special use permits by the Board of Planning and Adjustment which are for recommendation purposes only.
- C. Special Use Permits Conditions. Conditions made part of a special use permit must be agreed to in writing by the applicant.
- D. Appeal. An appeal must be filed within thirty days of any board decision or administrative

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interpretative decision. If the notice is sent by mail, it shall be considered served after the third business day that it is sent.

### § 154.284 VARIANCES

- A. When unnecessary hardships would result from carrying out the strict letter of the Zoning Ordinance, the Board of Planning and Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance upon a showing of all of the following:
1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- B. Conditions Imposed on Variances: No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

### § 154.285 APPEALS OF ADMINISTRATIVE DECISIONS

(A) Appeals. - Except as provided in subsection (c) of this section, appeals of decisions made by the Zoning Administrator under the Zoning Ordinance shall be made to the Board of Planning and Adjustment unless a different board is provided or authorized otherwise by statute or an ordinance adopted pursuant to this Chapter. If this function of the Board of Planning and Adjustment is assigned to any other board pursuant to G.S. 160D-302(b), that board shall comply with all of the procedures and processes applicable to a Board of Planning and Adjustment for hearing appeals. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the Board of Planning and Adjustment unless set forth in this ordinance.

(B) Standing. - Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the clerk. The notice of appeal shall state the grounds for the appeal.

(C) Judicial Challenge. - A person with standing may bring a separate and original civil action to

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challenge the constitutionality of an ordinance or development regulation, or whether the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of statutory authority, without filing an appeal under subsection (a) of this section.

(D) Time to Appeal. - The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D- 403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(E) Record of Decision. - The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(F) Stays. - An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit,

a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement

proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(G) Alternative Dispute Resolution. - The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The standards and procedures to facilitate and manage such voluntary alternative dispute resolution shall be as determined by the Zoning Administrator.

(H) Appearance of Official New Issues. - The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government,

shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing

to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

### *AMENDMENTS*

#### **§ 154.290 SPECIAL PROCEDURES REQUIRED FOR AMENDMENT.**

This ordinance, including the zoning map, may be amended, supplemented, or changed from time-to-time according to the following procedures.



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(Ord. § 110, passed 11-30-99)

### **§ 154.291 AMENDMENT ON MOTION OF TOWN BOARD.**

The Town Board of Aldermen may, from time-to-time, amend, supplement, change, modify or repeal the boundaries or regulations herein, or subsequently amended. Proposed changes or amendments may be initiated by the Town Board, Board of Planning and Adjustment, or by one or more owners, optionees, or lessees of property within the area proposed to be changed or affected.

(Ord. § 110-1, passed 11-30-99)

### **§ 154.292 PETITION FOR AMENDMENT.**

Petitions from the public at large to amend this ordinance shall be directed to the Board of Planning and Adjustment for review and recommendation at least 20 days prior to the next regularly scheduled meeting of the Board of Planning and Adjustment. The petition shall state the nature of the proposed amendment and, if applicable, a description of the property involved, names and addresses of the owner(s) of the property, and a statement why the proposed amendment is necessary to promote the public health, safety, and general welfare. Each petition for amendment shall be accompanied by a fee, in accordance with the town fee schedule, to defray the cost of advertising and other administrative costs involved.

(Ord. § 110-2, passed 11-30-99)

### **§ 154.293 BOARD OF PLANNING AND ADJUSTMENT REVIEW AND RECOMMENDATION.**

The Board of Planning and Adjustment shall have 30 days within which to submit its recommendations on petitions for amendment. Failure of the Board to submit its recommendations within this time period shall constitute a favorable recommendation. The Board's report shall be submitted in writing to the Town Clerk and to the petitioner(s).

### **§ 154.294 LEGISLATIVE HEARING BY TOWN BOARD OF ALDERMEN.**

A legislative hearing shall be held by the Town Board of Aldermen before the adoption of any proposed amendment to this ordinance. A notice of the legislative hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. All hearings where there is a zoning classification action involving a parcel of land shall be conducted according to G.S. §§ 160D-601.

(Ord. § 110-4, passed 11-30-99)

### **§ 154.295 VOTE OF THE TOWN BOARD OF ALDERMEN.**

A simple majority of the Town Board of Aldermen shall be required to amend this ordinance after recommendation by the Board of Planning and Adjustment.

(Ord. § 110-5, passed 11-30-99)

### **§ 154.296 PLAN CONSISTENCY STATEMENTS**

(A) Plan Consistency: Board of Planning and Adjustment. When conducting a review of proposed zoning text or map amendments pursuant to this section, the Board of Planning and Adjustment shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The

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Board of Planning and Adjustment shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the Board of Planning and Adjustment, but a comment by the Board of Planning and Adjustment that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Planning and Adjustment statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(B) Plan Consistency: Board of Aldermen. When adopting or rejecting any zoning text or map amendment, the Board of Aldermen shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Aldermen that at the time of action on the amendment the Board of Aldermen was aware of and considered the Board of Planning and Adjustment's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Commissioner's statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(C) Statement of Reasonableness: When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Aldermen. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D 602(b), the Board of Aldermen's statement on reasonableness may address the overall rezoning.

(D) Single Statement Permissible: The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

### **§ 154.297 DENIAL OF PETITION.**

When a petition to amend the zoning map or text is denied by the Town Board of Aldermen, a period of 12 months must elapse before another petition for the same change previously involved may be submitted.

(Ord. § 110-7, passed 11-30-99)

### **§ 154.298 ZONING CLASSIFICATION ACTION.**

Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land, as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land, as shown of the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county abstracts. The person or persons mailing such notices shall certify to the Town Board that fact, and such certification shall be deemed conclusive in the absence of fraud. This provision shall apply only when

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tax maps are available for the area to be zoned.  
(Ord. § 110-8, passed 11-30-99)

### *LEGAL STATUS PROVISIONS*

#### **§ 154.310 PROVISIONS TO BE MINIMUM REQUIREMENTS.**

In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants [conflict], the most restrictive, or that imposing the highest standards, shall govern.  
(Ord. § 130-1, passed 11-30-99)

#### **§ 154.311 SEVERABILITY.**

This ordinance and the various parts, sections, subsections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, or clause is adjudged unconstitutional or invalid as applied to a particular property [sic] building or structure shall not be affected hereby. Whenever any condition or limitation is included in an order authorizing a special use permit, variance, zoning compliance permit, certificate of occupancy, or site plan approval, it shall be conclusively presumed that the authorized officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this ordinance or the requirement of some provision hereof, and to protect the public health, safety, and welfare, and that the officer or Board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.  
(Ord. § 130-2, passed 11-30-99)

#### **§ 154.312 LIMITATION ON ACTIONS.**

All actions challenging the validity of this ordinance, or amendment adopted thereto, shall be brought within two months after enactment.  
(Ord. § 130-3, passed 11-30-99)

#### **§ 154.313 EFFECTIVE DATE.**

This ordinance, adopted by the Board of Alderman, shall take effect and be in force from and after December 1, 1999.  
(Ord. § 130-4, passed 11-30-99)

#### **§ 154.314 PRIOR ZONING REGULATIONS REPEALED.**

The zoning ordinance adopted in February, 1971, is hereby repealed upon the effective date of this ordinance.  
(Ord. § 130-5, passed 11-30-99)